

Somerset County

Municipal Flood Mitigation Funding Program Guidelines

Somerset County Board of County Commissioners

1. Introduction

Increased, repetitive flooding in New Jersey, especially recovery from the excessive flooding caused by Hurricane Irene in 2011, has led Somerset County to expand its floodplain mitigation efforts by creating a specific program with designated funding for the buyout of flood-prone residential properties.

In Somerset County, flood problems are caused, in part, by development in the flood plain, which is particularly evident in the Green Brook, Raritan River and Millstone River basins where development has encroached upon the floodway and in the flood hazard areas. Working closely with the affected municipalities, as well as funding partners at the state and federal level, Somerset County will assist municipalities with the acquisition of flood damaged properties, requiring the demolition of on-site structures and permanently preserving the land as open space.

Priority will be given to municipalities that have sought funding from other sources prior to applying to Somerset County however, application to other funding sources is *not* a requirement to be eligible for this program.

The 2000 Somerset County Parks Recreation and Open Space Master Plan states that Somerset County “*should continue to play an active role in preserving flood plains and facilitating flood protection projects.*” It goes on to state that “*It is Somerset County’s position that a high priority of the Garden State Preservation Trust fund and other Federal and State initiatives should be providing protection from future floods through the acquisition of flood prone areas and the conservation of these lands into parks...*” A key strategy for flood control involves the purchase and removal of frequently flooded housing within the flood plain and to provide natural open space areas for floodwater storage, decrease the loss of life and property risk, and lower costs for the governments involved.

2. Background

The NJ Office of Emergency Management (OEM) administers Federal Emergency Management Agency (FEMA) programs that buyout flood prone properties and converting them to permanent open space. Flood inundated communities can utilize this federal acquisition funding as a hazard mitigation option. The federal program requires a matching grant for the cost of acquisition, either from the corresponding state or municipality. Once a property is bought from willing sellers, the local government must demolish all structures and maintain the site as public open space in perpetuity.

3. Program Overview

The Somerset County Flood Mitigation Funding Program will consider grant applications from municipalities for the acquisition of residences that have experienced severe, repetitive flooding, or sustained substantial damage (greater than 50%). Only acquisition projects will be considered for this program.

There are two (2) components of the Program outlined in these guidelines.

A. Match Funding Program

Somerset County will provide matching funds to municipalities in partnership with FEMA, Blue Acres, up to a maximum of 25% of total project cost. The FEMA and NJ Department of Environmental Protection (NJDEP) Blue Acres Programs are consistent with the goals and

regulations of the Garden State Preservation Trust Fund. Therefore, Somerset County will assist local governments by providing the match requirement for land acquisition projects.

B. Primary Funding Program

If funding is not being derived from other Federal or State sources, Somerset County will take the lead funding role. Somerset County will consider properties outside the federal and state programs, with the requirement that the municipality provide the matching acquisition funds for projects not fully funded by this program. These matching funds may not be derived from the traditional Somerset County Open Space programs.

Acquisition projects should be consistent with the objectives of the Somerset County Parks Recreation and Open Space Master Plan and/or local Open Space Plans.

Grant applications may be filed throughout the year on a rolling basis. All applications are to be submitted to the Somerset County Office of Planning, Policy & Economic Development. County staff will review the application to determine eligibility and completeness. Viable applications will be presented to the Open Space Advisory Committee (OSAC) which will assess each application according to established criteria. OSAC's recommendations will be forwarded to the Board of County Commissioners who will determine grant awards.

The municipal applicants will be notified of their awards and will receive a grant agreement detailing County requirements and conditions. The agreement must be executed by the municipality and the Board of County Commissioners prior to any disbursement of funds from the County.

4. Goals of Programs

- A. Provide natural open space areas for floodwater storage.
- B. Decrease the risk of potential loss of life to both citizens and emergency response personnel.
- C. Lower OEM and other relief and recovery costs for local governments.
- D. Create a buffer area that will protect inland homeowners and their property.
- E. Lower property losses after storm events.

5. Eligible Applicants

All twenty one (21) Somerset County municipalities are eligible for the program.

6. Eligible Properties

- A. The property must be located in Somerset County.
- B. The property must be residential. Commercial, industrial, vacant or government properties are not eligible.
- C. Properties must have a history of repetitive loss or a property must have sustained substantial damage (greater than 50%) in a single flood event.
- D. Property owner must be a willing seller.
- E. Properties in the process of foreclosure or currently held by a bank post-foreclosure that meet the criteria in items A - D.

7. Activities Ineligible for Funding

- A. Building elevation, and other non-acquisition mitigation techniques.
- B. Any project involving eminent domain.
- C. Acquisition of non-residential properties, including commercial, office, retail, industrial, vacant land, and public lands.
- D. Construction of facilities.
- E. Properties listed on the State or National Register of Historic Places will *not* be considered for funding by the County.

8. Application Process

- A. Application – A municipality files an application with Somerset County’s Municipal Flood Mitigation Funding Program, which includes all of the following documentation:
 - 1. Completed Somerset County Flood Mitigation Funding Program application.
 - 2. Municipal governing body resolution authorizing the application.
 - 3. State OEM, FEMA or Blue Acres funding request information (if applicable).
 - 4. Appraisal(s) indicating market value for each property.
 - 5. Property owner(s) “Statement of Voluntary Participation”. This statement documents the property owner’s understanding and acceptance of the voluntary nature of the acquisition and shall be executed by anyone with an equitable interest in the subject property.
- B. Appraisal – Municipality has an appraisal prepared of applicant property to determine reasonable, pre-flood event market value based on comparable sales. The appraisal must be submitted for review with the application.
- C. Review – Somerset County staff determines that the application has met eligibility requirements and presents the application to the Open Space Advisory Committee. Upon favorable review by OSAC, the application is forwarded to the Board of Chosen Freeholders for formal approval.
- D. Grant Agreement – Municipality enters in to a grant agreement with Somerset County.
- E. Contract – Municipality enters into a sales contract with willing landowner(s).
- F. Acquisition – Somerset County makes approved funds available to the municipality who in turn purchases, fee simple, the eligible structures and lands from a willing landowner.
- G. Preservation – a permanent deed restriction will be placed on the land at the time of closing and it will be held as preserved open space in perpetuity by the municipality. Properties may be used for active or passive recreation.
- H. Demolition – Residence(s) and any appurtenances will be removed in their entirety within 180 days of the property’s acquisition unless otherwise specified in FEMA or Blue Acres regulations.

9. Post-Preservation Land Use Restrictions

Restrictive covenants shall be included and conveyed in the deed to any property acquired through this program. The County shall provide model deed restrictions for grantee’s use.

- A. The property shall be dedicated and maintained in perpetuity for recreation and conservation purposes.
- B. No new structures are permitted to be built, except as indicated below:
 - 1. A public facility that is open on all sides and functionally related to a designated open space or recreational use.
 - 2. In general, allowable open space and recreational uses include parks for outdoor recreational activities, nature reserves, cultivation, grazing, unimproved parking lots, and buffer zones.

10. Funding Requirements

- A. For the Match Program, the municipality shall provide a maximum of 75% of the acquisition cost. For the Primary Funding Program, the municipality shall provide the amount of the acquisition cost not funded by the County. The specific cost share amount for the Primary Funding Program will be determined on a case by case basis.
- B. Funding levels/cost share percentages will be determined based on what other funding has been obtained, e.g. FEMA, Blue Acres, etc.
- C. All funds go directly to the municipality for distribution, not the individual homeowner.
- D. Soft Cost Reimbursement is available, at the same percentage as the acquisition cost, on closed projects only.
- E. Once a Project Area receives approval from the County, funds for the specific parcels in that Project Area will be encumbered for municipal use for a period of three years from the date of said approval.
- F. Once that time span has expired, the municipality may apply for up to two, 6-month-long, extensions by demonstrating challenging circumstances that have inhibited project progression and the Municipality's efforts to address these difficulties.
- G. Funds not expended within this 3- to 4-year time period will be forfeited and returned to the County Trust Fund as unencumbered funds.
- H. Once this forfeiture has occurred, there shall be a one-year wait period until an application for the same parcels in this Project Area can be made to the Flood Mitigation Funding Program; the only exemption to this rule is forfeiture of grant funds due to a bank-related or third-party issue.

11. Matching Fund Requirements

- A. Somerset County will provide a maximum of 25% of the total project cost through the Match Funding Program. Somerset County will provide a percentage of the total project cost to be determined by the County through the Primary Funding Program.
- B. The municipality must arrange for the remaining match funding where applicable. It can be from a variety of sources, including, but not limited to: FEMA, NJDEP Blue Acres, NJDEP Green Acres, municipal open space trust fund or municipal general funds.

- C. Matching funds shall *not* be derived from any program funded by the Somerset County Open Space, Recreation, Farmland and Historic Preservation Trust.

12. Evaluation Criteria

The following criteria will be considered when evaluating applications:

- A. Encourage preservation of multiple parcels/homes in a flood prone area to achieve the most effective flood storage and protection capabilities.
- B. Discourage ‘checkerboard’ preservation within neighborhoods.
- C. Concentrate on properties that have experienced severe, repetitive loss due to flooding or extreme damage from a specific storm event, i.e. Hurricane Irene.
- D. Prioritize municipalities with local hazard mitigation plans, which have also signed on to the Somerset County Hazard Mitigation Plan.
- E. Give consideration to specific projects as they relate to the municipality’s overall, long term flood mitigation acquisition plan.
- F. Projects should be consistent with the objectives of Somerset County and Municipal Open Space Plans.
- G. Priority shall be given based on the level of damage to a residence. Unsafe, uninhabitable structures shall receive the highest priority.

13. Application Review

- A. Somerset County Department of Public Works, Division of Engineering staff will review submitted applications for eligibility and completeness.
- B. Applicants are encouraged to consult with the Department staff about any aspect of the application that requires clarification.
- C. All eligible and complete applications will be forwarded to the Open Space Advisory Committee who will evaluate them and make recommendations to the Board of Chosen Freeholders.
- D. Applications will be accepted on a rolling basis throughout the year.

14. Appraisal Requirements

- A. Prior to the commencement of the appraisal, the municipality must obtain the “Statement of Voluntary Participation” executed by all parties with an equitable interest in the property.
- B. Applicants seeking funding shall submit an appraisal report in accordance with the requirements of the NJDEP Blue Acres Program Appraisal Scope of Work, Section E, which can be found at: www.nj.gov/dep/greenacres/blue_flood_ac.html under “Appraisals” except that the Homeowner Outreach Form is not required by the Primary Funding Program.
- D. Somerset County will utilize the Certified Market Value (CMV) accepted and/or certified by the majority funding agency; e.g., FEMA or NJDEP. When submitted through the Primary Funding Program the appraisal may be reviewed by an NJ State Certified General Real Estate Appraiser (SCGREA) hired by Somerset County and is on the current List of Approved Appraisers of the New Jersey Green Acres Program.

15. Accepted Market Value:

- A. If the County or Review Appraiser concludes the applicant's appraiser provides reasonable documentation, assumptions and analysis to support the credible assignment results and adequately addresses all the questions raised, the value conclusion shall be deemed Somerset County's "Accepted Market Value" (AMV) upon which Somerset County may cost share for the project through the Primary Funding Program.
- B. If the County or Review Appraiser concludes that the applicant's appraiser does *not* provide reasonable analysis to support credible assignment results and the value conclusions in the appraisal report and fails to adequately address all questions raised, the Review Appraiser may, at the direction of the County, develop an independent opinion of value utilizing the most current USPAP Standards and the FMP Appraisal Policy, which shall be deemed the AMV for Somerset County's cost share participation percentage.
- C. The AMV is for Somerset County valuation purposes through the Primary Funding Program only and is not to be substituted, characterized or confused with the Certified Market Value (CMV) issued by NJDEP.

16. Appraisal Value Disagreement:

- A. Should the property owner disagree with the municipality's appraised value and want to commission a second appraisal report; the municipality shall at its sole discretion determine if it will accept the owner's appraisal.
- B. If a second appraisal is to be considered, the property owner shall commission this valuation at his/her sole cost and expense. The property owner's appraisal must be prepared in compliance with these guidelines.
- C. If the estimated property value in the second appraisal is greater than 10% over the municipality's appraisal, then a third appraisal must be commissioned by the municipality for Somerset County's review and determination of AMV.
- D. Somerset County will accept for review all three appraisals, but will only reimburse the appraisal fees for assignments directly hired by the municipality. The reimbursement shall be based on the cost-share participation percentage.
- E. The cost of all appraisals contracted by the municipality is eligible for reimbursement at the cost- share participation percentage unless the appraisal fees and expenses are reimbursed by another governmental agency.
- F. The cost of an appraisal contracted by the property owner is not eligible, even if cost share participation is ultimately based on that appraisal.
- G. Foreclosure - If a property is under foreclosure, the offer to the bank will be post-flood, current fair market value or the remaining principal balance on the mortgage, whichever is less.

*Adopted: September 27, 2016
Resolution R16-736*