310-26

Prepared By: Kelly Christopher

Kelly Christopher

Green Acres Program
Department of Environmental Protection

AMENDED GREEN ACRES PROJECT AGREEMENT

BETWEEN

THE STATE OF NEW JERSEY

DEPARTMENT OF ENVIRONMENTAL PROTECTION

AND

WEST ORANGE TOWNSHIP

ESSEX COUNTY

(Supersedes Green Acres Project Agreement dated September 3, 2004, and all subsequent Agreements and Amendments through November 9, 2009)

Project No. ___0722-03-005_____
Dated: _____

THE STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
GREEN ACRES PROGRAM

AMENDED

GREEN ACRES PROJECT AGREEMENT

BETWEEN West Orange Township, Essex County, having offices at 66 Main Street, West Orange, New Jersey, 07052, hereinafter "Local Government Unit", and

The State of New Jersey Department of Environmental Protection, Green Acres Program, Mail Code 401-07B, P. O. Box 420, Trenton, New Jersey 08625-0420, hereinafter "State" (collectively the "Parties"),

WITNESSETH:

WHEREAS, the Local Government Unit has submitted an application to the State for financial assistance under the Green Acres Program; and

WHEREAS, the State has reviewed said application and has found it to be in conformance with the scope and intent of the Green Acres Program and has approved the Local Government Unit's request and awarded funding ("Green Acres Funds"); and

WHEREAS, the Parties wish to execute this Amended Green Acres Project Agreement ("Project Agreement") to govern the Local Government Unit's use of Green Acres Funds; and

WHEREAS, the Local Government Unit has agreed to utilize the Green Acres Funds and to hold and use the premises hereinafter described in accordance with the Green Acres Laws; and

WHEREAS, the Local Government Unit has previously entered into a Green Acres Project Agreement awarding Green Acres Funds, dated September 3, 2004, that was subsequently amended on November 21, 2005, June 26, 2006, June 29, 2007, March 4, 2008, and November 9, 2009; and

WHEREAS, the Parties seek to update the terms of the prior Green Acres Project Agreement and intend that this Project Agreement shall supersede and replace the prior Green Acres Project Agreements between the State and the Local Government Unit and that the Local Government Unit's use of all Green Acres Funds shall be governed exclusively and bound by this Project Agreement; and

NOW, THEREFORE, in consideration of the principles, assurances and premises contained herein, the Parties agree to perform in accordance with the provisions, terms and conditions set forth in this Project Agreement.

APPROVED PROJECT DESCRIPTION

LOCAL GOVERNMENT UNIT: West Orange Township

PROJECT NUMBER: 0722-03-005

TYPE OF PROJECT: X Acquisition _____ Development _____ Stewardship

PROJECT NAME: West Orange Township Open Space Acquisition

APPROVED PROJECT SCOPE:

Acquisition of eligible properties as listed in a report entitled, "West Orange Township Open Space and Recreation Plan", dated November 25, 2019, and subsequent amendments thereto.

PROJECT LOCATION:

Eligible properties throughout West Orange Township identified in the above-referenced planning document

ALLOCATION OF PROJECT COST:

LOCAL GOVERNMENT UNIT SHARE		$6,316,093.87
State Loan	$0	
State Grant	$6,316,093.87	
STATE SHARE*		$6,316,093.87
OTHER SHARE		$0
ESTIMATED TOTAL COST FOR APPROVED PROJECT		$12,632,187.74

*State Funds Governed under this Project Agreement:

Funding Authorized under Original Project Agreement and Previous Amendments:	Grant:	Loan:	Expenditure Status/ Deadline:
P.L. 2003 C. 238	$600,000	$0	Expended
P.L. 2005 C. 7	$600,000	$0	Expended
P.L. 2005 C. 183	$600,000	$0	Expended
P.L. 2007 C. 47	$450,000	$0	Expended
P.L. 2008 C. 76	$450,000	$0	Expended/
	($283,906.13)		Cancelled
P.L. 2009 C. 98	$750,000	$0	
	($750,000)		Cancelled

Additional funding authorized under this current Amended Project Agreement:	Grant:	Loan:	Expenditure Status/ Deadline:
P.L. 2024 C. 44	$1,050,000	$0	Expires two years from effective date of agreement
P.L. 2025 C. 119	$1,500,000	$0	
P.L. 2026 C. 60	$1,350,000	$0	
	$6,316,093.87	$0	

GENERAL PROVISIONS

1. **GREEN ACRES LAWS INCORPORATED BY REFERENCE**

The Local Government Unit shall only use Green Acres Funds under this Project Agreement in accordance with all Green Acres Bond Acts (P.L. 1961, c.46; P.L. 1971, c.165; P.L. 1974, c.102; P.L. 1978, c.118; P.L. 1983, c.354; P.L. 1987, c.265; P.L. 1989, c.183; P.L. 1992, c.88; P.L. 1995, c.204; P.L. 2007, c. 119; P.L. 2009, c. 117; P.L. 2016, c.12; P.L. 2019, c. 136); and any State general obligation bond act that may be subsequently approved for the purpose of providing funding for the acquisition or development of lands for recreation and conservation purposes); the Green Acres statutes (N.J.S.A. 13:8A-1 et seq., 13:8A-19 et seq., and 13:8A-35 et seq.); the Garden State Preservation Trust Act (P.L. 1999, c.152, codified at N.J.S.A. 13:8C-1 et seq.); the Green Acres rules (N.J.A.C. 7:36-1 et seq.) and any other law, statute, rule, regulation or ordinance governing the use of funding provided by or property acquired or developed in connection with the Green Acres Program (collectively the "Green Acres Laws").

The Green Acres Laws are hereby incorporated by reference into this Project Agreement, as if set forth fully herein, and are binding upon the Local Government Unit. The Local Government Unit expressly agrees to comply with all Green Acres Laws. The Local Government Unit's failure to comply with the Green Acres Laws shall be a material breach of this Project Agreement and be grounds for termination and the State shall have all remedies available to it under this Project Agreement or any applicable law.

2. **PROJECT ADMINISTRATION**

a) In performing its responsibilities under this Project Agreement, the Local Government Unit and any contractor, subcontractor or other entity it might employ (collectively "subcontractors") shall comply with all local, state, and federal laws, rules, and regulations applicable to this Project Agreement, including but not limited to those listed below. The provisions of any such law, rule or regulation are hereby incorporated by reference as if set forth fully herein.

The Local Government Unit shall immediately advise the State if it determines that it has, at any time, discovered any information that it or any of its employees or subcontractors is in violation of any of the laws, rules, or regulations applicable to this Project Agreement. Any such violation shall constitute a material breach of this Project Agreement and be grounds for termination and the State shall have all remedies available to it under this Project Agreement or any applicable law.

The Local Government Unit shall be responsible for compliance with the terms, conditions and requirements of this Project Agreement by itself and by its subcontractors. The Local Government Unit shall be responsible for any claims arising out of any subcontract hereunder and, as a condition of any subcontract hereunder, the subcontractor shall hold the State harmless from any claims by the subcontractor or third parties that may arise under or as a result of the subcontract.

b) The Local Government Unit agrees to provide all funds in excess of the State share necessary for completion of the Approved Project and to complete the Approved Project in accordance with this

Project Agreement.

c) The Local Government Unit shall submit all development plans to the State for review and approval prior to advertisement for bids.

d) The Local Government Unit shall award contracts and subcontracts for the Approved Project free from bribery, graft and other corrupt practices. The Local Government Unit shall bear the primary responsibility for the prevention, detection and cooperation in the prosecution of any such conduct. The Local Government Unit shall pursue available judicial and administrative remedies, and take appropriate remedial action with respect to any allegations or evidence of such illegality or corrupt practices. The Local Government Unit shall notify the State immediately after such allegation or evidence comes to its attention, and shall periodically advise the State of the status and ultimate disposition of any such matter.

e) The Local Government Unit shall award all project contracts in accordance with any applicable federal, state and local statutes, rules and/or ordinances, including but not limited to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and the rules and regulations adopted pursuant thereto, N.J.A.C. 5:34-1 et seq.

f) Where applicable, the Local Government Unit and its subcontractors shall comply with the provisions of the Prevailing Wage Act, N.J.S.A. 34:11-56.25, et seq., the Public Works Contractor Registration Act, N.J.S.A. 34:11-56.48, et seq., Diane B. Allen Equal Pay Act, N.J.S.A. 34:11-56.13, the Worker and Community Right to Know Act, N.J.S.A. 34:5A-1, et seq., and Buy American Act, N.J.S.A. 52:32-1, et seq. and N.J.S.A. 52:33-1, et seq. and the terms of each are incorporated by reference herein. The Local Government Unit warrants that neither it nor any of its subcontractors are suspended, debarred or otherwise on record in the Office of the Commissioner or Department of Labor or other department for failure to comply with any of the above-referenced laws. The Local Government Unit shall insert in every construction contract for work on the approved project a clause stating that the subcontractor may be debarred, suspended or disqualified from contracting with the State if the subcontractor violated any of the above-referenced statutes.

g) The Local Government Unit and its subcontractor, where applicable, shall not discriminate, and shall abide by all anti-discrimination laws, including, but not limited to, Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d-2000d-4; the discrimination and affirmative action provisions of N.J.S.A. 10:2-1 et seq.; the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.; and all rules and regulations promulgated pursuant thereto, as amended and supplemented from time to time, including but not limited to, N.J.A.C. 17:27-1.1, et seq. Other laws may impose additional non-discrimination requirements with which the Local Government Unit must comply. These laws include, but are not limited to, Section 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Title VII of the Civil Rights Act of 1964; and the Fair Housing Act.

The Local Government Unit shall comply with all applicable provisions of the Americans with Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101 et seq.

h) The Local Government Unit and its subcontractors shall comply with the provisions of N.J.S.A. 52:32-4 and the rules and regulations promulgated pursuant thereto, as well as the provisions set forth in the Uniform Construction Code at N.J.A.C. 5:23-7.1 et seq., regarding facilities for the handicapped.

i) The Local Government Unit shall construct a sign designed to State specifications, which shall be erected and maintained by the Local Government Unit during construction of the Approved Project. Upon completion of the Approved Project, the State will provide a permanent sign, which shall be erected and maintained by the Local Government Unit in a publicly visible location at the Approved Project site.

j) For development or historic preservation projects, the Local Government Unit shall construct a sign designed to specifications provided by the State, which the Local Government Unit shall erect at the Approved Project Site and maintain during construction of the Approved Project. Upon completion of the Approved Project, the State will provide a permanent sign, which shall be erected and maintained by the Local Government Unit in a publicly visible location at the Approved Project site.

k) The Local Government Unit warrants that neither it nor its subcontractors will engage in any conduct that is or could be considered a conflict of interest under the act codified at N.J.S.A. 52:13D-12 et seq., the New Jersey Conflicts of Interest Law, and the act codified at N.J.S.A. 40A:9-22.1 et seq., the Local Government Ethics Law. The Local Government Unit further warrants that no person or selling agency has been employed or retained to solicit or secure this Project Agreement in violation of N.J.S.A. 52:34-15 and that neither it, nor its subcontractors has made, and knows of no payments or gratuities made in violation of N.J.S.A. 52:34-19.

l) The Local Government Unit warrants that it and its subcontractors will obtain and maintain, during the term of this Project Agreement, all licenses, certifications, authorizations, or any documents required by the federal, state, county, or municipal governments and international authorities, wherever necessary, to perform this Project Agreement. The Local Government Unit shall promptly notify the State of any disciplinary action or any change in the status of any license, permit, or other authorization required by law or this Project Agreement.

m) For an acquisition project, within six months of acquiring the project site, the Local Government Unit shall inspect the project site for the presence of structures that are or may be historic properties. An "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 pursuant to N.J.S.A. 13:1B-15.128 et seq. Within 60 days of such inspection, the Local Government Unit must provide written documentation pursuant to N.J.A.C. 7:36-4.4(b).

n) The Local Government Unit shall report in writing to the Attorney General and the Executive Commission on Ethical Standards, the solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any other State vendor.

o) The Local Government Unit and its subcontractors shall not influence, or attempt to influence or

cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

p) If any subcontractor utilized under this Project Agreement, is a business organization, as defined by N.J.S.A. 52:32-44, the Local Government Unit shall, upon request, provide to the State, on behalf of any subcontractor, a business registration certificate issued by the Division of Revenue in the Department of the Treasury or such other form of verification or proof of registration as may be approved by the Division that the subcontractor is registered with the Department of the Treasury. Where necessary, the Local Government Unit shall not retain a subcontractor before valid proof of business registration is provided. Any subcontractor utilized under this contract, and each of their affiliates, as defined by N.J.S.A. 52:32-44, shall for the term of this Project Agreement collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) on all their sales of tangible personal property delivered into this State.

q) By execution of this Project Agreement, the Local Government Unit certifies that it shall ensure that any subcontractor utilized under this Project Agreement is not identified on the Department of the Treasury's list of persons or entities engaging in investment activities in Iran as described in N.J.S.A. 52:32-55, et seq.

r) By execution of this Project Agreement, the Local Government Unit certifies that it shall ensure that any subcontractor utilized under this Project Agreement is in full compliance with the MacBride Principles, N.J.S.A. 52:34-12.2.

s) Pursuant to N.J.S.A. 52:34-13.2, all services performed under the Project Agreement or any subcontract awarded under the Project Agreement shall be performed within the United States.

t) The Local Government Unit warrants that it and its subcontractors are and will remain in full compliance with N.J.S.A. 2A:44-143 (regarding bonds on construction and public works contracts), if applicable.

u) The Local Government Unit shall comply with the following documents:

1. Circular Letter 15-08-OMB, Single Audit Policy for Recipients of Federal Grants, State Grants and State Aid; and,
2. State Grant Compliance Supplement, available at: https://www.nj.gov/treasury/omb/stategrant.shtml

v) Failure to expressly reference any applicable Federal or State regulation, statute, public law, Executive Order, agency directive, written policy, or OMB Circular will not exempt either party from compliance with such applicable law or regulation, and all applicable provisions not included will be deemed as inserted herein.

3. **DISBURSEMENTS**

The Local Government Unit shall only make disbursements of Green Acres Funds for costs allowable under the Green Acres Laws ("Allowable Costs")

a) Allowable Costs for acquisition projects may include real estate appraisals, preliminary assessments, land surveys, relocation payments, eligible land cost, building demolition costs, and such incidental costs as provided for under N.J.A.C. 7:36-4.10.

b) Allowable Costs for development projects may include preliminary planning and engineering; engineering plans and specifications; supervision and inspection; construction costs; permit fees; equipment required to make a facility operational; incidental costs as provided for under N.J.A.C. 7:36-10.6, such as legal and advertising fees; and ancillary improvements as further described in the Approved Project Scope.

c) State funds may be disbursed to the Local Government Unit in amounts required to pay for incurred or anticipated Allowable Costs. The Local Government Unit shall provide documentation satisfactory to the State certifying that the Allowable Costs have or will be incurred.

d) In those instances where Green Acres Program funding is greater than the actual Allowable Costs incurred by the Local Government Unit, the State may reduce the amount of Green Acres Funds awarded to reflect actual expenditures.

4. **FINANCIAL RECORDS AND AUDITING REQUIREMENTS**

a) All financial records of the Local Government Unit and its subcontractors shall conform to generally accepted accounting principles.

b) The Local Government Unit shall maintain separate records for each project, including the amount, receipt, and disposition of all funding received for the project, including Green Acres loans and matching grants, and contributions, gifts, or donations from any other sources.

c) The Local Government Unit and its subcontractors shall provide State personnel and its authorized representatives with reasonable access to all facilities and premises, and shall provide access to all records, books, documents and papers pertaining to this Project Agreement and/or the Approved Project for audit, examination, and copying purposes. Such access shall apply during the performance of the Approved Project and for seven years after the later of either final payment or audit resolution. The Local Government Unit shall cite this provision in all project-related contracts.

d) The Local Government Unit shall conduct annual audits in conformance with Subpart F of 2 CFR Part 200 – Audit Requirements and State OMB Circular 15-08-OMB: "Single Audit Policy for Recipients of Federal Grants, State Grants, and State Aid".

e) The Local Government Unit's account or final payment will be adjusted, if necessary, upon the State's review of the annual audit reports.

f) The Local Government Unit shall retain financial records, supporting documents, statistical records, and all other records in the Local Government Unit's financial management system or otherwise pertinent to this Project Agreement: (1) for a period of seven (7) years from the end of the Project Period, or (2) for such longer period as any applicable State or Federal statute may require, with the following qualifications: (i) If any litigation, claim, or audit is started before the end of the seven-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved and final action taken; and (ii) Records for nonexpendable property acquired with Green Acres Funds shall be retained for seven (7) years after its final disposition.

The State may request transfer of certain records to its custody from the Local Government Unit when it determines that the records possess long-term retention value and will make arrangements with the Local Government Unit to retain any records that are continuously needed for joint use.

g) The Local Government Unit's failure to maintain adequate records under this section shall be a material breach of this Project Agreement.

5. LAND USE RESTRICTIONS

a) A Local Government Unit that receives Green Acres funding shall not convey, dispose of, or divert to a use for other than recreation and conservation purposes any lands held by the Local Government Unit for those purposes at the time of receipt of Green Acres funding unless the Local Government Unit obtains prior approval from the Commissioner and the State House Commission. (See N.J.A.C. 7:36-26 and N.J.S.A. 13:8C-32(b))

For a development project, "Time of receipt of Green Acres funding" shall mean the period from the earlier of the dates listed at 1 and 2 below until the date of the first transmittal of Green Acres funding. For an acquisition project, "Time of receipt of Green Acres funding" shall mean the period from the earlier of the dates listed at 1 and 2 below until the date of the first transmittal of Green Acres funding for each parcel acquired as part of the project:

1. The date of the letter from the State notifying the Local Government Unit of the amount of the Green Acres Funds; or

2. The date of the at-risk authorization provided by Green Acres under N.J.A.C. 7:36-6.3 or N.J.A.C. 7:36-12.3.

b) The Local Government Unit agrees to execute and record a separate Declaration, which shall inventory and encumber all lands that it holds for recreation and conservation purposes. Such Declaration shall be prepared by the Local Government Unit on forms provided by the Green Acres Program, and shall incorporate by reference this Project Agreement and the Green Acres Laws, and shall contain all other information required by the Green Acres Program. It is to be recorded for the purpose of providing constructive notice of pertinent land use restrictions. Omission of lands from this instrument or the failure of the instrument to provide actual or constructive notice shall not in any way relieve affected lands from such use restrictions.

c) For each parcel of land in which any interest is acquired under this Project Agreement, the Local Government Unit shall record a deed containing the following clause:

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

6. INSURANCE

The Local Government Unit shall maintain, in force for the term of this agreement, insurance as provided herein. The coverages shall be maintained either through insurance policies from insurance companies licensed to do business in the State of New Jersey with an A-VIII or better rating by A.M. Best & Company, or through formal, fully funded self-insurance programs authorized by law and acceptable to the State. The certificates of insurance shall indicate the grant number and title of the grant in the "Description of Operations" box. All policies must be endorsed to provide thirty (30) days' written notice of cancellation or material change to the State at the following address: PO Box 420, 428 East State Street, 4th Floor, Trenton, NJ 08625-0420. If the Local Government Unit's insurer cannot provide thirty (30) days written notice, then it will become the obligation of the Local Government Unit to provide same. Unless current documentation is already on file, the Local Government Unit must, within thirty (30) days after the effective date of this agreement, provide to the State current certificates of insurance, documentation of self-insurance, or both, for all coverages and renewals required under this agreement. Renewal certificates shall be provided within thirty (30) days of the expiration of the insurance. No payments shall be made under this agreement until acceptable documentation of insurance coverage is received. The minimum required coverages are:

A. Commercial General Liability: The minimum limit of liability shall be $1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The policy shall include the State of New Jersey as an "Additional Insured" and include the blanket additional insurance endorsement or its equivalent. The policy shall include coverage for contractual liability and products liability. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic, unamended, and unendorsed occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsements limiting the breadth of the coverage.

B. Automobile Liability Insurance, which shall be written to cover any vehicle used by the insured. Limits of liability for bodily injury and property damage shall not be less than $1,000,000 per accident as a combined single limit. The State of New Jersey must be named as an "Additional Insured" and include the blanket additional insurance endorsement or its equivalent when the services being procured involve vehicle use on the State's behalf or on State controlled property.

C. Worker's Compensation Insurance in accordance with the laws of the State of New Jersey

and Employer's Liability Insurance with limits not less than: (i) $1,000,000 Bodily Injury, Each Occurrence; (ii) $1,000,000 Disease Each Employee; and (iii) $1,000,000 Disease Aggregate Limit.

D. These amounts may be raised when deemed necessary by the State.

7. **INDEMNIFICATION**

The Local Government Unit shall defend, indemnify, protect, and save harmless the State, its officers, its agents, its servants, and its employees from and against any damage, claim, demand, liability, judgment, loss, expense, or cost including, where the agreement is funded, in whole or in part, by the Federal government, any actions brought by the Federal government or any of its agencies (collectively, damages) arising, or claimed to arise, from, in connection with, or as a result of, the Local Government Unit's performance, attempted performance, or failure to perform in connection with this agreement (collectively, "performance"), regardless of whether such performance was undertaken by the Local Government Unit, its officers, its directors, its agents, its servants, its employees, its subcontractors, or any other person at its request, subject to its direction, or on its behalf. As nonrestrictive examples only, this indemnification shall apply, but shall not be limited, to (a) any settlement by the State of any claim or judgment against the State or its agents, provided the Local Government Unit had the opportunity to participate in the settlement negotiation, and (b) all attorneys' fees, litigation costs, and other expenses of any nature, incurred by the State in connection with any damage.

The Local Government Unit (a) shall immediately notify the State of any damage for which it or the State might be liable and (b) shall, at its sole expense, (i) appear, defend, and pay all charges for attorneys, all costs, and all other expenses arising in connection with any damage and (ii) promptly satisfy and discharge any judgment rendered against the State or its agents, or any settlement entered into by the State, for any damage. The Local Government Unit shall not assert any defense which would be available to the State but not to the Local Government Unit, whether arising pursuant to the New Jersey Tort Claims Act or otherwise, without having first obtained the written approval of the New Jersey Division of Law. As soon as practicable after it receives a claim for damage made against it, the State shall notify the Local Government Unit in writing and shall have a copy of such claim forwarded to the Local Government Unit. The Local Government Unit's indemnification and liability set forth herein is not limited by but is in addition to the insurance obligations contained in paragraph 6 above.

In the event of a patent and copyright claim or suit, the Local Government Unit, at its option and sole expense, may (1) procure for the State of New Jersey the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the expended grant amount less a reasonable allowance for use that is agreed to by both parties.

This agreement to indemnify shall continue in full force and effect after the termination, expiration, or suspension of this agreement.

The Local Government Unit shall include, or cause to be included a provision in all contracts

executed for the purpose of carrying out the Approved Project, a requirement that the subcontractors provide the State with indemnification protection at least as broad as set forth in this section.

8. **REMEDIES**

a) In addition to any other rights or remedies available to the State under law, if the Local Government Unit does not comply with any of the requirements of this Project Agreement, the Green Acres Laws, or any other applicable law, rule or regulation or if the Local Government Unit makes any material misrepresentation in the project application and/or the documentation submitted in support of the project application, the State may take any of the following actions as set forth in N.J.A.C. 7:36-9.1 or N.J.A.C. 7:36-14.1:

1. Issue a written notice of noncompliance directing the Local Government Unit to take and complete corrective action within 30 days of receipt of the notice. If the Local Government Unit does not take corrective action, or if the corrective action taken is not adequate in the judgment of the State, then the State may take any of the actions described at 2 through 4 and (b) below;
2. Withhold a matching grant or loan disbursement or portion thereof;

3. Terminate the Project Agreement; and/or

4. Demand immediate repayment of all Green Acres Funds that the Local Government Unit has received.

(b) If the Local Government Unit fails to comply with any of the terms of the Project Agreement, the Green Acres Laws or any other applicable law, rule or regulation, the State may, pursuant to N.J.S.A. 13:8C-53.1 and other statutory authority initiate a civil action seeking appropriate relief, including but not limited to temporary or permanent injunctive relief, or to seek specific enforcement, without posting bond, or the State may levy a civil administrative penalty or bring an action for a civil penalty, it being acknowledged by the Parties that any actual or threatened failure to comply may cause irreparable harm to the State and that money damages will not provide an adequate remedy.

(c) If the State incurs legal or other expenses, including its own personnel expenses, for the collection of payments due or in the enforcement or performance of any of the Local Government Unit's obligations under the Project Agreement, the Green Acres Laws or any other applicable law, rule or regulation, the Local Government Unit shall pay these expenses on demand by the State.

(d) The Local Government Unit expressly agrees that the State is not required to mitigate any damages to the Local Government Unit resulting from the Local Government Unit's noncompliance with the terms of the Project Agreement or the Green Acres Laws.

9. **TERMINATION**

a) The Local Government Unit may unilaterally rescind this Project Agreement at any time prior to the Local Government Unit's initial acceptance of the Green Acres Funds, whether partial or in full, under this Project Agreement. After accepting any payment, the Local Government Unit may not terminate, modify or rescind this Project Agreement without the express written approval of the State.

b) The State may terminate this Project Agreement at any time if any representation or warranty made herein or in any certifications, reports, plans, financial statements or other information furnished by the Local Government Unit in connection with this Project Agreement shall prove to be false or misleading.

c) The State may terminate this Project Agreement pursuant to Paragraph 8 above.

10. **MODIFICATION OF PROJECT AGREEMENT**

Modifications to the Approved Project Scope and/or Project Location, which do not increase the cost of the Approved Project and do not require additional legislative approval pursuant to N.J.S.A. 13:8C-23, may be made at the sole discretion of the Green Acres Program. Such modifications shall be requested in writing by the Local Government Unit's Chief Executive Officer, or designee, and must be approved in writing by the Green Acres Program. All approved Project Agreement modifications shall be attached to this Project Agreement.

All other modifications of this Project Agreement must be by formal written amendment executed by the Commissioner of the New Jersey Department of Environmental Protection or Commissioner's designee and may be subject to additional legislative approval, if any, pursuant to N.J.S.A. 13:8C-23.

11. PROJECT PERIOD

The project period shall begin on the earliest of the following dates: (1) The date of the letter from the State notifying the Local Government Unit of the amount of the Green Acres Funds; (2) The date of the at-risk authorization provided by the Green Acres Program under N.J.A.C. 7:36-6.3 or N.J.A.C. 7:36-12.3; or (3) The date on which the Local Government Unit first incurred allowable project costs under N.J.A.C. 7:36-4.10 or N.J.A.C. 7:36-10.6; and shall terminate two years from the date this Project Agreement is executed by the last required signatory for the State (unless extended under N.J.A.C. 7:36-9.1(h) or N.J.A.C. 7:36-14.1(h)).

12. **OPTIONAL PROVISIONS IMMEDIATELY FOLLOWING ATTACHED**

Schedule A:	Loan Terms and Conditions (Loan Projects Only)	[ ] YES	[X] NO
Schedule B:	Special Conditions	[X] YES	[ ] NO

13. **ATTACHMENT**

Exhibit 1: Declaration of Encumbrance

14. **MISCELLANEOUS**

a) This Project Agreement constitutes the entire agreement and supersedes all prior agreements and understandings both written and oral between the Parties with respect to the subject matter hereof and may be executed simultaneously in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

b) In the event any provision of this Project Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

c) In the event that any provision of this Project Agreement should be breached by the Local Government Unit and thereafter waived by the State, such waiver shall be limited to the particular breach so waived by the State and shall not be deemed to waive any other breach by the Local Government Unit.

d) This Project Agreement shall not be assigned without the prior written consent of the State.

e) This Project Agreement shall be construed and enforced under the laws of the State of New Jersey.

f) In the event of litigation, the Local Government Unit waives whatever right it may have to trial by jury.

g) Any affirmative obligation of the Local Government Unit shall survive this Project Agreement.

h) By the signatures below, the Parties execute this Project Agreement and confirm that they are mutually bound and fully authorized and empowered to enter into and bind their organization to all obligations under this Project Agreement.

i) Consistent with the Contractual Liability Act, N.J.S.A. 59:13-1 et seq., unless otherwise provided in this Project Agreement, all claims, counterclaims, disputes, and other matters in question between the State and the Local Government Unit arising out of, or relating to, this Project Agreement or the breach of it will proceed as follows: (1) The dispute shall initially be submitted by either party for resolution via administrative proceedings conducted by the State; (2) If there is no mutually agreeable resolution after administrative recourse is exhausted, the matter may then proceed to formal mediation conducted by the State, and, if mediation is not successful, litigation. Any litigation must be submitted to, and heard by, a court of competent jurisdiction within the State of New Jersey.

j) Captions and headings used in this Project Agreement are for convenience of reference only and shall in no way be deemed to define, limit, explain, or amplify any term or provision.

k) This Project Agreement shall not create in any individual or entity the status of a third-party beneficiary and nothing in this Project Agreement shall be construed to create such status. The rights, duties and obligations contained herein shall operate only between the Parties and shall inure solely to the benefit of the Parties. The provisions of this Project Agreement are intended only to assist the Parties in determining and performing the obligations set forth herein and the Parties expressly agree that only they shall have any legal or equitable right to seek enforcement of this Project Agreement, seek any remedy arising out of performance or failure to perform by one of the Parties, or bring any action for breach of this Project Agreement. Nothing contained in this Project Agreement shall be construed to create, either expressly or by implication, the relationship of agency between the State and the Local Government Unit or contractors or subcontractors.

l) This Project Agreement may be executed in multiple counterparts, each of which shall constitute an original instrument and all of which, taken together, shall constitute one and the same instrument.

m) Use of the singular or plural includes the other and use of any gender includes all genders, as the context requires or permits.

n) The Local Government Unit must submit with this Local Project Agreement a copy of an ordinance or resolution, duly enacted by the governing body of the Local Government Unit authorizing execution of this Local Project Agreement and setting forth its awareness of the work required to be performed under this Local Project Agreement, that it has the capabilities and credentials required by this Local Project Agreement, and that it will faithfully perform the work and abide by the terms, conditions, and other requirements of this Local Project Agreement.

SCHEDULE A

Loan Terms and Conditions
(Loan Projects Only)

N/A

(0) Page(s)

SCHEDULE B
Special Conditions

Planning Incentives

This project is an approved Planning Incentive project based upon the West Orange Open Space and Recreation Plan ("Plan"). All properties identified in the Plan are incorporated herein, however, only those eligible and certified parcels **approved in advance** by Green Acres will be subject to any funding. It is further understood that the Plan may be continually revised and updated by the Local Government Unit and additional properties may be identified and eligible for Green Acres Funds provided, however, that any subsequent plan or revision is submitted to Green Acres for review and approval prior to its certification.

ROSI Under Review

The Recreation and Open Space Inventory (ROSI) attached as part of the Declaration of Encumbrance is under review and revision by the Green Acres Program and the Local Government Unit. The Green Acres Program will not release any funding to the Local Government Unit for this project until the ROSI is accepted by the Green Acres Program.

Structures

Structures acquired as part of this project must be used to support the use of an outdoor recreation or conservation facility or area. Prior to acquisition, the Local Government Unit must submit to Green Acres a written description of the proposed use of any structures on the property. The proposed use must comply with N.J.A.C. 7:36-4.4 and N.J.A.C. 7:36-25.7.

If the Local Government Unit wishes to demolish a structure, it must first obtain written approval from the Green Acres Program. Demolition may be subject to N.J.A.C. 7:36-25.6 (Change in Purpose or Use of Funded or Unfunded Parkland).

SIGNATURES

LOCAL GOVERNMENT UNIT ATTORNEY

Reviewed and approved

on October 23, 2025

(signature)

Mark Sammaro

(print name)

LOCAL GOVERNMENT UNIT INDIVIDUAL AUTHORIZED BY RESOLUTION

By: Susan McCartney

(signature)

Susan McCartney

(print name and title)

Date: 10/26/26

ATTACH AUTHORIZING RESOLUTION

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____

Martha S. Sapp
Director, Green Acres Program

Exhibit 1

Declaration of Encumbrance

DECLARATION OF ENCUMBRANCE

WEST ORANGE TOWNSHIP
Essex County

TO

THE STATE OF NEW JERSEY
Department of Environmental Protection

Record and return to:

Department of Environmental Protection
Green Acres Program Mail Code 401-07B
P. O. Box 420
Trenton, New Jersey 08625-0420

Attention: Kelly Christopher

Prepared by: Kelly Christopher
Kelly Christopher

3/15/22

DECLARATION OF ENCUMBRANCE

This Declaration of Encumbrance is made this ___ day of _____, 2026, by the Township of West Orange, Essex County, ("Local Government Unit"), whose mailing address is 66 Main Street, West Orange, New Jersey, 07052.

The Local Government Unit makes this Declaration in consideration of the State of New Jersey, Department of Environmental Protection, Green Acres Program's agreement to provide funding in connection with:

West Orange Township Open Space Acquisition
Project # 0722-03-005
As approved on November 14, 2003

The attached exhibit to this Declaration is labeled "Recreation and Open Space Inventory," comprising ___ pages. This exhibit is incorporated into, and forms a part of this Declaration.

The Local Government Unit represents and warrants (a) that all lands described in the exhibit attached to this Declaration are held by it for recreation and conservation purposes, and (b) in accordance with the Green Acres Laws, covenants, agrees, and declares that all lands described on the exhibit attached to this Declaration are subject to the covenants, restrictions, and conditions described in the Green Acres Laws, and further agrees that:

1. The Local Government Unit shall not dispose of or divert to a use for other than recreation and conservation purposes any lands described in the exhibit attached to this Declaration without the approval of the Commissioner and State House Commission.

2. Should lands held by the Local Government Unit for recreation or conservation purposes be, by mistake or inadvertence, omitted from the exhibit attached to this Declaration, such lands shall be subject to the terms and conditions of this Declaration to the same extent as though they had been included.

LOCAL GOVERNMENT UNIT
UNIT ATTORNEY PA21

LOCAL GOVERNMENT UNIT CHIEF
EXECUTIVE OFFICER PA22

Reviewed and approved

on October 23, 2026 By: Susan McCartney
(signature)

(signature)
Susan McCartney
(print name and title)

Mark Simmons
(print name)

Date: 10/26/26

STATE OF NEW JERSEY)
) ss
COUNTY OF ESSEX)

I CERTIFY that on 10.26.26 (date), Susan McCartney (official designated above) personally came before me, Karen Carnevale (Clerk), and stated to my satisfaction that he / she is the individual who signed this Declaration and that he / she

a. is authorized to execute this Declaration, and
b. executed this Declaration as his/her own act, and as the act of the

Township of West Orange (Local Government Unit) represented by him/her as

Mayor
(official's title)

Clerk (signature)

Karen J Carnevale, Municipal Clerk
(print name and title)

EXHIBIT 1 to DECLARATION
RECREATION AND OPEN SPACE INVENTORY

A Local Unit which receives a loan or grant from the State of New Jersey, Office of Green Acres shall not dispose of, or divert to a use for other than recreation and conservation purposes, any lands (1) acquired or developed with Green Acres or Federal Land and Water Conservation Fund assistance or (2) held by the Local Unit for recreation and conservation purposes at the "time of receipt of Green Acres funds" (the restricted lands) N.J.S.A. 13:8A-47. The primary purposes of this recreation and open space inventory (ROSI) are to document all restricted lands and to provide notice of the restrictions to title searchers.

Instructions

All restricted lands must be described on the completed ROSI by their block and lot identification numbers as shown on the current, official tax map and specify whether or not each parcel is funded or unfunded parkland. The Local Unit shall submit a tax map current as of the date of Green Acres application showing each parcel of parkland listed on the ROSI, with the approximate boundaries of each such parcel clearly marked in colored ink. Staff knowledgeable of the Local Unit's land use regulations and the uses of its land holdings must complete this ROSI. If only a portion of a current tax lot is to be restricted, the phrase *part of* or *portion of* shall be used on the ROSI. Deletion or omission of lands listed on previously submitted ROSI's is prohibited without prior written approval of the Office of Green Acres (See N.J.A.C. 7:36-20.3).

The completed ROSI must be duly executed and certified by the Local Unit's Chief Executive Officer and planning board chairperson (or equivalent). The page number and the total number of pages in the completed ROSI must be entered at the top right corner of each page.

All pages, including this Page 1 and the following Page 2, of the ROSI must be submitted.

Special Notes

Lands held by school boards, parking authorities, housing authorities, and similar public agencies without primary recreation or conservation responsibilities should not be inventoried unless they are also held for recreation and conservation purposes by the Local Unit.

If lands held by the Local Unit for recreation and conservation purposes are omitted from this ROSI by mistake, inadvertence, or otherwise, such lands shall be subject to the same terms and conditions, covenants, and restrictions as they would be if they were included. This ROSI, as completed and duly executed, shall be incorporated into, and be a part of, both (1) the Green Acres Project Agreement and (2) the Declaration of Encumbrance.

Recommendations

The Local Unit's planning board, and other boards or commissions, are encouraged to participate in the preparation and review of this ROSI. When preparing the ROSI, the listed parcels of parkland should be confirmed by reference to the tax maps that are required to be submitted as part of the Green Acres application (See N.J.A.C. 7:36-6.4(a)3ii or 12.4(a)4ii).

The Local Unit's governing body and planning board should designate, with appropriate descriptive labels, all lands listed on this ROSI in any revision or update of the following master plan elements: recreation plan, conservation plan, and land use plan.

The Local Unit's governing body should officially and permanently dedicate all lands held for recreation and conservation purposes. However, failure to do so shall have no effect on the validity of the Declaration.

EXHIBIT 1 to DECLARATION
RECREATION AND OPEN SPACE INVENTORY

Definitions

For the purposes of this ROSI, the following definitions shall apply whenever the quoted words, or a form of the word are used:

"Declaration" means the recordable, written instrument executed by the Local Unit which declares that all of the Local Unit's funded and unfunded parklands are subject to Green Acres restrictions.

"Development" means any improvement or physical alteration designed to expand or enhance the use of parkland for recreation and conservation purposes.

"Funded parkland" means parkland that a Local Unit has acquired or that a Local Unit has developed with Green Acres funding.

"Held" means owned, leased, or otherwise controlled (by the Local Unit for recreation and conservation purposes).

"Lands" means real property, including improvements, rights-of-way, riparian and other rights, easements, privileges, and any other rights or interests in, relating to, or connected with real property.

"Local Unit" means a municipality or county, or other local political subdivision of this State, or any agency thereof whose primary purpose is to acquire, administer, protect, develop, and maintain lands for recreation and conservation purposes.

"Parkland" means land acquired, developed, and/or used for recreation and conservation purposes.

"Recreation and conservation purposes" means the use of lands for parks, natural areas, forests, camping, fishing, reservoirs, water reserves, wildlife preserves, hunting, boating, winter sports and similar uses for either public outdoor recreation or conservation of natural resources, or both, pursuant to the Green Acres Bond Acts. This term also includes the use of historic areas pursuant to P.L. 1974, c.102; P.L. 1978, c.118; P.L. 1983, c.354; P.L. 1987, c.265; P.L. 1989, c.183; P.L. 1992, c.88; and P.L. 1995, c.204; and the use of historic buildings and structures pursuant to P.L. 1992, c.88 and P.L. 1995, c.204; and the use of ecological and biological study areas pursuant to P.L. 1989, c.183; P.L. 1992, c.88; and P.L. 1995, c.204.

"ROSI" mean the listing of all parcels of land held by a Local Unit for recreation and conservation purposes at the time of receipt of Green Acres funds, including a description sufficient to identify each such parcel.

"Time of receipt of Green Acres funds" means at all times beginning on the date of the letter from the Department under N.J.A.C. 7:36-6.7 or 12.5 notifying the Local Unit of the amount of the Green Acres funding award and ending on the date of receipt of the first transmittal of Green Acres funds.

"Unfunded parkland" means parkland, other than funded parkland, that is held by the Local Unit for recreation and conservation purposes at the time of receipt of Green Acres funds.

Legislative References

N.J.S.A. 13:8A-1 et seq.; N.J.S.A. 13:8A-19 et seq.; N.J.S.A. 8:A-35 et seq. (as amended and supplemented); N.J.A.C. 7:36-1et seq.; 16 U.S.C. 460 s.1 et seq.

EXHIBIT 1 to DECLARATION
RECREATION AND OPEN SPACE INVENTORY

Local Unit: Township of West Orange County: Essex

NOTE: All lands held for recreation and conservation purposes (1) must be described by their block and lot identification numbers as shown on the current, official tax map and (2) keyed to a current, legible, official map of the Local Unit and current tax map of Local Unit. The official map used for this ROSI is named Tax Map is dated Certified March 1, 1986. Updated December 2002

Developed and Partially Developed Lands Held for Recreation and Conservation Purposes
(*If necessary, use the first page following & after Page 4 for additional developed and partially developed lands)

Key	Municipal Location	Name	Block	Lot	Acres	Funded/Unfunded
1.	(E) Franklin Ave & Cherry St	Colgate Field &	125.02	106,20.02,103 & 104	7.88	Funded
2.	(E) Liberty Street	Byrne Park	118	32&20.01	0.85	Unfunded
3.	(E)Main St.& Park Ave.	Lafayette Park	61	27	1.03	Unfunded
4.	(E) Rose Terrace	Jenkins Park	15,16	31,34,p/o 5.02 p/o 5.01, p/o 5	0.91	Unfunded
5.	(E)Highland Pl. &	Rolling Green Hills	86.05	1 & 2	0.61	Funded
6.	(E) Dogwood Drive	Boland Park	165.06	part 1	9.0	Unfunded
7.	(E)Ralph Road	O'Connor Park	172	29&29.02	21.8	Funded
8.	(E)Lancaster Terrace	Minish Park	155.11	8 thru24	2.6	Unfunded
9.	(E)Alisa Drive	Degnan Park	154,154.19	20.02, 6	13.2	Funded
10.	(E)Gilbert Pl.& Club Blvd.	Club Blvd. Park	52.01	16	0.24	Unfunded
11.	(E)St. Cloud Avenue	Stagg Field	168	25	7.2	Unfunded
12.	(E)Boland Drive	Crystal Lake	107	1.02,1.05,1.06	10.07	Unfunded

Total of Acres on this Page **75.39**

Total Acres of developed and partial developed lands from all pages of this ROSI **97.217**

(Existing acreage on ROSI: 101.93)

EXHIBIT I to DECLARATION
RECREATION AND OPEN SPACE INVENTORY

Local Unit: Township of West Orange County: Essex

NOTE: All lands held for recreation and conservation purposes (1) must be described by their block and lot identification numbers as shown on the current, official tax map and (2) keyed to a current, legible, official map of the Local Unit and current tax map of Local Unit. The official map used for this ROSI is named West Orange Tax Maps and is dated Certified March 1, 1986, Updated December 2002

Developed and Partially Developed Lands Held for Recreation and Conservation Purposes
(*If necessary, use the second page following & after Page 4 for additional developed and partially developed lands)

Key	Municipal Location	Name	Block	Lot	Acres	Funded/Unfunded
13.	(E)Ashwood Terrace	Wigwam Bk Corridor	125.02;125.03	331.03,330.03,330.08	0.19	Unfunded
14.	(E)Woodland Ave.	Peckman R. Corridor	152.07	4 & 5	9.6	Unfunded
15.	(E)Woodland Ave.	Peckman R. Corridor	152.23	4,5,7,7.01 &8.01	0.78	Unfunded
16.	(E)Hooper Ave.	W. Branch of Rahway R. Corridor	154.21	9,10&11	0.34	Unfunded
17.	(E)DeChurch Ave.	Township Property	172.22	6	5.6	Unfunded
18.	(E)Collamore Circle	Township Property	52.12	17	0.20	Unfunded
19.	(E)Belgrade Terr.	Township Property	55.04	15 & 16	0.50	Unfunded
20.	(E)Prospect Ave	Twp. Property At Crystal Lake	111	1	4.617	Funded
21.	(E)Mt. Pleasant Ave	Township Property	85.02	4.02,7.01,8,9 &13	4.713	Funded
Subtotal of Acres on this page					25.540	
Total of wholly undeveloped lands from all pages of this ROSI					101.93	

(All Proposed acreage for ROSI)

CERTIFICATION: I HEREBY CERTIFY that this Exhibit 1 to Declaration, comprising 4 total pages, is a complete and accurate listing of all lands held by the Local Unit, as of this_____ day of_____2007 for recreation and conservation purposes during the time of receipt of Green Acres funding. This ROSI is being submitted to Green Acres as part of the project entitled West Orange Open Space and Recreation Planning Incentive.

Chief Executive Officer of Local Unit
Date: 2/25/08

Susan Borg, Director of Planning + Development
Planning board Chairperson(or equivalent)
Date: 2/25/08

DANA RONE
ESSEX COUNTY REGISTER OF DEEDS & MORTGAGES

Hall of Records
465 Martin Luther King Jr Blvd
Room 130
Newark, NJ 07102
(973) 621-4960

*RETURN DOCUMENT TO:
DEPARTMENT OF ENVIRONMENTAL
PROTECTION GREEN
ACRES PROGRAM
TRENTON, NJ 08625-0412
ATTN: CATHY ELLIOTT-SHAW

Instrument Number - 2018099894
Recorded On 11/19/2018 At 4:08:56 PM
* Instrument Type - DEED
Invoice Number - 244445 User ID: YN
***Total Pages - 10**
* Grantor - ENVIRONMENTAL PROTECTION,DEPARMENT OF
* Grantee - WEST ORANGE,TOWNSHIP OF
* PARCEL IDENTIFICATION NUMBER
N/A-ESSEX COUNTY

* FEES

NJ PRESERVATION ACCOUNT	$55.00
REGISTER RECORDING FEE	$65.00
HOMELESSNESS TRUST FUND	$3.00
TOTAL PAID	$123.00

I hereby CERTIFY that this document is
Recorded in the Register of Deeds & Mortgages Office
of Essex County, New Jersey

Dana Rone
Register of Deeds & Mortgages

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

004VM9

INSTRUMENT NUMBER - 2018099894