



## GREEN ACRES

### LOCAL AND NONPROFIT ASSISTANCE PROGRAM

## Cooperative Acquisition Project Guidelines

*Revised 7/22/2024*

Cooperative projects can be an important preservation tool, particularly when acquiring expensive properties or when a more experienced preservation entity provides support to a less experienced party. Since these projects can also be quite complicated, we have developed guidelines to address ways in which administration of cooperative projects differs from regular Green Acres-funded acquisitions. When one or more of the parties to a cooperative acquisition seeks to use Green Acres funding, it is important to carefully structure the transaction to ensure funding eligibility. Your Green Acres project manager can answer any questions and will serve as a resource throughout the process. Due to the complexity of cooperative projects, it is critical that applicants work closely and coordinate each step with their Green Acres project manager.

### Parties to Cooperative Projects

For these guidelines, we identify the following types of parties to cooperative projects:

- **Funder** – This is an entity outside of Green Acres that is funding the acquisition but not taking an ownership interest in the property (e.g., a county grant program or a partner that is only paying for soft costs). These funds may be used as a match to Green Acres funding, unless they come from the State Farmland Preservation Program or the Historic Trust.
- **Unfunded Purchaser**– This is any recreation and conservation entity that is contributing non-Green Acres funding to the acquisition (purchase price) and taking a proportional ownership interest in the property. That ownership interest and associated value will be deducted from the Green Acres Eligible Land Cost prior to calculating Green Acres funds for each applicant. Please note that if a property is acquired through a cooperative project with an unfunded purchaser where all parties have an undivided interest, Green Acres restrictions will apply to the entire property.
- **Green Acres Applicant** – This is an entity that intends to draw down Green Acres funding for the acquisition project (purchase price or soft costs). The Green Acres Applicant is required to take an ownership interest in the property at closing that is proportional to their Green Acres funding for the land cost **plus** the value of the required match. An applicant that is drawing down Green Acres funding only for soft costs is not required to take an ownership interest in the property.

*For example, two applicants drawing down \$500,000 in Green Acres 50% matching grant funding for a \$2,000,000 acquisition would take a 50% ownership interest:*

*\$500,000 GA grant + \$500,000 match = \$1,000,000 interest*

*\$1,000,000/\$2,000,000 = 50% interest*

## Steps in the Acquisition Process

Listed below are highlights of how the acquisition process for a cooperative acquisition differs from that of a regular acquisition.

### 1. Partnership Agreements

Cooperative projects must have partnership agreements that spell out the rights and responsibilities of the acquisition parties. A partnership agreement is necessary if any entity other than the Green Acres applicant will take title to the property at closing and/or will receive Green Acres funding for the acquisition project.

Important elements of this agreement include:

- the funding contribution and resulting ownership interest of each party at closing
- clause for adjusting funding figures based on the Certified Market Value or Average Appraised Value (CMV/AAV) and final surveyed property acreage
- any plans to transfer title after closing and, if applicable, terms of the transfer (Please see *Anticipated Property Transfers* below.)
- assignment of the purchase contract or option agreement, if applicable
- who will order, pay for, and submit the technical documents to Green Acres
- if applicable, responsibility for site remediation, historic review, structure demolition, solid waste removal, well testing, well and/or septic tank decommissioning, subdivision of existing structures, tenant relocation, etc.
- confirmation that the required Green Acres deed language will be included in the property deed and, if applicable, the transfer deed
- confirmation that the property will be subject to Green Acres restrictions through listing on the partner's Recreation and Open Space Inventory (if ultimate owner is a local government) or through the granting of a Deed of Conservation Restriction (if the ultimate owner is a nonprofit organization), or both
- who will manage the property in short and long terms
- if needed, when a management agreement will be drafted

A draft of the partnership agreement should be submitted to Green Acres as early in the process as possible to allow time for legal review and, if necessary, revisions to the document. If one or more of the parties is a local government, time should also be allotted for governing body review and approval of a resolution.

### 2. Appraisals

All acquisition parties, including Green Acres, must be listed in the appraisal report as "intended users." Adding a party to an acquisition after appraisals are complete may necessitate an appraisal update.

### 3. Preliminary Assessment Report and Historic Pesticide Forms

All applicants receiving Green Acres funding that will take title must sign the environmental review documents.

4. Purchase Contract

The property purchase contract must include all parties taking an ownership interest at closing in one of two ways:

- a. By identifying all partners/applicants as “Buyers” in the agreement; or
- b. Identifying one of the partners/applicants as “Buyer and/or its assigns.” The named buyer must then execute an “Assignment of Interest Agreement” with the other parties.

5. Surveys

The entity that orders the survey must provide the property surveyor with a list of the Unfunded Purchasers and Green Acres Applicants and the percentage ownership for each (once approved by Green Acres). The property surveyor will then include this information on the certification form.

For more information, see “Funding Partnerships for Acquisitions – Instructions to the Surveyor” at the bottom of the [Forms and Checklists for Green Acres Surveys](#) webpage. It is particularly important to coordinate with your Green Acres project manager before ordering the survey, as this will help prevent the need for costly survey revisions.

Please note that any change in ownership percentages will necessitate an amendment of the property survey.

6. Title

The title commitment and title report must insure the property for the full purchase price, and it must list each of the Unfunded Purchasers and Green Acres Applicants and the percentage ownership for each. Adding a party to an acquisition after the title commitment has been issued will necessitate an update. Please discuss with Green Acres if an Unfunded Purchaser or Green Acres Applicant will transfer its ownership immediately after closing.

7. Acquisition Deed

Each partner/applicant in the acquisition must be listed as a “Grantee” on the acquisition deed.

The acquisition deed must also outline each partner’s interest in the property equal to its funding contribution (plus match, if funded by Green Acres) and the ownership structure, i.e., joint undivided ownership.

The acquisition deed must also contain the following required standard Green Acres language:

“The lands being conveyed herein are being purchased with Green Acres funding and are subject to Green Acres restrictions as provided at N.J.S.A. 13:8C-1 et seq. and N.J.A.C. 7:36, as may be amended and supplemented, and the grantee herein agrees to accept these lands with the Green Acres restrictions, including restrictions against disposal or diversion to a use for other than recreation and conservation purposes.”

8. Anticipated Property Transfers

If a Green Acres applicant will be transferring its ownership interest to another party, Green Acres must approve the transfer in advance to ensure the transferee is eligible to receive a

Green Acres-encumbered property. A draft transfer deed must be submitted to Green Acres with the other closing documents for review by the Public Land Compliance section in the Office of Transactions and Public Land Administration (OTPLA). The transfer deed must include the standard Green Acres language included above.

For acquisitions where a nonprofit will be transferring its ownership interest to a local government that has an active Green Acres project and will add the property to its Recreation and Open Space Inventory (ROSI), the nonprofit does not need to grant a Deed of Conservation Restriction (DCR) to Green Acres if the transfer deed is signed on the day of closing. If the transfer will not take place on the day of closing, a DCR is required.

Normally, transfer of Green Acres property requires going through the Administrative Transfer of Parkland process, outlined at N.J.A.C. 7:36-25.5, which includes holding a public hearing. If the transfer is anticipated and known by all parties involved at the time of closing, the transfer can take place up to 6 months after closing without the need to hold a public hearing. If the transfer takes place later than 6 months, or if the ownership interest will be transferred to an entity that was not a party to the original transaction, the Administrative Transfer of Parkland process must be followed.

9. Management

If more than one party will retain an ownership interest in the property after closing, their respective rights to and management responsibilities for the property, including how and by whom the property will be managed for recreation and conservation purposes, must be memorialized in a formal agreement approved by the Green Acres Program.

10. Closing Date

In light of the inherent complexity of cooperative acquisitions, it is particularly important that all due diligence be completed and approved by Green Acres before a closing date is set. If Green Acres funds are required for closing, the anticipated closing date must be discussed in advance with the Green Acres Project Manager to determine feasibility. If the closing date is established without Green Acres input, submissions will not be pushed forward in the review queue to accommodate the applicant.

If Green Acres funds are not required for closing, applicants should keep in mind the risks inherent in not receiving approval of all submissions prior to closing, which are described in the *Property At-Risk Authorization* document.

11. Payment

When requesting payment, each applicant asking to draw down Green Acres funds must submit their own signed Acquisition Payment Request Form.