

## Park Acquisition Opportunity Fund Grant Rules

*Adopted by the Metropolitan Council on May 28, 2014 as an Amendment to 2030 Regional Parks Policy Plan*

In 2001, the Metropolitan Council established a Park Acquisition Opportunity Fund (PAOF) grant program to assist regional park agencies in acquiring land for the Metropolitan Regional Park System.

The Park Acquisition Opportunity Fund is comprised of two accounts:

- **The Environment and Natural Resources Trust Fund (ENRTF)** acquisition account, which is financed with 60% State appropriations from the ENRTF as recommended by the Legislative Citizen Commission on Minnesota Resources. The remaining 40% of the account is financed with bonds issued by the Metropolitan Council.
- **The Parks and Trails Legacy Fund (PTLF)** acquisition account, which is financed with 60% Parks and Trails Fund appropriations from the Land and Legacy Amendment. The remaining 40% is financed with Metropolitan Council bonds.

### Qualifying Lands

All properties to be acquired must be within Metropolitan Council-approved master plan boundaries.

ENRTF acquisition requests must be for acquisitions of undeveloped land with high natural resource values to comply with Minnesota Constitution Art. XI, Sec. 14 and MN Stat. Ch 116P.

PTLF acquisition requests do not have any restrictions on the condition of lands within Metropolitan Council-approved master plan boundaries.

### Qualifying Land Acquisition Costs

The following items are eligible in calculating the total costs of the acquisition:

- a. Appraisal cost for the acquiring regional park implementing agency or as part of a condemnation settlement/award consistent with applicable provisions of Minnesota Statute Chapter 117;
- b. Appraisal review cost needed to verify the value of a land donation, or the value of land obtained via parkland dedication ordinance and subsequently transferred to the regional park implementing agency when other land is obtained from the same landowner;
- c. Phase 1 environmental site assessment;
- d. Environmental contamination remediation costs if consistent with the conditions specified in the special circumstances section below;
- e. Legal services and closing costs to the park agency for costs associated with the purchase or condemnation settlement/award including attorney's fees, litigation expenses, appraisal fees and other expert fees consistent with Minn. Stat. § 117.031 that the park agency must pay as part of a condemnation action;
- f. State deed tax/Conservation Fee;

- g. Title Insurance;
- h. Pro-rated share of all property taxes/assessments due on the parcel at the time of closing that is borne by the park agency;
- i. 1.8 times the city or township property tax due on the parcel in the year the land is acquired. This is the property tax equivalency payment, which is paid to the city or township at closing pursuant to Minn. Stat. § 473.341;
- j. Negotiated purchase price for the parcel or condemnation settlement/award consistent with applicable provisions of Minnesota Statute Chapter 117;
- k. Relocation costs to the seller consistent with Minn. Stat. § 117.52 and Minn. Stat. § 473.315;
- l. Land stewardship costs defined as follows: costs for boundary fencing or marking; stabilizing or rehabilitating natural resources to aid in the reestablishment of threatened natural resources or to prevent non-natural deterioration thereof; preventing the deterioration of structures that will be re-used for park purposes; removal of unneeded structures, dangerous land forms or attractive nuisances including capping abandoned wells as required under Minn. Stat. § 1031.301; and closing unneeded road(s) which provided access to the acquired land;
- m. Development of the land to provide minimal access to it for public recreational use as reviewed and approved by the Metropolitan Council in consideration of the grant. Such development must be consistent with the applicable Metropolitan Council approved master plan and may include the cost of an access road and/or trail, parking lot, and signage;
- n. Interest costs to acquire the land can be counted as part of the park agency's 25% match to the grant. However, the interest costs are not eligible for reimbursement as part of that park agency's share of a future regional parks capital improvement program;
- o. Holding costs incurred by outside third party who purchased the property to hold on behalf of the park implementing agency; and
- p. Other expenses not listed above that are directly related to the land acquisition.

All costs shall be documented with appropriate information/data and submitted to the Metropolitan Council with the grant request.

### **Grant Request Finance Amounts**

The Park Acquisition Opportunity Fund grant may finance up to 75% of the costs to acquire land and related costs or up to \$1.7 million per acquisition account (ENRTF and PTLF acquisition accounts) per State fiscal year (July 1 to June 30). The regional park implementing agency must finance at least 25% of the acquisition costs as a local match to the Park Acquisition Opportunity Fund grant.

Special circumstances may apply that could alter the amounts delineated above and the section below related to special circumstances should be consulted.

### **Park Implementing Agency 25% Local Match**

The park implementing agency local match may be one or a combination of the following:

- a. Non-State funds and non-Metro Council funds provided by the regional park implementing agency. If the cash contribution is financed with regional park implementing agency money

(i.e. the agency's general fund or other account), but not a grant from another entity such as a watershed district or local government aid provided by the State of Minnesota, that contribution is eligible for reimbursement as part of that park agency's share of a future regional parks capital improvement program. Based on this rule, if the maximum grant of \$1.7 million was awarded and the park agency provided a match of \$566,667, any costs incurred by the park agency above the \$566,667 and paid for with park agency funds for grant-eligible expenses, is also eligible for reimbursement consideration from that park agency's share of future metropolitan regional parks capital improvement programs.

- b. The value of a land donation by the seller. The value of the donation is the difference between the agreed upon purchase price based on a certified appraised value of the property and the lower amount the seller agrees to accept as payment for the land. The certification of the appraised value of the property will be based on a third party review appraisal, where the third party appraiser will perform a field review of the appraisal and determine if the appraisal met the requirements of the Uniform Standards of Professional Appraising Practice (USPAP). Both the appraisal and the review appraisal must be submitted to the Metropolitan Council as part of the grant request. The cost of the third party appraisal review is a grant-eligible item.
- c. The value of land that is obtained by a municipality under its park land dedication ordinance and transferred to a regional park implementing agency under a fee title or permanent easement agreement at the same time that the regional park implementing agency acquires additional land for that park or trail from the same landowner. The value of the dedicated land is based on a certified appraisal of the property. The certification of the appraised value will be based on a third party review appraisal, where the third party appraiser will perform a field review of the appraisal and determine if the appraisal met the USPAP requirements. Both the appraisal and the review appraisal must be submitted to the Metropolitan Council as part of the grant request. The cost of the third party appraisal review is a grant-eligible item.

## **Grant Term**

The effective term of the Park Acquisition Opportunity Fund grant is no more than 12 months or the expiration date of the State appropriation which finances the grant, whichever is less. A grant may be extended beyond the initial term of 12 months for cause. However the length of the extension cannot exceed the availability of the State funds financing the grant.

## **Special Circumstances**

### *Lack of available acquisition opportunity funds.*

If funds are not available to fully fund a grant during a given fiscal year, up to 60% of the next fiscal year appropriation and matching Metro Council bonds for Park Acquisition Opportunity Fund accounts will to be used to reimburse park agencies for up to 75% of the grant-eligible acquisition costs or \$1.7 million--whichever is less-- the park agency incurred to buy land that would have qualified for a Park Acquisition Opportunity Fund grant under the rules. The park agency must request reimbursement consideration from the Metro Council by providing all data required for a Park Acquisition Opportunity Fund grant required by the rules and obtain Metro Council approval before it acquires the land. The 25% match is not grant-eligible for reimbursement from the Park Acquisition Opportunity Fund accounts. However, the park agency may request reimbursement of that match as part of its share of future park capital improvement programs.

### *Third party acquisitions.*

When funds are not available in the Acquisition Opportunity Fund accounts, park implementing agencies may opt to work with third parties to acquire Metropolitan Council-approved master

plan acquisitions, for which reimbursement from the Metropolitan Council would be pursued when funds are available. In this instance, the Metropolitan Council may consider acquisition with a bonafide deferred closing.

*Excess of available acquisition opportunity funds.*

One year prior to the expiration of the State appropriation to each Park Acquisition Opportunity Fund Grant account (i.e. PTLF and ENRTF), the Metropolitan Council in consultation with the Regional Park Implementing Agencies and the Metropolitan Parks and Open Space Commission will conduct a review of these rules to determine if additional steps should be taken to increase the likelihood that the balance of the expiring State appropriation will be granted and spent before its expiration date. An example of such a step would be to allow a park agency which has received the maximum amount allowed [\$1.7 million from the ENRTF account or \$1.7 million from the PTLF account in a State Fiscal Year (July 1 to June 30)] to be eligible to receive an additional grant. Another step could be that 60 days prior to a State appropriation's expiration date, that grants are awarded to partially reimburse the local match of grants awarded from the applicable acquisition account that were initially financed with that State appropriation and matching Metro Council bonds. The total amount of these reimbursement grants would consume the remaining State appropriation and applicable Metro Council bond match. The amount of each reimbursement grant should be proportionate to the local match amount initially funded by each park agency—not with other funding sources the park agency used as their match. And these reimbursement grants would only be for grants initially financed from that soon-to-expire State appropriation and applicable Metro Council bond match. If there was still funds remaining, reimbursement grants for the local matches on other acquisitions could be considered that were initially financed from that acquisition account, but from an earlier appropriation.

Such variances to the rules for these situations would be considered by the Metropolitan Council without undertaking a public hearing process since the vetting of the changes is made by the park agencies affected by the proposed change, and the change is only in effect until the expiration of the applicable appropriation for that account.

### *Acquisition funds delineated in Capital Improvement Fund.*

The requesting regional park implementing agency must use any available acquisition funds from its share of a regional parks capital improvement program provided by the Metropolitan Council or a line item appropriation of State funds to buy land for a regional park/trail before it can request a grant from the Park Acquisition Opportunity Fund. A park agency's capital improvement program share that finances a reimbursement grant for the 25% local match to a previous Park Acquisition Opportunity Fund grant is excluded. The Park Acquisition Opportunity Fund grant may finance 75% of the gap between the total cost of an acquisition and the amount financed by the park agency's available acquisition funds from its share of a regional parks capital improvement program and/or a line item appropriation of State funds used for that parcel's acquisition.

### *Eminent domain.*

Occasionally a park agency may need to acquire land by exercising its power of eminent domain through the initiation of a condemnation proceeding. When land is acquired through the condemnation process, a Park Acquisition Opportunity Fund grant may be awarded; however, a grant is awarded at the end of the condemnation proceeding that is based on 75% of the final settlement/award and associated grant-eligible costs under applicable provisions of Minnesota Statute Chapter 117 to acquire the land and within the agency maximum for the fiscal year when the grant is awarded. The park agency should notify the Metropolitan Council prior to filing its petition in condemnation with the district court that it is acquiring land through condemnation and will be requesting a Park Acquisition Opportunity Fund grant when the final award is determined. The notification to the Metropolitan Council should be in a letter that contains the park agency's authorization to file its petition and the accompanying documents containing its appraisal of the land. In condemnation matters, the final settlement/award and final certificate should be submitted to the Council in lieu of a signed purchase agreement.

### *Environmental contamination.*

Soil contamination remediation necessary to correct pre-existing environmental contamination known at the time of purchase, the remediation effort to the level needed to allow the land to be used for park and recreation purposes, and/or capping abandoned wells that have contaminated their groundwater aquifer are grant-eligible land acquisition expenses under the following conditions:

- 1) The aggregate cost of acquiring the land and remediation does not exceed the certified appraised value of the land at the time of purchase. The certification of the market value of the property will be based on a third party field review of the appraisal. The appraisal review must determine that the appraisal followed USPAP. The appraisal review must be submitted to the Metropolitan Council. The cost of the third party appraisal review is a grant-eligible item. In addition to the certification of the market value of the parcel, the park agency must submit documentation of the costs for remediation as listed below. The difference between the actual acquisition and remediation costs compared to the certified market value of the land prior to clean up may be applied towards the park agency's local match requirement.
- 2) The regional park implementing agency has an agreement with the party that will remediate/clean up the contamination or cap an abandoned well. The agreement will include mutually agreed upon environmental assurances from the Minnesota Pollution Control Agency limiting future liability for pollution caused by the contaminated soil or contaminated groundwater and follow guidance set by the Minnesota Department of Health for sealing unused wells, if appropriate.

Grant-eligible expenses for soil remediation and well capping include:

- a. Costs to prepare Phase 1 and Phase 2 Environmental Site Assessments, the Quality Assurance Project Plan, Remediation Action Plan and the Environmental Engineer's Estimate;
- b. Minnesota Pollution Control Agency (MPCA) Voluntary Investigation Cleanup (VIC) service charges;
- c. Costs to implement the remediation action plan and secure appropriate assurances from the MPCA, and;
- d. Other costs not listed above which are directly related to soil remediation or well capping.

Documentation of these remediation costs plus other costs associated with the acquisition must be submitted to the Metropolitan Council as part of the grant request.

#### *Subdivision of lots.*

For parcels that can be subdivided into lots and the value of those lots is used to determine the fair market value of the parcel, such acquisitions may qualify for financing from both the ENRTF account and PTLF account. For example, lot(s) must contain high quality natural resources without structures to qualify for ENRTF financing, and lot(s) that do not contain high quality natural resources or have structures on them qualify for PTLF financing. The amount from each account shall be proportional to the appraised market value of the lots. However, the Metropolitan Council may grant additional funds from the PTLF account to finance a portion of the costs of land that qualifies for financing from the ENRTF account if there is not sufficient money in the ENRTF account to fully fund the grant.