

**OPEN SPACE, FARMLAND AND
HISTORIC PRESERVATION TRUST FUND**

**Passaic County Board of Chosen Freeholders
Rules and Regulations**

Authority: N.J.S.A. 40:12-15.1, et seq.; Resolution R-12-269; Resolution R-13-154; Resolution R-13-155; Resolution R-13-273; Resolution R-13-274; Resolution R-14-68; Resolution R-14-377; and Resolution R20181061.

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Chapter 1. General Provisions

1. Purposes and objectives

- (a) These chapters are promulgated for the following purposes:
- i) To implement the purposes and objectives of the Passaic County Open Space, Farmland and Historic Preservation Trust Fund, to ensure there is an adequate supply of lands for either public outdoor recreation or conservation of natural resources, or both, and to preserve and restore historic assets in the County. The Open Space, Farmland and Historic Preservation Trust Fund Advisory Committee shall assist local government units and nonprofits in their efforts to increase and preserve permanent outdoor recreation areas for public use and enjoyment, the preservation and restoration of historic sites, and conserve areas for the protection of natural resources such as waterways, wildlife habitat, wetlands, forests, and viewsheds;

- ii) To establish the procedures by which the Passaic County Board of Chosen Freeholders will provide Open Space, Farmland and Historic Preservation Trust Fund funding in the form of grants, to local government units and nonprofits, to acquire lands that have significant recreation and conservation attributes and to preserve natural resources for the current population and future citizens of the County of Passaic;
- iii) To establish the procedures by which the Passaic County Board of Chosen Freeholders will provide Open Space, Farmland and Historic Preservation Trust Fund funding in the form of grants to local government units and nonprofits, for the development or redevelopment of land to provide outdoor recreation opportunities and preserve and protect historic sites for the current population and future citizens of the County of Passaic;
- iv) To establish the procedures by which the Passaic County Board of Chosen Freeholders will provide Open Space, Farmland and Historic Preservation Trust Fund funding in the form of grants to local government units and nonprofits for recreation, preservation, and conservation purposes at the time the local government unit received funding, permanently remain in use for recreation and conservation purposes; and
- v) To establish the procedures by which the Passaic County Board of Chosen Freeholders shall manage Open Space, Farmland and Historic Preservation Trust Fund monies on projects within the Passaic County Park System and Passaic County Historic Sites.

2. Scope

These chapters constitute the Passaic County Board of Chosen Freeholders rules, under applicable State and County laws, governing the award of grants to local government units and nonprofits for the acquisition or development of land, for outdoor recreation and

conservation purposes, for the preservation and restoration of qualified historic sites, and for the administration of the Passaic County Open Space Trust Fund Budget. These rules establish project eligibility requirements, funding award categories, application requirements and criteria, grant terms, and program administrative requirements.

3. Construction

These rules shall be construed liberally to effectuate the purposes and objectives of the Open Space, Farmland and Historic Preservation Trust Fund laws.

4. Severability

If any provision of these chapters are declared ineffective or invalid by any court of competent jurisdiction, that provision shall be severed and all remaining provisions shall continue in full force and effect.

5. Program information; address for submissions

Unless otherwise specified, any questions arising from, and all submissions required under these chapters dealing with acquisition and park development projects should be directed to the Passaic County Planning and Economic Development Department, 930 Riverview Drive, Suite 250, Totowa, New Jersey 07512, (973) 569-4040.

All questions and submissions arising from, and all submissions required under these chapters dealing with historic preservation projects should be directed to the Passaic County Department of Cultural and Historic Affairs, The Dey Mansion, 199 Totowa Road, Wayne, New Jersey 07470, (973) 696-1776.

Additional forms and guidelines about the Passaic County Open Space, Farmland and Historic Preservation Trust Fund are also available at www.passaiccountynj.org.

6. Relaxation of procedural requirements

The Passaic County Board of Chosen Freeholders may, in its discretion and if consistent with applicable County and State laws, relax the strict application of any of the administrative or procedural requirements of these chapters when necessary and in the public interest, for good cause shown. Such authority does not extend to

statutory requirements, legislative mandates, or substantive requirements of the chapters. Furthermore, typographical errors can be amended as applicable.

Chapter 2. Definitions

1. Definitions

The following terms as used in these chapters shall have the following meanings, unless the context clearly indicates otherwise:

“Applicant” means any of the sixteen municipalities in the County of Passaic or a qualified nonprofit corporation operating in a manner as set forth in the rules and regulations herein in the jurisdiction of the County.

“Board” means the Passaic County Board of Chosen Freeholders.

“Contributing property” means a building, site, structure, or object that adds to the historic architectural qualities, historic associations, or archaeological values for which a property is significant

“County” means Passaic County.

“County Administrator” means the Passaic County Administrator.

“Estimated Land Value” means the estimated value of a project site based on any reasonable method that the County determines to be reliable, such as discussions with real estate or appraisal professionals.

“Fee simple” means absolute ownership in land, unencumbered by any other interest or estate.

“Green Acres” or “Green Acres Program” mean the Office of Green Acres in the New Jersey Department of Environmental Protection, established by N.J.S.A. 13:8C-24.

“Greenway” means a pedestrian or bicycle connection to recreational lands, water, natural ecosystems, historic sites, wetlands, wildlife habitats, urban parks, and scenic settings for the enjoyment of the public.

“Highlands” means the Highlands Region so designated by the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-7.

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

“Highlands Regional Master Plan” means the regional master plan, or any revision thereof, adopted by the Highlands Water Protection and Planning Council, established pursuant to P.L. 2004, c. 120, N.J.S.A. 13:20-1 et seq.

“Historic District” or “District” means a significant concentration, linkage or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

“Historic property” means any area, building, facility, property, site, or structure approved for inclusion, or that meets the criteria for inclusion, in the New Jersey Register of Historic Places, N.J.S.A. 13:1B-15.128 et seq.

“Improvement” means any physical change to land made with the intention of expanding or enhancing its use for some specific purpose or purposes.

“Land” or “lands” means real property, including any improvement, right-of-way, water, riparian and other rights, easements, privileges, and any other rights or interests in, relating to, or connected with real property.

“Local government unit” means Bloomingdale, Clifton, Haledon, Hawthorne, Little Falls, North Haledon, Passaic, Paterson, Pompton Lakes, Prospect Park, Ringwood, Totowa, Wanaque, Wayne, West Milford, and Woodland Park.

“National Register” means the National Register of Historic Places, which consists of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering and culture, and which the Secretary of the United States Department of the Interior is authorized to expand and maintain pursuant to the National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq.

“New Jersey Register” means the New Jersey Register of Historic Places, consisting of areas, sites, buildings, structures and objects within the State determined to have significant historical, archaeological, architectural, or cultural value, which the Commissioner is authorized to expand and maintain pursuant to the Act.

“Nonprofit” means a corporation or trust whose purposes include the acquisition and preservation of land or water areas or a particular land or water area, or either thereof, in a natural, scenic or open condition, or whose focus is historic preservation and restoration, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and that has received Federal income tax exemption status under section 501(c) of the 1952 Internal Revenue Code, as amended.

“Open Space and Recreation Plan” means the plan developed by a government unit that identifies existing and potential open space preservation and recreation opportunities in a municipality or region.

“Open Space Advisory Committee” or “OSAC” or “Committee” means the Passaic County Open Space Advisory Committee.

“Open Space Coordinator” means the Passaic County Open Space Coordinator working within the Passaic County Department of Planning and Economic Development.

“Open Space Trust Fund” or “OSTF” means the Passaic County Open Space, Farmland and Historic Preservation Trust Fund.

“Parcel” means a piece of land with designated boundaries. A parcel may include multiple tax lots.

“Parkland” means land acquired, developed, and/or used for recreation and conservation purposes, and includes funded and unfunded parkland.

“Project Agreement” means the written agreement between the County and a local government unit or nonprofit, governing the local government unit’s or nonprofit’s performance of a project and the County’s provision of funding for the project. The date of execution of the project agreement shall begin the two (2) year clock on the project.

“Recreation and conservation purposes” means the use of lands for beaches, biological or ecological study, boating, camping, fishing, forests, greenways, hunting, natural areas, parks, playgrounds, protecting historic properties, water reserves, watershed protection, wildlife preserves, active sports, or a similar use for either public outdoor recreation or conservation of natural resources, or both, pursuant to Green Acres laws.

“Recreation and Open Space Inventory” or “ROSI” means the listing of all local government unit’s funded and unfunded parkland, including a description sufficient to identify each parcel.

“State” means the State of New Jersey.

Chapter 3. OSTF grant application; requirements; public hearing; notification of property owners; powers of the Board of Chosen Freeholders

1. Grant application

- (a) At the beginning of each calendar year or as deemed practical, the Open Space Coordinator shall post instructions to the local government units and nonprofit organizations in the County, and on the Passaic County website, on grant applications to the OSTF, including, but not limited to, the due date for the applications.
- (b) All applicants are required to submit one (1) hard copy and one (1) electronic copy of the materials required in the Chapter.
- (c) Prior to the due date as posted by the Open Space Coordinator, local government units shall be required to submit the following information:
 - i) A completed grant application;
 - ii) Site map of the proposed project or acquisition location;
 - iii) Conceptual site plans prepared by a licensed professional identifying all proposed facilities, as well as any proposed improvements;
 - iv) Units and quantities cost estimates prepared by a licensed professional;
 - v) A project timeline;
 - vi) Annual operating and maintenance costs once the project is completed;

- vii) A list of all permits that will be required to complete the project;
 - viii) Minutes of the public hearing on the grant application;
 - ix) Resolution by the local government unit's governing body approving the grant application;
 - x) Photographs of the project site; and
 - xi) Any other requirements as set forth in any of the Chapters herein.
- (d) Prior to the due date as posted by the Open Space Coordinator, nonprofit applicants shall be required to submit the following information:
- i) A completed grant application;
 - ii) Site map of the proposed project or acquisition location;
 - iii) Conceptual site plans prepared by a licensed professional identifying all proposed facilities, as well as any proposed improvements;
 - iv) Units and quantities cost estimates prepared by a licensed professional;
 - v) A project timeline;
 - vi) Annual operating and maintenance costs once the project is completed;
 - vii) A list of all permits that will be required to complete the project;
 - viii) Minutes of the public hearing on the grant application;
 - ix) Copy of the current IRS determination letter demonstrating 501(c)(3) status;
 - x) Copy of the nonprofit's W9 form

showing an EIN;

- xi) Copy of the nonprofit's New Jersey Business Registration Certification;
- xii) If undertaking a project on property owned by a local government unit, a resolution by the governing body of the local government unit authorizing the project and an executed memorandum of agreement setting forth the roles and responsibilities of each party with respect to the construction and maintenance of the project, and any other necessary deems to complete the funded project;
- xiii) Resolution by the nonprofits' board approving the grant application;
- xiv) Photographs of the project site; and
- xv) Any other requirements as set forth in any of the Chapters herein.

2. Public hearing requirement

Local government unit and nonprofit applicants are required to advertise and host a public hearing on the grant application.

3. Property owner notification

Local government unit applicants are required to notify all property owners within a two hundred (200) foot radius of the property where a project or acquisition grant application is being submitted. The notification must be sent via certified mail, and proof of the notification must be submitted with the grant application.

4. Powers retained by the Board of Chosen Freeholders

The Board shall retain the power to, outside of a grant cycle, award a grant to a local government unit or nonprofit. Additionally, the Board shall be able to develop an agreement with a local government unit, or nonprofit, that could include dedicating funding awards to a local government unit or nonprofit for a long-term project, which could include dedicating funding each year

towards financing a large scale acquisition, historic preservation or rehabilitation, or park development project in the County.

5. Application limits

During a grant cycle, local government units and nonprofits shall be limited to two (2) applications for funding, regardless of the type of funding being requested.

Chapter 4. Local government unit projects: eligibility of local government unit applicants

1. Eligible applicants

Any local government unit in the County that has the authority to enter into a project agreement with the County and to fulfill the obligations imposed under the project agreement, these chapters and any other applicable County, State, or federal laws, is eligible to apply for OSTF grants, unless the local government unit is ineligible under section 4.2.

2. Ineligible applicants

- (a) The following are ineligible to apply for funding:
 - i) Any school board, educational institution, detention and/or institutional center, parking authority, housing authority, or similar public agency without primary recreation and conservation responsibilities;
 - ii) Any local government unit that is in default on any prior obligation to the County; and
 - iii) Any local government unit that has not demonstrated reasonable progress in completing previously approved OSTF project or is not in compliance with the requirements of these chapters, such as a failure to maintain its funded parkland in accordance with the terms of a project agreement.
- (b) Any local government unit or nonprofit with a remaining balance on a project that is more than three (3) years old is ineligible to apply for

funding during the current year grant cycle absent documented evidence that the project is being delayed for reasons outside the local government unit or nonprofit's administration of said project.

Chapter 5. Local government unit acquisition projects: project eligibility, conditions, and limitations

1. General provisions and funding policies

- (a) Local government units may apply to the County for OSTF grants through the OSAC for acquisition of land for recreation and conservation purposes. Grant requests shall be capped at a maximum amount of two hundred and fifty thousand dollars (\$250,000.00).
- (b) Any OSTF award is subject to approval by the Board.
- (c) A local government unit that is awarded an OSTF grant is responsible for obtaining all permits and meeting all requirements of local, County, State, and federal statutes, regulations, and ordinances, as applicable, related to the project.
- (d) A local government unit is distributed an OSTF grant on a reimbursed basis, unless funds are required for closing, in which case an escrow account number is required, and must be provided to the County at least three (3) days in advance of the closing, in order for those funds to be transferred.
- (e) If an acquisition is not fully completed within a two (2) year period from the time the project agreement is executed between the local government unit and the County, the grant can be rescinded at the County's discretion.

2. Eligible projects

- (a) Land for recreation and conservation purposes, as defined herein and by the County, is eligible for acquisition with an OSTF grant. An acquisition project may include the purchase of, for example:

- i) A natural area such as wildlife preserve, forest, and/or wetland that provides opportunity for conservation, nature observation, water quality and water supply protection, camping and/or hiking; or
- ii) Land suitable for playgrounds, athletic fields, and other types of active and passive outdoor recreation facilities or opportunities.

3. Ineligible projects

- (a) The following types of acquisition projects are not eligible for OSTF grants:
 - i) Any site to be purchased in fee simple to which the public access is not provided, unless the Board determines that the public accessibility would pose an unacceptable risk to the land or to any natural resource associated with the land;
 - ii) Any permanent conservation restriction or historic preservation restriction not consistent with N.J.A.C. 7:36-4.7;
 - iii) Any structure that will not be used in support of outdoor recreation and conservation purposes or demolished to create open space, in accordance with N.J.A.C. 7:36-4.4;
 - iv) Any site that is, or is intended to be, use as a public road right-of-way;
 - v) Any site that is already preserved by the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1, et seq.;
 - vi) Any site with uninsurable or unmarketable title, such as contamination; or
 - vii) Any site that is already permanently preserved for recreation and conservation purposes, as determined by the County.

4. Acquisition of Structures

- (a) A local government unit may use an OSTF grant to acquire an improved property and structure (s) that the local government unit shall maintain and operate for recreation and conservation purposes to support the use of an outdoor recreation or conservation facility area.
- (b) A local government unit may demolish or remove a structure with an OSTF grant to create open space only after the local government unit has obtained approval from the Board. Such approval is subject to N.J.A.C. 7:36-25.6.

5. Allowable project costs

- (a) Costs that a local government unit incurs to acquire title or permanent interest in the project site, up to the greater of either:
 - i) The eligible land cost;
 - ii) The purchase price, as determined by two separate appraisals;

6. Project costs that are not allowable

- (a) Administrative and operating costs and salary and/or wages of any employee of the local government unit occurred as part of the acquisition project;
- (b) Real property taxes;
- (c) Costs associated with an application for OSTF grants;
- (d) Costs that the local government unit incurs for any appraisal obtained;
- (e) Land survey costs;
- (f) Costs of a preliminary assessment;
- (g) Costs of demolition and removal of any structure, except as provided in these Rules to create new open space;

- (h) Costs of well testing done in compliance with the Private Well Testing Act, P.L. 2001, c.40;
- (i) Incidental costs, individually itemized, associated with the implementation of the acquisition project;
- (j) Remediation work done to address any areas of concern; and/or
- (k) Costs in excess of the sum of the approved OSTF grant.

clean energy, renewable energy, and energy efficient technologies, as well as procuring recyclable products, if possible. Any project application demonstrating clean energy and the use of recyclable materials shall be given added weight in the scoring process by the OSAC.

- (g) A local government unit may not be eligible for funding if there are grant awards to the local government unit made in the last two (2) years of the date in which the project agreement was executed, with no drawdown of funds, absent an extension as granted by the Board.

2. Eligible projects

- (a) Developments for recreation and conservation purposes are eligible for funding, including, but not limited to, the following examples:

- i) Construction of 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;
- ii) Lighting for an existing recreational or conservation facility; and
- iii) A restroom or comfort facility, park administrative office, maintenance or storage area, or other similar structure that supports outdoor recreation or conservation.

3. Ineligible projects

- (a) Any facility or structure that does not support outdoor recreation or conservation;
- (b) Any facility to which public access is not provided, as determined by the County;
- (c) A professional sports facility;

Chapter 6. Local government unit development projects: project eligibility, conditions, and limitations

1. General provisions and funding policies:

- (a) Local government units may apply to the County for OSTF grants for the development of land for outdoor recreation and conservation purposes. Grant requests shall be capped at a maximum amount of two hundred and fifty thousand dollars (\$250,000.00).
- (b) A local government unit that receives an OSTF grant award shall not convey, dispose of, or divert to a use for other than recreation and conservation purposes.
- (c) All land and facilities developed with OSTF grants must be accessible to the public.
- (d) A development project shall be located on land that is owned by the local government unit, or on land for which the local government unit has obtained an irrevocable lease approved by the County for at least twenty five (25) years.
- (e) The local government unit that is awarded an OSTF grant is responsible for obtaining all permits and meeting all the requirements of Federal statutes, New Jersey laws, and any other county and or local statutes, regulations, and ordinances, as applicable, related to the project.
- (f) The County encourages the local government unit to design and construct the development project using

- (d) Any facility that will significantly impair the land's natural resources, as determined by the County;
- (e) Any development project that will use tropical hardwood; and
- (f) A structure that entirely encloses an outdoor recreation facility on a temporary or permanent basis.

4. Allowable project costs

- (a) For development projects, the following costs are allowable, provided the local government unit incurs such costs in conformance with all applicable laws, including the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.:
 - i) Construction costs; and
 - ii) Cost of any equipment or materials necessary to carry out the construction and make the facility operational.

5. Project costs that are not allowable

- i) Engineering or other consultant fees;
- ii) Permit fees;
- iii) Administrative and operating costs and salaries and/or wages of any employee of the local government unit incurred as part of the development project;
- iv) Costs associated with an application to the OSTF;
- v) Remediation work done to address any areas of concern; and
- vi) Costs in excess of the sum of the approved OSTF grant.

Chapter 7. Local government unit development project; project agreement, bid procedures, construction responsibility, disbursements, project closeout, accounting and recordkeeping requirements

1. Project agreement

- (a) Each OSTF development project shall have a project agreement, which shall be executed by the local government unit and the County within forty five (45) days of receipt. The project agreement shall set out the rights and responsibilities of the local government unit and the County in regards to the development project and shall contain all information identified in (c) below. The date of execution of the project agreement shall begin the two (2) year clock on the project.
- (b) The County shall send the project agreement after the funding is approved by the Board for local government unit's approval and execution by the appropriate parties, including the Mayor and local government unit attorney.
- (c) The project agreement shall contain:
 - i) A description of the project to be developed;
 - ii) The estimated cost of the development project;
 - iii) A clause requiring the local government units to insert a letter with annual tax bills stating the amount of the award received and attributing the funding as received from the Passaic County Board of Chosen Freeholders, Open Space, Farmland and Historic Preservation Trust Fund;
 - iv) Special conditions, if any;
 - v) The requirements for recordkeeping and project administration;
 - vi) A two (2) year project term whereby all OSTF grants monies must be distributed; and
 - vii) The reimbursement process whereby the County will reimburse the local

government unit for costs incurred in the project, following the submission of paid invoices to the County Open Space Coordinator.

2. Bid procedures

- (a) All construction costs shall be bid in accordance with Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and
- (b) All bid specifications and contracts shall require that all facilities must be constructed in accordance with all applicable State and local construction codes.

3. Construction requirements, site inspections

- (a) The County shall periodically inspect the project to ensure compliance with the project agreement.
- (b) The local government unit is responsible for supervising the construction of the project and for ensuring that all construction contract specifications are met.
- (c) The local government unit shall erect and maintain for the duration of the project a construction sign that identifies the project as funded by the Passaic County Board of Chosen Freeholders, Open Space, Farmland and Historic Preservation Trust Fund.

4. Disbursement of grant

- (a) The County shall disburse the grant as proof of paid invoices are submitted by the local government unit to the County, and verified by the Open Space Coordinator, thereafter, grant funds shall be released, as approved on a bill's list of the Board;
- (b) For each request of payment, the local government unit shall submit a payment request form, as provided by the Open Space Coordinator, with the following information:
 - i) Project name and award year;
 - ii) Name of local government unit;

- iii) An itemized list of the costs incurred; and
- iv) A certification by the local government unit's chief financial officer that the information entered on the payment request form is accurate and that the local government unit is maintaining an accurate record of accounts for the project, including cancelled checks and vouchers which must be submitted to the County upon request.

5. Project closeout

- (a) The local government unit shall notify the County when the development project is complete.
- (b) Upon notification under (a), the County shall send a closeout letter directing the local government unit to provide copies of the following documents:
 - i) A record drawing showing the project as built; and
 - ii) Digital images and prints that clearly show the development project, as completed.
- (c) The Open Space Coordinator shall conduct a final site inspection within forty five (45) days of the items listed under (b) above.
- (d) The County shall provide the local government unit with a sign (or signs, as applicable) that identifies the parkland as a Passaic County Board of Chosen Freeholders, Open Space, Farmland and Historic Preservation Trust Fund project that is permanently dedicated to recreation and conservation purposes. The local government unit shall post the sign(s) in a prominent place on the funded parkland and maintain it.
- (e) Any excess funds shall be unencumbered and returned to the OSTF.

6. Accounting and recordkeeping requirements

- (a) The local government unit shall maintain and make available to the County for inspection upon request all financial documents and records related to the project.
- (b) The local government unit, its contractors, and subcontractors shall employ generally accepted accounting procedures that adequately identify the costs associated with the OSTF grant.
- (c) The local government unit shall maintain separate records for each project, including the project amount, receipt, and disposition of funding received for the project, including County grant, and contributions, gifts, grants, or donations from other sources.

Chapter 8. Nonprofit acquisition projects: project eligibility, conditions, and limitations

1. General provisions and funding policies

- (a) Nonprofits may apply to the County for grant funding for the acquisition of land for public recreation and conservation purposes. Grant requests shall be capped at a maximum amount of two hundred and fifty thousand dollars (\$250,000.00).
- (b) A nonprofit that is awarded an OSTF grant shall execute and donate to the County, at no charge, a permanent conservation restriction, historic preservation restriction, or both, as applicable, on the project site. The restriction shall be prepared or approved to form by the County.
- (c) All land acquired with County OSTF funding must be accessible to the public, unless the Board determines that public accessibility would pose an unacceptable risk to the land or its natural resources.
- (d) A nonprofit that is awarded County OSTF funding is responsible for obtaining all permits and meeting all requirements of all Federal, State, County, and local statutes,

regulations, and ordinances, as applicable, related to the project.

- (e) The nonprofit is required to obtain a resolution by the governing body of the municipality where the property being purchased is located approving of the acquisition.
- (f) A nonprofit that has not demonstrated reasonable progress in completing a previously approved County OSTF project or is not in compliance with the requirements of this, or any other applicable chapter, may be ineligible for funding.

2. Eligible projects

- (a) Land for recreation and conservation purposes, as defined herein and by the County, is eligible for acquisition with an OSTF grant. An acquisition project may include the purchase of, for example:
 - i) A natural area such as wildlife preserve, forest, and/or wetland that provides opportunity for conservation, nature observation, water quality and water supply protection, camping and/or hiking; or
 - ii) Land suitable for playgrounds, athletic fields, and other types of active and passive outdoor recreation facilities or opportunities.

3. Ineligible projects

- (a) The following types of acquisition projects are not eligible for OSTF grants:
 - i) Any site to be purchased in fee simple to which the public access is not provided, unless the Board determines that the public accessibility would pose an unacceptable risk to the land or to any natural resource associated with the land;
 - ii) Any permanent conservation restriction or historic preservation

restriction not consistent with N.J.A.C. 7:36-4.7;

- iii) Any structure that will not be used in support of outdoor recreation and conservation purposes or demolished to create open space, in accordance with N.J.A.C. 7:36-4.4;
- iv) Any site that is, or is intended to be, use as a public road right-of-way;
- v) Any site that is already preserved by the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1, et seq.;
- vi) Any site with uninsurable or unmarketable title; or
- vii) Any site that is already permanently preserved for recreation and conservation purposes, as determined by the County.

4. Acquisition of Structures

- (a) A nonprofit may use an OSTF grant to acquire an improved property and structure (s) that the local government unit shall maintain and operate for recreation and conservation purposes to support the use of an outdoor recreation or conservation facility area.
- (b) A nonprofit may demolish or remove a structure with an OSTF grant to create open space only after the local government unit has obtained written approval from the Board. Such demolition may be subject to N.J.A.C. 7:35-25.6.

5. Allowable project costs

- (a) Costs that a nonprofit incurs to acquire title or permanent interest in the project site, up to the greater of either:
 - i) The eligible land cost;
 - ii) The purchase price, as determined by two separate appraisals;

- (b) Costs that the nonprofit incurs for any appraisal obtained;
- (c) Land survey costs;
- (d) Costs of a preliminary assessment;
- (e) Costs of demolition and removal of any structure;
- (f) Costs of well testing done in compliance with the Private Well Testing Act, P.L. 2001, c.40;
- (g) Incidental costs, individually itemized, associated with the implementation of the acquisition project;

6. Project costs that are not allowable

- (a) Administrative and operating costs and salary and/or wages of any employee of the local government unit occurred as part of the acquisition project;
- (b) Real property taxes;
- (c) Costs associated with an application for OSTF grants;
- (d) Remediation work done to address any areas of concern; and/or
- (e) Costs in excess of the sum of the approved OSTF grant.

Chapter 9. Nonprofit acquisition projects: project agreement, disbursements, accounting and recordkeeping requirements

1. Project Agreement

- (a) Each OSTF acquisition project shall have a project agreement, which shall be executed by the nonprofit and the County. The project agreement shall set out the rights and responsibilities of the nonprofit

and County in regards to the acquisition project and shall contain all of the information identified in (c) below. The date of execution of the project agreement shall begin the two (2) year clock on the project.

- (b) The County shall send out the project agreement to the nonprofit for approval and signature after the grant is approved by the Board. The nonprofit shall ensure that the project agreement is approved and signed by the nonprofit's attorney, and executed by the person authorized under the nonprofit's approving resolution.
- (c) The project agreement shall contain:
 - i) An identification of the project site;
 - ii) The estimated cost of the acquisition project;
 - iii) A condition by the nonprofit to keep the land accessible to the public;
 - iv) That the nonprofit shall agree not to convey the land unless approved by the County;
 - v) That the nonprofit shall agree to execute and donate to the County, at no charge, a permanent conservation restriction, historic preservation restriction, or both, or a Secondary Right of Enforcement, as applicable, prepared and approved by the County. The conservation or historic preservation shall include:
 - (1) The conditions governing the use, future development, and maintenance of the project site; the public access to the project site; and the conveyance of any interest in the project site;
 - (2) The County's right to enforce the conditions of the restriction; and
 - (3) The remedies available to the County in the event the nonprofit does not comply with the conditions of the restriction;

- vi) Any other special conditions;
- vii) The requirements for recordkeeping and project administration;
- viii) The requirement that the deed for any parcel acquired as part of the project site contain the following clause: "The lands being conveyed herein are being purchased with Passaic County Open Space, Farmland and Historic Preservation Trust Fund monies and are subject to restrictions as set by the Passaic County Board of Chosen Freeholders."

- (d) The nonprofit shall return the signed project agreement to the County within forty five (45) days of receipt.

2. Disbursement of grant

- (a) The County shall disburse the grant in advance of closing or as a reimbursement after closing.
- (b) If the nonprofit seeks payment in advance of closing, it shall submit its request at least sixty (60) days before the scheduled date of closing.
- (c) Prior to disbursement of the grant, the nonprofit shall supply:
 - i) A survey package prepared in accordance with the Nonprofit Land Survey Overview which includes two (2) copies of the metes and bounds, stating acreage of each included lot, and a Surveyor's Certification and Summary form;
 - ii) Until the title insurance policy is issued, a copy of the title insurance binder, with copies of the deeds of record and of all easements, restrictions, and other instruments of records as attachments, and when issued, the title insurance policy;

- iii) An Acquisition Payment Request Form, as provided by the Open Space Coordinator; and
 - iv) A draft of the deed to be recorded upon closing, and any other documents or records as requested by the County.
- (d) For reimbursement after closing, the following:
- i) A copy of the recorded deed;
 - ii) A survey package as described in (c)(1);
 - iii) A copy of the title insurance policy
 - iv) A copy of each cancelled check (both sides) or evidence of an electronic transfer of funds for allowable project costs;
 - v) An Acquisition Payment Request Form, as provided by the Open Space Coordinator; and
 - vi) Any other documents or records as requested by the County.
- (e) The nonprofit shall establish a separate, non-interest bearing bank account for the purpose of receiving an OSTF grant. If a nonprofit has received more than one OSTF grant, one account can be used to receive all OSTF monies.
- (f) The nonprofit may unilaterally withdraw the grant application at any time before it receives the OSTF grant.
- (g) If the nonprofit terminates the project agreement for any reason, any costs incurred will be borne solely by the nonprofit;
- (h) The County shall provide the nonprofit a sign (or signs, if applicable) that identifies the parkland as an OSTF site that is permanently dedicated to recreation and conservation purposes. The County shall post the sign(s) in a prominent place on the funded parkland and the nonprofit shall maintain it.

3. Accounting and recordkeeping requirements

- (a) The nonprofit shall maintain and make available to the County for inspection upon request all financial documents and records related to the project.
- (b) The nonprofit, its contractors, and subcontractors shall employ generally accepted accounting procedures that adequately identify the costs associated with the OSTF grant.
- (c) The nonprofit shall maintain separate records for each project, including the project amount, receipt, and disposition of funding received for the project, including the County OSTF grant, and contributions, gifts, grants, or donations from other sources.

Chapter 10. Nonprofit development projects: project eligibility, conditions, limitations

1. General provisions and funding policies

- (a) Nonprofits may apply to the County OSTF for grant funding for the development of land for public outdoor recreation and conservation purposes. Grant requests shall be capped at a maximum amount of one hundred thousand dollars (\$100,000.00).
- (b) Any OSTF grant is subject to approval by the Board.
- (c) A nonprofit that receives an OSTF grant shall execute and donate to the County, at no charge, a permanent conservation restriction, historic preservation restriction, or both, as applicable, on the project site.
- (d) All land and facilities developed with OSTF grants must be accessible to the public.
- (e) No grant shall be made to a nonprofit for a development project for recreation and conservation purposes on lands owned by a local government unit unless the local government unit is a co-applicant or the

nonprofit has included in its application a resolution passed by the governing body of the local government unit authorizing the nonprofit to submit the application for funding and to perform the work as set forth in the project application.

- (f) A development project shall be located on land that is owned in fee simple by the nonprofit, or on land for which the nonprofit has obtained an irrevocable lease approved by the County for at least twenty five (25) years, or a use agreement, or any other legal instrument as approved by the County.
- (g) The nonprofit that is awarded an OSTF grant is responsible for obtaining all permits and meeting all the requirements of Federal statutes, New Jersey laws, and any other county and local statutes, regulations, and ordinances, as applicable, related to the project.
- (h) The County encourages the nonprofit to design and construct the development project using clean energy, renewable energy, and energy efficient technologies, as well as procuring recyclable products, if possible. Any project application demonstrating clean energy and the use of recyclable materials shall be given added weight in the scoring process by the OSAC.
- (i) A nonprofit may not be eligible for funding if there are grant awards to the nonprofit made in the last two (2) years with no drawdown of funds, absent an extension as granted by the Board.

2. Eligible projects

- (a) Developments for recreation and conservation purposes, are eligible for funding, including, but not limited to, the following examples:
 - i) Construction of 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;

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- ii) Lighting for an existing recreational or conservation facility; and
- iii) A restroom or comfort facility, park administrative office, maintenance or storage area, or other similar structure that supports outdoor recreation or conservation.

3. Ineligible projects

- (a) Any facility or structure that does not support outdoor recreation or conservation;
- (b) Any facility to which public access is not provided, as determined by the County;
- (c) A professional sports facility;
- (d) Any facility that will significantly impair the land's natural resources, as determined by the County;
- (e) Any development project that will use tropical hardwood; and
- (f) A structure that entirely encloses an outdoor recreation facility on a temporary or permanent basis.

4. Allowable project costs

- (a) For development projects, the following costs are allowable, provided the nonprofit incurs such costs in conformance with all applicable laws, including the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.:
 - i) Construction costs; and
 - ii) Cost of any equipment or materials necessary to carry out the construction and make the facility operational.

5. Project costs that are not allowable

- (a) Engineering or other consultant fees;

- (b) Permit fees;
- (c) Administrative and operating costs and salaries and/or wages of any employee of the local government unit incurred as part of the development project;
- (d) Costs associated with an application to the OSTF;
- (e) Remediation work done to address any areas of concern; and
- (f) Costs in excess of the sum of the approved OSTF grant.
- v) A two (2) year project term whereby all OSTF grants monies must be distributed; and
- vi) The reimbursement process whereby the County will reimburse the nonprofit for costs incurred in the project, following the submission of paid invoices to the County Open Space Coordinator.

Chapter 11. Nonprofit development project: project agreement, bid procedures, construction responsibility, disbursements, project closeout, accounting and recordkeeping requirements

1. Project agreement

- (a) Each OSTF development project shall have a project agreement, which shall be executed by the nonprofit and the County, within forty five (45) days of receipt. The project agreement shall set out the rights and responsibilities of the nonprofit and the County in regards to the development project and shall contain all information identified in (c) below. The date of execution of the project agreement shall begin the two (2) year clock on the project.
- (b) The County shall send the project agreement after the funding is approved by the Board for nonprofit and execution by the appropriate parties.
- (c) The project agreement shall contain:
 - i) A description of the project to be developed;
 - ii) The estimated cost of the development project and the award amount;
 - iii) Special conditions, if any;
 - iv) The requirements for recordkeeping and project administration;

2. Bid procedures

- (a) All construction costs shall be bid in accordance with Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and
- (b) All bid specifications and contracts shall require that all facilities must be constructed in accordance with all applicable State and local construction codes.

3. Construction requirements, site inspections

- (a) The County shall periodically inspect the project to ensure compliance with the project agreement.
- (b) The nonprofit is responsible for supervising the construction of the project and for ensuring that all construction contract specifications are met.
- (c) The nonprofit shall erect and maintain for the duration of the project a construction sign that identifies the project as funded by the Passaic County Board of Chosen Freeholders, Open Space, Farmland and Historic Preservation Trust Fund.

4. Disbursement of grant

- (a) The County shall disburse the grant as paid invoices are submitted by the nonprofit, verified by the Open Space Coordinator, and approved on a bill's list of the Board;
- (b) For each request of payment, the nonprofit shall submit a payment request form, as

provided by the Open Space Coordinator, with the following information:

- i) Project name, grant year, and award amount;
- ii) Name of the nonprofit;
- iii) An itemized list of the costs incurred; and
- iv) A certification by the nonprofit's chief financial officer that the information entered on the payment request form is accurate and that the nonprofit is maintaining an accurate record of accounts for the project, including cancelled checks and vouchers which must be submitted to the County upon request.

5. Project closeout

- (a) The nonprofit shall notify the County when the development project is complete.
- (b) Upon notification under (a), the County shall send a closeout letter directing the nonprofit to provide copies of the following documents:
 - i) A record drawing showing the project as built; and
 - ii) Digital images and prints that clearly show the development project, as completed.
- (c) The Open Space Coordinator shall conduct a final site inspection within forty five (45) days of the items listed under (b) above.
- (d) The County shall provide the nonprofit with a sign (or signs, as applicable) that identifies the parkland as a Passaic County Board of Chosen Freeholders, Open Space, Farmland and Historic Preservation Trust Fund project that is permanently dedicated to recreation and conservation purposes. The County shall post the sign(s) in a prominent place on the funded parkland and the local government unit shall maintain it.
- (e) Any excess funds shall be unencumbered and returned to the OSTF.

6. Accounting and recordkeeping requirements

- (a) The nonprofit shall maintain and make available to the County for inspection upon request all financial documents and records related to the project.
- (b) The nonprofit, its contractors, and subcontractors shall employ generally accepted accounting procedures that adequately identify the costs associated with the OSTF grant.
- (c) The nonprofit shall maintain separate records for each project, including the project amount, receipt, and disposition of funding received for the project, including County grant, and contributions, gifts, grants, or donations from other sources.

Chapter 12. Historic preservation projects: eligible applicants, grant application process, eligible properties, eligible activities, ineligible activities, project agreement, bid procedures, construction requirements, site inspections, disbursement of grant, project closeout, accounting and record keeping requirements

1. General provisions and funding policies

- (a) All grant applications for historic preservation projects shall be capped at a maximum of one hundred thousand dollars (\$100,000.00) for local government units and fifty thousand dollars (\$50,000.00) for nonprofit organizations. If the proposed application is a park development project within a historic district, the maximum amount shall be two hundred fifty thousand (\$250,000.00) for local government units.
- (b) All applicants are required to submit a letter of intent thirty (30) days prior to the grant deadline to the Director of Cultural and Historic Affairs for determination on the eligibility of the proposed application for funding.

2. Eligible applicants

The following organizations or groups are eligible to apply for OSTF historic preservation project grants:

- (a) Local government units in the County; and
- (b) Nonprofit organizations improving historic eligible properties in the County.

3. Ineligible applicants

- (a) The following organizations are ineligible to apply for funding:
 - i) Nonprofit applicants managing historic sites on property owned by the State of New Jersey;
 - ii) Nonprofit applicants applying for improvements that further a religious use; and
 - iii) Any school board, education institution or similar public agency without primary recreation and conservation responsibilities.

4. Grant application process

For all historic preservation grant applications received, including applications for any project involving a historic site or a park development project within a designated historic district, the Open Space Coordinator shall refer the applications to the Director of the County's Department of Cultural and Historic Affairs for a memorandum outlining the strengths and/or weaknesses of the application, to be distributed to the OSAC prior to the award of a grant.

Eligible applicants shall submit an application, as provided by the County's Director of Cultural and Historic Affairs, along with the following supporting documents:

- (a) Architectural or engineering drawings, site plans, signed by a licensed professional;
- (b) Current photographs of the existing structure;
- (c) Available historic photographs and/or drawings from public resources, including but not limited to the Passaic County Historical Society, New Jersey State Library, or State Historic Preservation Office;

- (d) Existing professional consultation reports, studies, and written testimony, regarding the proposed project;
- (e) Specifications of materials to be used for all aspects of the proposal being reviewed, including, but not limited to catalog cut sheets, sample paint chips, manufacturer product specification, and plan notations; and
- (f) A detailed narrative of the proposed scope of work.

5. Eligible properties

- (a) A local government unit or nonprofit may submit an application for the restoration or preservation of a historic building, structure, site, landscape, object, or district, in the County if the property is falls under one of the following categories:
 - i) Recognized by or listed on a register of historic places by a local government unit;
 - ii) Individually listed in the New Jersey Register of Historic Places and/or the National Register of Historic Places;
 - iii) Situated within the boundaries of a historic district listed in the New Jersey Register of Historic Places and/or the National Register of Historic Places, and identified in the National Register of Historic Places Registration Form inventory as a contributing resource of that district;
 - iv) Certified by the State Historic Preservation Office as a property that is eligible to be listed on the New Jersey Register of Historic Places, or that meets the criteria to be listed on the New Jersey Register and/or National Register of Historic Places.
 - v) If the property is not listed on any

Register of Historic Places or has not received a Determination of Eligibility and/or Certification of Eligibility from SHPO, the applicant must submit information concerning the site at least forty five (45) days prior to the application deadline so that a Certificate of Eligibility letter is received and included with the application.

- (b) If there is ambiguity regarding the eligibility of a property, the applicant shall request a written memorandum by the Director of the County's Department of Historic and Cultural Affairs to determine eligibility.
- (c) If a nonprofit does not own the historic site or property in fee simple, the nonprofit must have:
 - i) An irrevocable lease for a period of least twenty five (25) years or an executed Memorandum of Agreement outlining the roles and responsibilities of the nonprofit and owner for the construction of the proposed project; and
 - ii) A resolution of support from the governing body of the local government unit approving the grant application and project.

6. Eligible activities

- (a) Stabilization, which is the essential maintenance of a deteriorated structure, facility, or object as it exists at present, establishing structural ability and a weather resistant enclosure;
- (b) Rehabilitation, which is the act or process of making possible compatible use of a property through repair, alteration, and addition while preserving those portions or features that convey its historical, cultural, or architectural value;
- (c) Restoration, which is the act or process of accurately depicting the form, features, and character of a property as it appeared at the most significant time in the property's history

by the retention of materials from the most significant time, while permitting the removal of materials from other periods;

- (d) Preservation, which is the act or process of applying measures necessary to sustain the existing form, integrity, and material of a historic property;

7. Ineligible activities

- (a) Complete reconstruction;
- (b) New additions;
- (c) Interpretive activities such as displays, signs, exhibitions;
- (d) Administrative or operational costs;
- (e) Ceremonial or publicity expenses;
- (f) Fundraising;
- (g) Work performed outside the approved project scope;
- (h) Work that does not comply with the United States Secretary of the Interior Standards for Rehabilitation, codified as 46 CFR 67;
- (i) Routine or ongoing maintenance, including but not limited to, repainting, carpet replacement, or routine landscaping;
- (j) Relocation;
- (k) Improvements that would benefit or further religious uses;
- (l) Plans or reports; and
- (m) Acquisition of historic sites.

8. Project agreement

- (a) Each historic preservation project shall have a project agreement, which shall be executed by the applicant and the County

within forty five (45) days of receipt. The project agreement shall set out the rights and responsibilities of the applicant and the County in regards to the historic preservation project and shall contain all information identified in (c) below. The date of execution of the project agreement shall begin the two (2) year clock on the project.

- (b) The County shall send the project agreement after the funding is approved by the Board to the application and execution by the appropriate parties, which shall be returned within forty five (45) days of receipt.
- (c) The project agreement shall contain:
 - i) A description of the project to be developed;
 - ii) The estimated cost of the development project and the award amount;
 - iii) Special conditions, if any;
 - iv) The requirements for recordkeeping and project administration;
 - v) A two (2) year project term whereby all OSTF grants monies must be distributed;
 - vi) The reimbursement process whereby the County will reimburse the nonprofit for costs incurred in the project, following the submission of invoices to the County's Director of Cultural and Historic Affairs;
 - vii) A thirty (30) year easement agreement that places a deed restriction on the site to ensure a long-term preservation and proper maintenance limiting changes in use or appearance and preventing demolition of the property;
 - viii) A condition to keep the site accessible and open to the public; and
 - ix) A condition for sites listed on the New

Jersey Register of Historic Places undergoing rehabilitation and/or restoration to submit an Application for Project Authorization to the New Jersey State Historic Preservation Office as required by the New Jersey Register of Historic Places Act and rules governing same codified in N.J.A.C. 7:4, *et seq.*

9. Bid procedures

- (a) All construction costs shall be bid in accordance with Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and
- (b) All bid specifications and contracts shall require that all facilities must be constructed in accordance with all applicable State and local construction codes.
- (c) The applicant shall erect and maintain for the duration of the project a construction sign that identifies the project as funded by the Passaic County Board of Chosen Freeholders, Open Space, Farmland and Historic Preservation Trust Fund.

10. Construction requirements, site inspections

- (a) The County's Director of Cultural and Historic Affairs shall periodically inspect the project to ensure compliance with the project agreement.
- (b) The applicant is responsible for supervising the construction of the project and for ensuring that all construction contract specifications are met.
- (c) The applicant shall erect and maintain for the duration of the project a construction sign that identifies the project as funded by the Passaic County Board of Chosen Freeholders, Open Space, Farmland and Historic Preservation Trust Fund.
- (d) All construction must conform to the United States Secretary of the Interior's Standards for the Treatment of Historic Properties, codified as 46 CFR 67.

11. Disbursement of grant

- (a) The County shall disburse the grant as paid invoices are submitted by the applicant, verified by the Director of Cultural and Historic Affairs, and approved on a bill's list of the Board;
- (b) For each request of payment, the applicant shall submit a payment request form, as provided by the Director of Cultural and Historic Affairs, with the following information:
 - i) Project name, grant year, and award amount;
 - ii) Name of the applicant;
 - iii) An itemized list of the costs incurred; and
 - iv) A certification by the applicant's chief financial officer that the information entered on the payment request form is accurate and that the local government unit or nonprofit is maintaining an accurate record of accounts for the project, including cancelled checks and vouchers which must be submitted to the County upon request.

12. Project closeout

- (a) The applicant shall notify the County when the development project is complete.
- (b) Upon notification under (a), the County shall send a closeout letter directing the nonprofit to provide copies of the following documents:
 - i) A record drawing showing the project as built; and
 - ii) Digital images and prints that clearly show the historic preservation project, as completed.
- (c) The Director of Cultural and Historic Affairs shall conduct a final site inspection within forty five (45) days of the items listed under (b) above.
- (d) The County shall provide the applicant with a sign (or signs, as applicable) that identifies the historic site as a Passaic County Board of

Chosen Freeholders, Open Space, Farmland and Historic Preservation Trust Fund project that is permanently dedicated for historic preservation purposes. The County shall post the sign(s) in a prominent place at the historic site and the applicant shall maintain it.

- (e) Any excess funds shall be unencumbered and returned to the OSTF.

13. Accounting and recordkeeping requirements

- (a) The applicant shall maintain and make available to the County for inspection upon request all financial documents and records related to the project.
- (b) The applicant, its contractors, and subcontractors shall employ generally accepted accounting procedures that adequately identify the costs associated with the OSTF grant.
- (c) The applicant shall maintain separate records for each project, including the project amount, receipt, and disposition of funding received for the project, including County grant, and contributions, gifts, grants, or donations from other sources.

Chapter 13. Requirements for maintenance of parkland and historic sites: administrative transfer of parkland; changes in use of parkland; fees; use agreements; transfer of grant funds

1. Maintenance requirements for funded parkland; compliance inspection

- (a) Each local government unit or nonprofit is responsible for the satisfactory care, maintenance, and operation of funded parkland and preserved or rehabilitated historic sites. Each local government unit or nonprofit shall maintain and preserve funded parkland and historic sites in a condition which is equal to or better than the condition of the land or property at the time it was acquired or developed with OSTF grants.

- (b) Each local government unit or nonprofit shall maintain any development constructed with OSTF grants in reasonable repair in order to ensure its continuous use for the purpose(s) for which it was constructed as set forth in the project agreement.
- (c) The Open Space Coordinator or Director of Cultural and Historic Affairs, as applicable, shall conduct site inspections, at his/her discretion, to evaluate that the local government unit or nonprofit are abiding by the terms of the project agreement. The Open Space Coordinator or Director of Cultural and Historic Affairs shall provide an inspection summary to the local government unit or nonprofit after completion of the inspection, outlining any irregularities or breaches of the project agreement.
- (d) The failure of the local government unit or nonprofit to comply and correct instances of violations of the project agreement identified in an inspection summary by the deadline as set forth by the Open Space Coordinator or Director of Historic and Cultural Affairs, as applicable, shall render the local government unit or nonprofit ineligible for future OSTF grant funding.

2. Administrative transfer of parkland

- (a) A local government unit or nonprofit may transfer funded parkland to a local government unit, the State, the Federal government or a nonprofit, so long as the parkland shall be continue to be used solely for recreation and conservation purposes, and the County approves the transfer with a resolution approved by the Passaic County Board of Chosen Freeholders.
- (b) Any transfer of parkland that does not comply with the requirements of this Chapter is void and of no legal effect.

3. Changes in use of parkland

- (a) A local government unit or nonprofit may change the recreation and conservation purpose or use for which funded parkland is being used to another recreation or conservation purpose, so long as the following conditions are met:

- i) The County is notified in writing, and approves the change in use by way of resolution of the Board of Chosen Freeholders;
- ii) A public hearing is held, whereby the local government unit or nonprofit publishes a legal notice thirty (30) days in advance in the official newspaper(s) of the municipality(ies) in which the parkland is located, and affords members of the public a forum to address the change in use of parkland.
- iii) An estoppel period of thirty (30) days from the public hearing date before a change in use is legal and valid.

4. Fees for use of funded parkland or historic sites and recreation and conservation facilities on funded parkland

- (a) A local government unit or nonprofit may establish a fee schedule for the use of funded parkland or historic site for the use of recreation and conservation facilities on funded parkland, provided that the fees conform with (b) and (c) below.
- (b) The fees shall not be so excessive as to discourage reasonable public access.
- (c) The fees may be established in the following categories:
 - i) Yearly, seasonal, monthly, weekly, daily, single use, or hourly;
 - ii) Individual, group, team, or family;
 - iii) County resident or non-resident, but the fee charged to a non-resident shall not be greater than two times that charged to a resident;
 - iv) Handicapped, senior citizen, youth, student, or veteran; and
 - v) Nonprofit, for profit, or corporate.

- (d) The fee schedule shall be submitted to the County for approval by the Board of Chosen Freeholders via resolution.

5. Public access to and use of funded parkland and historic sites

- (a) A local government unit or nonprofit shall ensure that funded parkland or historic sites are open and that reasonable public access, as determined by the County, is afforded to all County residents.
- (b) A local government unit or nonprofit that intends to close an area of funded parkland or historic sites to public access or use for more than thirty (30) days in order to protect public safety, conduct routine maintenance, or protect a specific natural or cultural resource shall notify the Open Space Coordinator or Director of Cultural and Historic Affairs, as applicable, in writing in advance of the closure.
- (c) A local government unit or nonprofit shall not enter into exclusive agreements or allow discriminatory scheduling of use of the funded parkland or its recreation and conservation facility to accommodate organized sports or other recreation or conservation purposes.
- (d) Any proposed use agreement must be sent to the County for review prior to its approval by the local government unit or nonprofit.
- (e) All fees shall be prominently posted at the funded parkland, or on the local government unit or nonprofit's website.

6. Transfer of grant funds

A local government unit or nonprofit is prohibited from transferring a grant award to any other project unless an application is made to the Open Space Advisory Committee, a hearing is held, and the Board approves the reallocation of funds via resolution.

Chapter 14. Green Acres Program

The Board and County shall be guided by the rules and regulations as established by the New Jersey Department of Environmental Protection Green Acres Program for any topic or subject not specifically

addressed herein that is raised by an applicant during the disbursement of a grant or during the execution of an acquisition, historic preservation project, or park development project. However, Green Acres Program rules and regulations shall be strictly used as guidance, and in no way inhibit the Board from exercising a differing policy position, so long as it is within the bounds of State and Federal laws.

Chapter 15. Passaic County Open Space, Farmland and Historic Preservation Trust Fund Advisory Committee

1. Membership

- (a) The Passaic County Open Space Advisory Committee shall be comprised of no more than eighteen (18) members, with thirteen (13) members appointed by the Board, and five (5) ex-officio members, to review and make recommendations to the Board on the disbursement of grant awards to qualified local government units and nonprofits, including the following:
 - i) A Freeholder of the Board as appointed via resolution at its reorganization meeting;
 - ii) The County Administrator or his/her designee;
 - iii) The County Planning Director or his/her designee;
 - iv) The County Director of Parks or Recreation or his/her designee;
 - v) The County Engineer or his/her designee;
 - vi) Two members from either Passaic or Paterson;
 - vii) Two members from either Bloomingdale, Pompton Lakes, Ringwood, Wanaque, or West Milford; and
 - viii) Nine members from any other municipality in the County.

2. Term of public members

Members shall serve for three (3) year terms. Members shall be held in a hold over status until a replacement is appointed by the Board, or the member is reappointed.

Any member who misses more than five (5) consecutive meetings shall be removed from the OSAC. The Open Space Coordinator shall notify any member in writing after four (4) meetings are missed, warning the member that an absence at the fifth meeting will remove him/her from the OSAC. The member's seat shall become vacant and the Board shall appoint a member to fill out the unexpired term of the member who was removed.

3. Officers

- (a) The Committee will elect a Chairperson, Vice-Chairperson, and Secretary from its membership at the first meeting of each year.
- (b) Each officer will serve for one (1) calendar year.
- (c) If the Chairperson is absent, the Vice-Chairperson shall perform his/her duties in his/her absence. If the Chairperson resigns, the Vice-Chairperson shall finish his/her term, and the Committee shall elect a new Vice-Chairperson at its next regularly scheduled meeting.

4. Role and powers

- (a) The Committee shall meet, as necessary, to discuss and take action on grant applications submitted by local government units and nonprofits.
- (b) The Open Space Coordinator shall send the members of the Passaic County Board of Chosen Freeholders, carbon copying the County Administrator, approved meeting minutes of the Committee, to keep the Board informed of the Committee's agenda and action items.
- (c) The Open Space Coordinator shall, in an organized manner, distribute all of the applications received for grant funding to the members, including an executive summary

setting forth, at the least, the entity requesting funds, the amount requested, the amount of unexpended funds previously given to the entity, and a short description of the project.

- (d) The Committee shall hold hearings with local government units and nonprofits on applications seeking to be funded by the OSTF, deliberate on the merits of each application, and through the Open Space Coordinator, issue a memorandum to the Board with recommendations on what applications should be funded.

Chapter 16. Open Space Trust Fund Budget, collection of taxes, and 5-year Capital Budget

1. Open Space Trust Fund Budget

- (a) The County Administrator, in consultation with the County Engineer, Director of the Parks and Recreation Department, Director of the Planning and Economic Development, and the Director of the Cultural and Historic Affairs Department, shall prepare a yearly Open Space Trust Fund Budget to be submitted for review and approval by the Board.
- (b) The Open Space Trust Fund Budget will fund improvement projects in the Passaic County Park System, the improvement of historic sites owned by the County, for cultural or recreation events in the County, or to fund programs being run by nonprofits in the County furthering conservation, for the salaries of employees administering the OSTF, for seasonal park attendants working in the Passaic County Park System, for grants to qualified nonprofits, or other initiatives as approved by the Board.
- (c) The Open Space Trust Fund Budget represents all of the approved spending from the OSTF, absent action by the Board to amend the spending plan via resolution.
- (d) The County Administrator shall hold

monthly status meetings to track the progress being made on projects funded by the Open Space Trust Fund Budget, and will, as necessary, update the Board on the progress of ongoing projects.

- (e) If approved funds in an Open Space Trust Fund Budget are unspent in a twelve (12) month period, absent a compelling reason for the delay, the County Administrator, at his/her discretion, can draft a memorandum to Board recommending that the project be cancelled and the funds be returned to the appropriate account in the OSTF. The Board retains the right to cancel any project.
- (f) Upon completion of a project appropriated for in an open space trust fund budget, funds may be returned by the County's Chief Financial Officer into a reserve for unallocated projects.
- (g) Funding may be transferred from one project to another after the adoption of the OSTF budget, with the consent of the Board.
- (h) The Board may appropriate funding for a project from the reserve for unallocated projects at any time, assuming the Chief Financial Officer certifies that the money is available.

2. 5-year capital budget

The County Administrator, in consultation with the County Engineer, Director of the Parks and Recreation Department, Director of the Planning and Economic Development, and the Director of the Cultural and Historic Affairs Department, shall prepare a 5-year Open Space Trust Fund Capital Budget to be submitted for review and approval by the Board. The Capital Budget shall serve as a planning document to guide future spending in the yearly Open Space Trust Fund Budgets.

3. Collection of Open Space Trust Fund and Farmland Preservation Taxes

- (a) OSTF taxes will be billed and collected by the County in accordance with the enabling referendum, subsequent resolutions, and all applicable State laws.
- (b) All taxes collected during a calendar year for

the OSTF shall be placed in a dedicated fund by the County's Chief Financial Officer.

- (c) The County's Chief Financial Officer shall appropriate fifty percent (50%) of the collected taxes into a municipal/non-profit fund to be given out in the form of grants as set forth herein, and fifty percent (50%) into a general fund, which shall be appropriated in accordance with Part 1 of this Chapter.