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Highlands Open Space Partnership Funding Program Details

The following is excerpted from the Highlands Open Space Partnership Funding Program and Highlands Development Credit Purchase Program, N.J.A.C. 7:70. The complete rule is available online at www.nj.gov/njhighlands/rules/loelp/njac_7_70.pdf.

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Additional information is available by contacting James Humphries, Highlands Open Space Coordinator, at 908-879-6737 or james.humphries@highlands.nj.gov.

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7:70-3.1 Eligibility

(a) The following partnership entities are eligible to apply for partnership funds:

1. The State of New Jersey, in accordance with the State funding source requirements;
2. Any of the seven counties located in the Highlands Region;
3. Any of the 88 municipalities located in the Highlands Region; and
4. Charitable conservancies.

(b) Properties and activities within the Highlands Region eligible for consideration for funding from the Highlands Open Space Partnership Funding Program, that are submitted by partnership entities as defined in (a) above, include:

1. The fee simple acquisition of land for conservation and/or passive recreation purposes, including, but not limited to:
 - i. Parkland, natural areas, and/or greenways; or
 - ii. The protection of natural resources as identified in the Highlands Regional Master Plan; and
2. The acquisition of conservation easements for conservation purposes, including, but not limited to:
 - i. Parkland, natural areas, and/or greenways;
 - ii. Farmland preservation; and
 - iii. The protection of natural resources and/or agricultural preservation priority areas.

(c) The following properties and activities are ineligible for funding under the Highlands Open Space Partnership Funding Program:

1. Properties to be held in fee simple title by the Highlands Council;
2. Properties which require condemnation;
3. Properties containing significant environmental contamination, including, but not limited to, former landfill sites, sites having a history of operating as a facility with substantial likelihood for on-site contamination, and sites listed on the New Jersey Department of Environmental Protection's Known Contaminated Sites List;
4. Properties already preserved or acquired during the application process by municipalities, counties, the State, or a qualified charitable conservancy;

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5. Administrative or operational costs of the applicant or current or former owners;
6. Construction or development projects, including capital improvements, recreation improvements, infrastructure projects, and the restoration, rehabilitation, or reconstruction of any structure (however, this shall not preclude the purchase of the eligible underlying lands);
7. Maintenance, care, custodial, or policing expenditures, including, but not limited to, grounds maintenance, restoration, or reconstruction;
8. Ceremonial or publicity expenses;
9. Interest, bonding expenses, or other financing costs;
10. Fundraising or lobbying expenses; and
11. Interpretive activities, such as displays or signs.

(d) The partnership entity may propose either a fee simple acquisition or the acquisition of the development rights through a conservation easement.

1. Under the Highlands Open Space Partnership Funding Program, the Highlands Council will not hold fee simple title to a property. Only the partnership entity or its designee shall hold fee simple title.
2. The property shall be restricted in perpetuity from future development to protect any existing resources located on the property in accordance with requirements of the conservation easement.

7:70-3.2 Application process

(a) The Executive Director shall prepare an outreach program. The outreach program shall, at a minimum:

1. Provide information and training on the availability of the Highlands Open Space Partnership Funding Program to: all municipalities and counties within the Highlands Region, all State agencies, and to charitable conservancies that are known to operate or have funding assigned to be expended within, or immediately adjacent to, the Highlands Region.
2. Provide notice of each application round through publication in the Highlands Council's official newspapers posted on the Highlands Council's website www.nj.gov/njhighlands.

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- (b) Requirements for acceptance of applications are as follows:
1. Partnership entities shall complete and sign an application form, prepared by the Executive Director, which includes the submission requirements in (b)2 below.
 2. The following information must be submitted with any application for partnership funding under this chapter:
 - i. Name and address of the applicant;
 - ii. Where the applicant is a charitable conservancy:
 - (1) Documentation indicating that the entity is exempt from Federal income taxation under paragraph (3) of the subsection (c) of section 501 of the Federal Internal Revenue Code of 1986 (26 U.S.C. § 501 (c)(3)); and
 - (2) Documentation indicating that the entity's purpose includes the acquisition and preservation of lands in a natural, scenic, or other open condition;
 - iii. Where the applicant is a county or local government, a copy of an adopted resolution authorizing the submission of the application for the property in question;
 - iv. A description of property including:
 - (1) Tax block(s) and lot(s);
 - (2) Street address;
 - (3) Acreage of the property;
 - (4) List of any structures or other improvements on the property;
 - (5) If the acquisition of part of a lot is proposed, both the area (in acres) of the part to be acquired and the area of the remainder shall be denoted;
 - (6) Any significant environmental, recreational, structures, or other resources, and/or access issues;
 - (7) The location and area of all known existing easements, road right-of-ways, encroachments, and similar features, with the source of such information identified, and any proposed area(s) to be excepted from the property; and
 - (8) Any adjacent properties proposed for preservation;

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- v. Current owner's name and mailing address;
- vi. List of all proposed funding sources including:
 - (1) Commitment letters or other available proof of these sources;
 - (2) Any adopted resolutions from government entities authorizing or approving funding; and
 - (3) Any time limits or other restrictions related to the specific funding sources;
- vii. A copy of the proposed conservation easement language; and
- viii. Valuation of the property as follows:
 - (1) Where appraisals have already been prepared, copies of such must be submitted;
 - (2) Where no appraisals have been prepared, an estimated total cost must be submitted;
 - (3) Where a specific valuation has already been negotiated, that valuation must be submitted; or
 - (4) Where a contract of sale has been agreed upon, copies of the contract must be submitted.

(c) The Highlands Council shall approve deadlines for the submission of applications.

(d) Completeness reviews of applications shall be performed as follows:

1. The Executive Director shall conduct a completeness review for each application which shall be deemed complete upon receipt of all information required pursuant to (b)2 above. The Executive Director shall provide written notice to the applicant when an application is deemed complete.
2. If the application is not deemed complete, the Executive Director shall provide written notice to the applicant. Applicants shall have 60 days after notification of an incomplete application to provide any missing information to complete the application.
3. The Executive Director may provide an additional 60-day extension to the applicant to supply the necessary information where deemed appropriate by the specific conditions of the application.

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7:70-3.3 Review of applications

(a) Once an application is deemed complete by the Executive Director, the application will be forwarded for review to the Land Preservation Committee as follows:

1. The Executive Director shall prepare a complete report on eligibility to the Land Preservation Committee for each application. The report on eligibility shall include:
 - i. Physical details of the property including:
 - (1) Size;
 - (2) Location;
 - (3) Current owner;
 - (4) Structures present;
 - (5) Municipal zoning;
 - (6) Location in the preservation area or planning area;
 - (7) Location adjacent to scenic resources identified in the RMP;
 - (8) Adjacency to any existing preserved lands;
 - (9) Environmental resources present as identified in the RMP;
 - (10) Areas of conservation preservation priority;
 - (11) Areas of agricultural preservation priority; and
 - (12) Areas of special environmental zone;
 - ii. Confirmation of the current owner's title to the property, including a title search;
 - iii. Review of the following environmental records:
 - (1) New Jersey Known Contaminated Sites List
(www.state.nj.us/dep/srp/kcsnj/);
 - (2) New Jersey Department of Environmental Protection Mapping (DGS03-2 - Abandoned Mines of New Jersey); and
 - (3) New Jersey Department of Environmental Protection site records for environmental contamination or violations
(datamine2.state.nj.us/dep/DEP_OPRA/adv_search.html);
 - iv. Staff site inspections and photographic record; and
 - v. Summary of priority ranking against other complete applications based on the standards in (b) below.
2. The Land Preservation Committee shall:

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- i. Review the information provided in the report on eligibility from (a)1 above, and make a decision on the eligibility of the project based on the standards in N.J.A.C. 7:70-3.1 and 3.2, and the priority of the project based upon the standards in (b) below;
 - ii. Prepare a summary of the report on eligibility and the findings, including a final recommendation, and provide it to the Highlands Council; and
 - iii. Upon receipt of final appraisal and funding commitment information, prepare an updated report on eligibility on each property and provide it to the Highlands Council.
- (b) Property acquisitions shall be based on the following applicable criteria, in no specific order:
1. Designation as an identified special environmental zone area in the RMP.
 2. Designation as a high conservation and/or high agricultural preservation priority area in the RMP.
 3. Designation as a moderate conservation and/or moderate agricultural preservation priority area in the RMP.
 4. Additional priority will be given to properties that, when purchased together, provide or improve connectivity to existing open space, are contiguous to existing preserved farmland, or otherwise improve access to existing open space and/or recreational facilities.
 5. Any specific criteria that has been approved by the Highlands Council, in a Highlands Council resolution on any project review where funding is received as part of mitigation for the project.
 6. Applicants that provide for a higher proportion of outside matching funds will be provided with a higher priority than those that do not.
- (c) Applicants shall submit draft conservation easement language to the Highlands Council for review. The State of New Jersey will be included as Grantee in any deed restriction or easement.
- (d) In accordance with N.J.S.A. 13:8C-26.j(1) or 38.j(1), the applicant shall obtain appraisals containing the two values determined in accordance with the aforementioned sections. The

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applicant shall have the opportunity to negotiate the sale price of the property based on these values. The Highlands Council will provide for reasonable costs related to these additional appraisals, provided the appraiser has been approved by New Jersey Department of Environmental Protection Green Acres Program or the State Agriculture Development Committee (SADC).

(e) Commitment and partnership funds will be determined as follows:

1. The Highlands Council shall provide a maximum award of up to 50 percent of the total purchase price of the property, for the acquisition of the development rights.
2. All applicants shall supply commitment letters from any other partnership entities providing funding.
3. An applicant may use as its matching share of the cost of acquisition, its own funds, any grant, contribution, donation, or reimbursement from State or Federal programs, and/or any other public or private funding source.

(f) The applicant must provide a summary of a plan for the long-term stewardship of the property, including enforcement, monitoring, ownership, access, and any maintenance or proposed restoration.

(g) At a public meeting of the Highlands Council, the summary of the report and the findings, including the final recommendation of the Land Preservation Committee, will be presented. The Highlands Council shall, based upon the findings of the updated report of eligibility pursuant to (a)2iii above, adopt a resolution issuing an approval for funding and authorization to proceed at that meeting. The effective date of the approval shall be the date of the adoption of the resolution following the expiration of the Governor's statutory period of review.

7:70-3.4 Closing process

(a) Partnership entities shall have 12 months to complete the closing on the property from the effective date of the Highlands Council's adoption of a resolution approving issuance of an approval for funding.

1. All partnership entities can obtain up to two six-month extensions, if it is shown that there are circumstances that inhibit the property's acquisition within the initial 12-month

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deadline, provided there is a reasonable expectation of closing within the extended deadline, as follows:

- i. The Executive Director shall have the ability to grant a first extension upon showing of good cause.
 - ii. The Executive Director shall have the ability to grant a second extension upon showing of good cause and the submission of a fully executed contract with the owner.
2. Should the partnership entity fail to close on the property within these time frames, the partnership entity shall forfeit the funding, but may reapply in any subsequent rounds.

(b) The partnership entity shall provide notice to the Highlands Council that the closing or final acquisition is ready to proceed and shall request issuance of payment to the property owner.

1. After review by the Executive Director that the release of funding is consistent with the approval of funding, the Executive Director shall authorize payment to the property owner at the closing for the acquisition of development rights.
2. The partnership entity shall provide the Executive Director with copies of the filed deed or deed of easement.
3. The Executive Director shall provide a report to the Highlands Council upon the final completion of each acquisition. A summary of the completed acquisitions shall be posted to the Highlands Council's website.

(c) Closing requirements are as follows:

1. A title search update shall be required prior to the filing of any deed or deed of easement on a property indicating that the property owner has the authority to deed restrict the land.
2. The final form of any deed or deed of easement shall be submitted for approval to the Highlands Council prior to the final release of funds.

Definitions

[N.J.A.C. 7:70, Subchapter 2]

7:70-2.1 Definitions

The following terms as used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

“Agricultural preservation priority areas” means those areas identified in Figure 5.3 in the RMP as agricultural priority areas, incorporated herein by reference as N.J.A.C. 7:70 Appendix A.

“Approval for funding” means the Highlands Council’s authorization for the issuance of partnership funding for a property by the adoption of a resolution at a public meeting.

“Charitable conservancy” means a corporation or trust exempt from Federal income taxation under paragraph (3) of subsection (c) of section 501 of the Federal Internal Revenue Code of 1986 (26 U.S.C. § 501 (c)(3)), which purpose includes the acquisition and preservation of lands in a natural, scenic, or other open condition.

“Conservation easement” means a deeded transfer of an interest in real property under which the landowner permanently agrees to restrict the property from future development and to conserve and protect open space, scenic, agricultural, or other natural resource values on the land covered by the easement.

“Conservation preservation priority areas” means those areas identified in Figure 5.1, in the RMP as conservation priority areas, incorporated herein by reference as N.J.A.C. 7:70 Appendix B.

“Executive Director” means the Executive Director of the Highlands Council.

“Highlands Act” means the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq.

“Highlands Council” means the Highlands Water Protection and Planning Council established pursuant to the Highlands Act.

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“Highlands development credit” or **“HDC”** means the transfer of development rights credit for the Highlands Transfer of Development Rights Program that may be bought, sold, or transferred in accordance with the Highlands Act and the State Transfer of Development Rights Act (N.J.S.A. 40:55D-137 et seq.).

“Highlands development credit allocation” or **“HDC allocation”** means the number of credits a property located in the Highlands Region qualifies for based on the methodology established in the RMP.

“Highlands development credit allocation letter” or **“HDC allocation letter”** means the letter indicating how many HDCs a property qualifies for, issued by the Highlands Council to a property owner that has applied for an HDC allocation.

“Highlands development credit bank” or **“HDC bank”** means the transfer of development rights bank created by the Highlands Council pursuant to the Highlands Act.

“Highlands Development Credit Bank Board” means the nine member board of directors comprised of those members as established by the Highlands Council pursuant to the Highlands Act.

“Highlands development credit certificate” means the document issued by the Executive Director, upon authorization by the HDC Bank Board, that gives the holder of the certificate the right to the number of highlands development credits indicated on the certificate.

“Highlands development credit certificate application” means the application prepared by the applicant for the purposes of obtaining HDC credits from a property that has been issued an HDC allocation letter.

“Highlands Region” means the region so designated by N.J.S.A. 13:20-7.

“Highlands Regional Master Plan” or **“Highlands RMP”** or **“RMP”** means the Regional Master Plan, adopted by the Highlands Council, pursuant to the Highlands Act.

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“Landowner Equity and Land Preservation Committee” or “Land Preservation Committee”

means the committee established by the chairperson of the Highlands Council and which reviews applications pursuant to this chapter.

“Mitigation” means methods for the alleviation of negative impacts to and loss of Highlands resources identified in the RMP. Such methods include, but are not limited to, the provision of physical restoration of resources (such as scenic or environmental resources) or financial compensation for impacts to the resources.

“Partnership entity” or “partnership entities” means those entities entitled to apply for partnership funds under the Highlands Open Space Partnership Funding Program as set forth in N.J.A.C. 7:70-3.1(a).

“Passive recreation” means non-motorized outdoor recreational activities, such as nature observation, hiking, biking, and canoeing or kayaking, that require a minimum of facilities or development and that have minimal environmental impact on natural resources.

“Planning area” means that area of the Highlands Region defined at N.J.S.A. 13:20-3.

“Preservation area” means that area of the Highlands Region defined at N.J.S.A. 13:20-3.

“Special environmental zone” means those areas identified in Figure 5.2 in the RMP as a special environmental zone, incorporated herein by reference as N.J.A.C. 7:70 Appendix C.

“State of New Jersey” means any State department, agency, board, commission, or other entity, district water supply commission, independent State authority or commission, or bi-state entity.

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OPEN SPACE MATCHING GRANT PROGRAM APPLICATION

Submission Requirement Checklist

- Contact the Highlands Open Space Coordinator at (908) 879-6737 to discuss application if there are questions regarding this checklist or the application;
- Completed application form, including this cover page;
- Where the applicant is a charitable conservancy:
 - Documentation indicating that the entity is exempt from Federal income taxation under paragraph (3) of the subsection (c) of section 501 of the Federal Internal Revenue Code of 1986 (26 U.S.C. § 501 (c)(3)); and
 - Documentation indicating that the entity's purpose includes the acquisition and preservation of lands in a natural, scenic, or other open condition;
- Adopted resolution authorizing the submission of the application for the property in question;
- Copy of any proposed deed restriction or easement.
- Valuation information:
 - Where appraisals have already been prepared, copies of such must be submitted;
 - Where no appraisals have been prepared, an estimated total cost must be submitted;
 - Where a specific valuation has already been negotiated, that valuation must be submitted; or
 - Where a contract of sale has been agreed upon, copies of the contract must be submitted.

Note – Information directly impacting or supporting the items identified in the checklist/application may be submitted as additional attachments. Items not listed in the checklist/application (example: general project narrative) are unnecessary to submit and will not impact the review of the submission. Site photographs and maps derived from the Highlands Council website should not be submitted. The Highlands Council staff will conduct site visits and full site mapping as part of the review process, as well as request any follow-up information from the applicant (in support of the items listed in the checklist/application) if necessary during the review process.

Return completed checklist, application (post-marked by September 16, 2016), and supporting documentation to:

**NJ Highlands Council
100 North Road
Chester, NJ 07930**



Application for Open Space Matching Grant Program

Applicant Information

Applicant/Organization Name: _____

Phone #: _____ Email: _____

Name of Primary Contact: _____

Applicant Mailing Address: _____

Owner Information

Property Owner's Name: _____

Phone #: _____ Email: _____

Co-Owner (if any) Name: _____

Property Owner Mailing Address: _____

Property Information

Municipality: _____ County: _____

Block(s) and Lot (s): _____

Street Address: _____

Acreage of Property: _____ Acreage proposed for acquisition: _____

Are there any homes located on the property? Yes No

If yes, how many homes and when were they built? _____

Are there any other buildings on the property? Yes No

If yes, how many, what are they used for & when were they built? _____

Are there any adjacent properties proposed for preservation? Yes No

