



# **Land Acquisition Procedures**

## **Due Diligence Requirements for GOCO-Funded Land Acquisitions**

### **Note Regarding Tax Benefits:**

A GOCO grant carries with it no representations or warranties regarding the availability of federal and/or state tax benefits. GOCO's participation in a transaction indicates only that the transaction meets GOCO's standards and should not be interpreted as a representation that the transaction meets standards imposed by any other organization (including but not limited to a government agency or other third-party funder).

## **Purpose**

The purpose of this document is to provide guidance and instructions for completing a land acquisition with GOCO funding. GOCO may fund the acquisition of a conservation easement interest and/or a fee title interest in a property through any of its constitutional purposes. If a grant application requesting funding for a fee title acquisition through an open space program does not indicate an intent to grant a conservation easement over the acquired property, GOCO will require one. The entity holding the conservation easement interest must differ from the entity holding the fee title interest, and the conservation easement must be in place prior to or concurrent with GOCO's release of funds. GOCO cannot hold interests in real property. If awarded a grant, the grantee must sign GOCO's standard Grant Agreement accepting GOCO's policies, procedures, and requirements.

Please reference these Land Acquisition Procedures throughout the course of the GOCO grant process. Other documents that contain information for the due diligence process are available at <http://www.goco.org/grantees/administration-forms> and include: 1) due diligence checklists including timelines; 2) Sample Resolution; 3) Budget Form; 4) Model Conservation Easement; 5) Appraisal Guidelines; 6) Request for Indirect Costs Form; and 7) the Competitive Grant Program Procedures.

Pay particular attention to the project deadlines and materials, reports, documents, etc., that the grantee must submit to GOCO at particular times before GOCO will release funds.

**Note: The due diligence requirements discussed in this document represent the minimum for compliance with GOCO policies and procedures. Each real estate transaction is unique and may involve components not discussed here. GOCO reserves the right to review documents related to any and all components of a transaction whether or not the documents are discussed in these Land Acquisition Procedures or elsewhere.**

**GOCO may revise or update these Land Acquisition Procedures at any time to correct errors, for clarification, and to reflect GOCO Board policies, procedures, conditions or requirements, or for other reasons GOCO believes will best accomplish its mission. Please read these procedures carefully and contact Michele Frishman ([mfrishman@goco.org](mailto:mfrishman@goco.org)) or Courtney Bennett ([cbennett@goco.org](mailto:cbennett@goco.org)) with any questions regarding these due diligence requirements.**

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\*Not required for Transaction Costs grants.

**Note: GOCO's participation in most transactions entails wiring funds to a closing; therefore, these Land Acquisition Procedures and the deadlines above generally cover that scenario. Upon request, GOCO may reimburse the grantee after closing, in which case the due diligence requirements vary slightly. Please refer to the due diligence checklists at <http://www.goco.org/grantees/administration-forms> for all applicable deadlines.**

## DUE DILIGENCE REQUIREMENTS

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Every grantee must provide certain due diligence documentation to GOCO for review and approval before GOCO will disburse any project funds. Due diligence documentation includes all of the items discussed in this guidance and may include additional information that GOCO determines to be relevant to the project. These requirements and GOCO's related questions are intended to minimize the risks associated with land transactions for both GOCO and its grantees. It is the grantee's responsibility to answer all of GOCO's questions about the project adequately and in a timely manner for GOCO to release funds for the scheduled closing or reimbursement. While GOCO will do everything within its power to meet closing deadlines, we reserve the right to request documentation at any time in the event that an item has been overlooked or is otherwise missing from the project file. The required documentation and related project deadlines are described in detail below. Please submit all documents electronically unless requested otherwise.

**Note: If the grantee's approved project is a part of a phased conservation easement acquisition where GOCO's language will attach to previously closed phases in an amended and restated conservation easement, GOCO will need to review all of the due diligence documents associated with all previous transactions including all items listed in these Land Acquisition Procedures. Those due diligence items must be satisfactory to GOCO before GOCO will release project funds.**

## **Submit No Later Than 60 Days After Grant Award**

### **1. Signed Grant Agreement**

Following the grant award, GOCO will provide the grantee with a template form of the Grant Agreement for review. The grantee must respond to GOCO with any requested changes within the given deadline; GOCO will determine in its sole discretion whether to include the requested changes in the final agreement. GOCO will provide the grantee with the final Grant Agreement for execution via electronic signature system. The grantee must sign and return the Grant Agreement via GOCO's electronic signature system. At that point, GOCO will sign the Grant Agreement, and the grantee will receive a copy of the fully executed Grant Agreement via GOCO's electronic signature system.

### **2. Resolution Authorizing Grantee to Execute the Grant Agreement**

Provide GOCO with a resolution authorizing the grantee to execute the Grant Agreement. The adopted resolution must contain at least those elements included in GOCO's Sample Resolution available at <http://www.goco.org/grantees/administration-forms>.

## **Submit At Least 90 Days Before Closing**

### **3. Signed Appraisal Guidelines (not required for Transaction Costs grants)**

GOCO will provide the grantee with the Appraisal Guidelines, also available at <http://www.goco.org/grantees/administration-forms>. The grantee and the contract appraiser for the project must sign the Appraisal Guidelines and return them to GOCO.

### **4. Signed Purchase or Option Agreement (not required for Transaction Costs grants)**

Provide GOCO with a copy of a signed purchase or option agreement including all exhibits. If the original agreement is modified in any way, the grantee must provide GOCO all amendments and other relevant documents prior to closing. The terms of the agreement should be consistent with the goals of the project stated in the application to GOCO. The grantee must also provide the contract appraiser with a copy of the agreement in order to comply with the Appraisal Guidelines.

If there are any material differences between the purchase or option agreement and the project details presented in the application and approved by GOCO (e.g., change in the acreage to be protected, purchase price, or fair market value of the property, etc.), the grantee may be asked to provide a narrative description of those changes to GOCO pursuant to GOCO's procedure for Modifications to Acreage and/or Budget for Land Acquisitions Prior to Closing.

## 5. Title Commitment and Related Documents

Title insurance protects the policyholder from any loss sustained due to defects in title and is available for both fee title and conservation easement purchases. **With the application, the grantee must provide GOCO with a copy of an ALTA form commitment for title insurance and copies of all documents referenced in the Schedule A list of requirements and Schedule B list of exceptions to title that are specific to the property covered in the application (available from the title insurance company).** It is important to provide any updates to the commitment and associated documents to GOCO as early as possible as they could reveal issues that must be resolved prior to closing or reimbursement, and they could delay the project if not submitted in a timely manner.

GOCO requires title insurance coverage for all conservation easement and fee acquisitions, including conservation easements granted at the time of a GOCO-funded fee acquisition. The title insurance must insure the property interest in an amount at least equal to the purchase price; however, GOCO suggests insuring up to the appraised fair market value. In a fee acquisition, the title insurance must insure the entity with the final vested interest in the fee. For phased projects, GOCO requires a title commitment and title policy for each phase of the project; please note that amended and restated easements may extinguish title policies that were issued for earlier phases of the project.

GOCO will require the title company to remove standard exceptions relating to survey matters (if an adequate survey has been performed, acceptable to the title company), mechanics' liens, existing leases or tenancies, gap protection, real property taxes due and payable prior to the current year, special district taxes arising prior to the date of closing, and unrecorded mineral reservations or patents. In addition, if the grantee will pay less than fair market value for the property, GOCO will request that the title company remove exclusion 3(e) from coverage related to paying value for the property. GOCO will not approve the project for funding if an exception to title is unacceptable to GOCO.

Grantees must disclose to GOCO information about any encumbrances, including reserved rights, liens, or other outstanding property interests, and any proposed future uses of the property that may be inconsistent with the purposes of the project. All existing restrictions on the property that are inconsistent with the purposes of the project must be discharged, released, or subordinated to the conservation easement. For example, if a mortgage encumbers the property, it must be paid off at closing or be subordinated to the conservation easement; if a restrictive covenant encumbers the property, GOCO will require that the covenant be subordinated to the conservation easement to the extent that it is inconsistent with the easement; if a first right of refusal to purchase an interest in the property exists, a waiver must be obtained. As with other due diligence requirements, if the condition of title is not satisfactory to GOCO, GOCO will not fund the project.

If the title commitment shows a lack of legal access to the property, GOCO will require grantee to establish legal access to the property before GOCO will release funds for closing. In the case where the title company takes exception to legal access where the only feasible access is across lands owned by the United States, grantee must demonstrate any of the following:

- 1) That the property is physically accessible from a public roadway via a road owned and maintained by the United States and managed by a federal agency;
- 2) The landowner established a legal right of way as authorized under the Federal Land Policy and Management Act (FLPMA) of 1976;
- 3) The landowner established reciprocal rights of way between the landowner and a federal agency;
- 4) The landowner created a long-term (30 years or greater in length) access permit issued by a federal agency with an opportunity to renew upon mutual agreement of the parties; or
- 5) An authorized representative of a federal agency issued a letter authorizing the landowner to cross the lands of the United States for casual use.

If seeking reimbursement for a project for which a title policy currently exists or is forthcoming, GOCO may require the title company to issue an endorsement removing or modifying any title exceptions that fail to meet GOCO's requirements. In addition, for reimbursements that occur more than six months after closing, GOCO requires an updated policy (or commitment, depending on the title company's requirements) to reveal any new title issues that possibly emerged since closing.

## **6. Demonstration of Water Rights Due Diligence**

If the conservation easement will encumber water rights, provide GOCO with a letter or memo that summarizes the water rights involved in the transaction using the following guidance. GOCO recommends addressing the questions and considerations listed below (including attaching the necessary supporting documentation) as comprehensively as possible to fulfill GOCO's water rights due diligence requirement. It is unlikely that all of the questions below will apply to each situation. Upon review, GOCO may require the grantee to provide additional explanation or a more thorough response to certain questions before issuing funding pursuant to a grant award.

If the conservation easement will not encumber water rights, provide GOCO with a letter or memo stating that no water rights are associated with the property (if appropriate) and explaining why water rights are not essential to the preservation and protection of the conservation values. Describe the actions you took to make this determination.

Please contact GOCO staff for additional guidance if the proposed conservation easement will encumber less than the full allocation of water or water rights associated with the property.

### **General Information**

- Please list all water resources associated with the property.
- Which of the conservation values require water? Are the water rights associated with the property sufficient to support the conservation values protected in the easement?
- Who did you interview about the water used on the property? What other sources did you use to gather information on the water rights? Confirm that the water rights are owned by the landowner and are being used in accordance with the decrees and that

the water rights are not abandoned or in danger of being abandoned. Discuss findings and any issues.

- Is there a mortgage or deed of trust on the property? If the mortgage covers the water in addition to the land, confirm that the lien holder has agreed to subordinate the mortgage, including the water, to the conservation easement. Does the mortgage restrict the grantor's ability to encumber the land or water rights?
- Describe any outstanding ownership issues (gaps in the chain of title, encumbrances, etc.) and how your organization plans to address them.
- Describe your organization's findings regarding the extent of actual historical use of and the physical and legal reliability of the water rights.
- Briefly describe your organization's plan for monitoring the encumbered water rights.

### **Surface Water**

- Provide:
  - the name of each ditch or reservoir,
  - the decreed amount of water and the average amount of water (in AF or cfs) from each ditch or reservoir that has historically been used on the land,
  - the number and location of the irrigated acres (this can be provided on a map), and
  - whether the ditch or reservoir is part of an incorporated ditch or reservoir company. If so, provide the name of the company and the number of shares owned by the landowner. Have you acquired and reviewed the articles of incorporation and bylaws of the ditch or reservoir companies?
- If the ditch or reservoir has not been incorporated, how is it managed?
- Are any water rights delivered under a contract? Have the parties to the contract been notified?

### **Wells**

- List each well permit number or registration number.
- If the water rights have been adjudicated, list the case number and water division.
- Are any of the wells included in an augmentation plan? If so, discuss.
- Have you notified the State and Division Engineers of your organization's ownership interest in the encumbered well?

### **Other Sources of Water**

- List other decreed sources of water used on the property not already discussed (including springs, waste water, stock ponds, etc.).
- List sources of water on the property that are not associated with a right, contract, permit or shares (including seeps, wetlands, waste water, subirrigation, springs, stock ponds, ditches, etc.).

### **Conditional Water Rights (rights that have a priority date but have yet to be perfected)**

- For any water right associated with the property that is conditional, provide the case number in which the water right was first adjudicated and any subsequent decrees associated with the right.

### **Post-Closing**

- Confirm that the easement has been recorded in the county in which the water right is diverted and the counties in which the water is used.
- Confirm the stock certificate has been reissued to provide notice of the conservation easement.
- For a conditional right, provide a copy of the notice you provided the water division in which the water right is located of your organization's interest in the right.

### **Suggested Documentation**

- Decrees (Only the following pages are necessary: the page of the decree listing the case number and date of the decree's issuance, the introductory pages with findings applicable to all water rights adjudicated in that proceeding, all pages that mention the offered right, the conclusions of law (if any), the page of the decree containing the judge's signature)
- Well permits, if applicable
- Stock certificates, if applicable
- Contracts for water, if applicable
- Confirmation you have reviewed Jurisdictional Dam inspection reports, if applicable
- Map or photograph with actual locations of all water features and structures, including but not limited to ditches, headgates, laterals, pipelines, wells, reservoirs, and ponds, as well as boundaries of irrigated acreage with crop type (preferably on a current aerial photo or USGS topo map)
- Current and historical aerial photographs, if available
- Water title report/opinion, if one was created
- Engineering report(s)/opinion(s), if available
- Proof that the ditch or reservoir company was informed the water was to be encumbered

## **Submit At Least 60 Days Before Closing**

### **7. Draft Conservation Easement**

If a grant application requesting funding for a fee title acquisition through an open space program does not indicate an intent to grant a conservation easement over the acquired property, GOCO will require one. The entity holding the conservation easement interest must differ from the entity holding the fee title interest, and the conservation easement must be in place prior to or concurrent with GOCO's release of funds. Regardless of whether acquiring fee title to the property or a conservation easement over the property, certain critical GOCO language must appear in the conservation easement. It is important to provide the contract appraiser with a draft of the conservation easement so that the appraiser can evaluate the effect of the restrictions on the value of the conservation easement. Consider the following guidelines when drafting and negotiating the conservation easement:

- GOCO must review and approve the terms of the conservation easement before releasing funds to ensure that it protects the conservation values of the property,

provides protection comparable to GOCO's Model Conservation Easement, and is consistent with the grant application.

- Involve GOCO staff in the early stages of drafting and negotiating the conservation easement. For all changes proposed to GOCO's Model Conservation Easement, available at <http://www.goco.org/grantees/administration-forms>, please send staff a redlined or "track changes" copy of the modified document.
- If circumstances require closing on the transaction prior to GOCO's complete review of all due diligence, GOCO may provide funds through reimbursement. In this circumstance, GOCO's language might not appear in the initial recorded conservation easement, in which case the grantee shall record an amendment to the recorded conservation easement that contains GOCO's language and is approved by GOCO, after GOCO's review and approval of all the due diligence materials. Should extenuating circumstances prohibit structuring the transaction in this manner, please contact GOCO immediately.
- The draft easement must adequately describe the property and specify in detail all of the conservation values protected by the conservation easement consistent with the application (rather than merely providing a general recital of the overall values). If water is essential to the conservation values of the property, the easement should tie sufficient water rights to the land to ensure preservation of those values.
- The development or reserved rights in the draft easement should mirror the development or reserved rights set forth in the application. GOCO must approve any increase in the number or size of reserved rights, and any increase could result in a reduction or rescission of the grant award.

## **8. Survey of the Property**

GOCO requires a survey only when the existing legal description is insufficient, such as when title insurance cannot be obtained, boundary disputes with neighbors exist, and/or the nature of the deal will restructure the underlying property configurations.

## **9. Environmental Site Assessment**

All grantees, including those requesting reimbursement for a completed transaction, shall provide an appropriate environmental site assessment that discloses any contamination, unsafe conditions, potential clean-up costs, potential liability to the purchaser, i.e., recognized environmental conditions (RECs) or potential environmental concerns (PECs), on the property and concludes whether the presence of any hazards would preclude any uses described in the grant application. Contamination can result from prior on-site or off-site land uses or existing conditions, including but not limited to agricultural operations, underground storage tanks, abandoned drums, asbestos in buildings, or from mining and timber operations.

GOCO requires a Phase I Environmental Site Assessment, unless GOCO provides prior express permission to use a different assessment such as a Transaction Screen Process (which shall comply with the most recent ASTM E1528 standard for such reports) or similar assessment (for example, GOCO may exempt from this requirement a property historically used exclusively for agricultural purposes with no infrastructure or fueling areas). A qualified Environmental

Professional (as defined in the most recent ASTM E1527 standard or ASTM E2247 standard) shall perform all Phase I Environmental Site Assessments, which may necessitate contracting with an environmental consulting firm if no Environmental Professional exists on the grantee's staff. GOCO prefers that a qualified Environmental Professional also prepare any Transaction Screen Processes.

**At a minimum, the final written report should include:**

- A statement describing the educational qualifications and experience of the person performing the assessment and his/her employer's standards, policies, or procedures for conducting environmental site assessments;
- A summary of investigation into past and present uses of the property and any hazardous substances, drums, odors, pits, stained soil, etc.;
- A review of public records of state and federal lists of contaminated and potentially contaminated properties;
- A summary of interviews with landowners, occupants, and local government officials, including solicitation of comments from and/or review of records of appropriate state, county, and municipal health/environmental officials about known contamination at the site;
- A professional opinion about the presence or absence of RECs or PECs (based in part upon a personal inspection of the property) and a conclusion as to the impact of such conditions or concerns; and
- No disclaimers or other limiting conditions that would prevent GOCO from relying on the environmental assessment.

GOCO will require an update of an environmental assessment dated more than one year before closing. In most cases, this update can take the form of a letter from someone familiar with the property stating that the condition of the property remains unchanged from that described in the environmental assessment and dated to the most recent observation.

**Because the environmental assessment is intended as a diagnostic tool that may require additional work, it is important to order the assessment as far in advance as is practicable, keeping in mind the one-year requirement referenced above.** GOCO recommends allowing sufficient time to address any issues disclosed or recommendations provided in the environmental assessment. If the environmental assessment reveals **no contamination, RECs, or PECs and does not recommend any remediation/clean-up** of other conditions, then the assessment is acceptable as is. The following examples illustrate situations that require additional attention and could delay the project if not properly addressed:

1. If the environmental assessment **recommends remediation/clean-up of certain "housekeeping" conditions that do not rise to the level of an REC or PEC**, GOCO will require the grantee to either implement those recommendations prior to closing or to submit a plan for addressing the recommendations within a reasonable time after closing.
2. If the environmental assessment indicates **contamination or the existence of RECs or PECs and recommends remediation/clean-up**, please contact GOCO immediately to **discuss the recommendations and the next steps**. In some cases, the grantee must

address these recommendations before distribution of GOCO funds. In most cases, the grantee shall develop and provide GOCO with the following:

- a. A remediation plan, certified by a qualified environmental engineer or environmental agency, to reasonably protect the public health and environment;
  - b. The estimated cost of funding and schedule for implementation of the plan; and
  - c. A description of the source of funding for implementation.
3. If the environmental assessment indicates **contamination or the existence of a REC or PEC but does not recommend further action**, GOCO requires the grantee to work with the landowner to develop a plan and timeline to address the condition, which the grantee must submit to GOCO before GOCO will disburse funds.
  4. If the environmental assessment **recommends further testing or a Phase II Environmental Site Assessment**, the grantee must submit the results of any further analyses and any planned or completed remediation before GOCO will disburse funds.

Note: Please contact GOCO with any questions about the conclusions and recommendations of the environmental site assessment.

## **10. Geologist's Mineral Assessment**

If mineral rights are held by a third party (as revealed by the title commitment – do not rely upon the seller's assurances that the seller owns all the minerals), GOCO requires a professional geologist's report certifying that the probability of mining those minerals by any surface method is "so remote as to be negligible." This letter confirms that there is a minimum potential risk of adverse impacts to the surface of the property and protects GOCO's investment in the project. If the report fails to determine remoteness for some portion of the property, GOCO may require the grantee to exclude this area from the conservation easement, and GOCO may reduce its award amount accordingly. If the report fails to determine remoteness for the entire property, GOCO cannot participate in the project and will deauthorize the grant. If the mineral assessment is not satisfactory to GOCO, GOCO will not fund the project. When a fee title acquisition is funded through a local government grant program and a conservation easement is not required, the grantee must still submit a mineral assessment meeting the requirements above. Please contact GOCO with any questions about these requirements.

In addition to surface mining potential, the mineral assessment should address the potential for developing any oil and gas resources. If oil and/or gas resources exist under the property and there are no leases or permits in existence, GOCO will require specific language in the conservation easement requiring the easement holder to take part in the future negotiation of any lease or surface use agreement by the landowner. If the oil and/or gas resources are currently leased or permitted, GOCO may require a separate assessment of the resources and the lease or permit documents to determine the likelihood of mining. GOCO will evaluate these situations on a case-by-case basis to determine if there are adequate measures in place to protect the conservation values if mining were to occur.

If any evidence of present or historic mining exists on any portion of the property, please contact GOCO immediately. In some instances, it may be necessary to extinguish an active

mining permit or obtain an acreage release, particularly for past or present gravel mining, before GOCO can distribute funds. GOCO will require a copy of any permits and any leases or other documents associated with the permits as well as a demonstration that mining cannot resume on the property. If mining is currently occurring on the property or the area that has been mined cannot be released from the permit, GOCO may require this area to be excluded from the conservation easement, and GOCO may reduce its award amount accordingly.

Based upon the findings disclosed in the mineral assessment, GOCO may require further investigation on a case-by-case basis.

GOCO will require an update, prepared by the contracted professional, of a mineral assessment dated more than one year prior to closing.

**11. Final Qualified Appraisal** (This section applies to Transaction Costs grants only.)

GOCO staff will review the appraisal for consistency with the grant application and the conservation easement.

GOCO requires that the appraisal is dated effective within one year of the closing date.

### **Submit At Least 14 Days Before Closing**

**12. Signage Form**

Signage is an important means of communicating the investment of GOCO/Lottery proceeds, which are public funds, throughout Colorado. Therefore, the grantee shall erect one or more signs visible from the nearest public roadway, or from an alternative location approved by GOCO, identifying the project to the public. The signage shall be erected *unless* GOCO approves a waiver requested by the grantee. Please see an example of the signs GOCO provides free of charge on the Signage Request Form at [goco.org/signage](http://goco.org/signage). The number and placement of the signs, as well as any requests for different design or wording, shall be submitted to GOCO for review and written approval prior to their placement. For approved custom signs, GOCO will provide reproducible samples of its logo to the grantee for the signs and requires it be incorporated into the signs.

GOCO will provide the grantee with the Signage Form, by which the grantee acknowledges these signage requirements, and the grantee must sign and return it to GOCO. After processing the Signage Form, GOCO will provide grantee with the requested number of standard signs for the project unless the landowner and grantee wish to design and post a custom sign. Please contact GOCO's Director of Communications to discuss design and signage questions.

**13. Final Qualified Appraisal** (This section does not apply to Transaction Costs grants.)

By board policy, GOCO will not participate in projects where a seller or grantor has received or will receive consideration greater than the fair market value of the interest conveyed, as established by an appraisal prepared in compliance with USPAP and other applicable standards.

All appraisals must also comply with the Appraisal Guidelines, which GOCO provides with the Grant Agreement for review and acceptance by both the grantee and the contract appraiser.

In order to provide review appraisers adequate time to review the appraisal, GOCO will not wire grant funds until it has received a signed report from its reviewer indicating that the appraisal complies with all applicable standards and is reliable for GOCO's funding purposes. If the transaction closes without an appraisal review, as is the case with most reimbursements, GOCO will assign a review appraiser to evaluate the completed appraisal. The review appraiser must issue a positive review before GOCO will release funding. In some cases, the contract appraiser may need to reissue an appraisal in order to address concerns raised by the review appraiser. To avoid this scenario, GOCO advises that the grantee work to resolve any appraisal issues prior to closing the transaction.

GOCO requires that the appraisal is dated effective within one year of the closing date.

#### **14. Final Project Budget**

Grantees must submit an updated project budget reflecting any changes between the approved budget (attached to the Grant Agreement) and actual final costs/funding sources. If GOCO approved any indirect costs, which are not eligible costs for Transaction Costs grants, such as staff time, general overhead, etc. at the application stage, specifically identify those costs in the budget and proceed under GOCO's Funding Parameters procedures as described in GOCO's Competitive Grant Program Procedures, available at <http://www.goco.org/grantees/administration-forms>. The budget must identify the sources and amounts necessary to complete the project, and it must delineate the uses of all funds used for the project. The grantee must submit the final budget, clearly marked and identified as final, using the GOCO budget form.

#### **15. Wire Transfer Instructions, Draft Buyer's Settlement Statement, and Closing Documents**

To ensure the availability of GOCO funds at closing, provide GOCO with a draft buyer's settlement statement, wiring instructions, and copies of any other documents to be signed at closing at least 14 days prior to the scheduled closing date, but as early as possible to allow for any necessary changes. GOCO cannot wire funds until it has reviewed and approved the draft buyer's settlement statement and other documents to be signed at closing. In the case of reimbursements, GOCO must first review and approve the executed settlement statement from the closing. **The buyer's settlement statement must contain a line item for GOCO funding as a credit to the buyer, as well as a specific breakdown of the amount of GOCO funds applied to the purchase price, transaction costs, and stewardship endowment (as applicable).**

For fee title acquisitions, the grantee also must submit a final draft of the deed for review and approval. GOCO prefers a warranty deed or a special warranty deed but will accept a bargain and sale deed in certain circumstances. A quit claim deed is not acceptable for the transfer of fee title. A quit claim deed is acceptable for transfers of property rights other than the fee title (such as water rights).

Unless GOCO delivers its funds to the title company's escrow account in advance, GOCO will initiate the wire transfer the day before closing by instructing the State Treasurer's office to wire funds to the title company's account on the day of closing. Due to potential delays on the part of the State Treasurer's office that are completely beyond GOCO's control, funds may not arrive in the account until 11:00 a.m. Therefore, it is best to establish a closing time after 11:00 a.m.

Based on the completion of all the foregoing requirements, GOCO will send a closing instruction letter to the title company, with copies to the grantee and project partners, in advance of the scheduled closing. GOCO's closing instructions will specifically reference GOCO's investment and interests in the transaction and may not address the interests of other parties. For some projects, the grantee may wish to draft closing instructions that reference these other interests and associated requirements. Before GOCO will authorize disbursement of its funds, it requires the title company to sign and return GOCO's closing instructions indicating the title company's willingness and ability to adhere to the requirements.

In certain cases, including but not limited to closings for which another funder's wire date has yet to be determined, GOCO in its discretion may send funds in advance of the scheduled closing date to the title company's escrow account. GOCO's closing instructions will specify how and when the funds are to be returned to GOCO in the event the closing does not occur by a certain date. GOCO funds may sit in escrow for no longer than 30 calendar days.

If the parties elect not to close with a title company, thereby removing GOCO's ability to send a closing instruction letter to the title company, the grantee must provide a copy of the title policy, the recorded conservation easement, and a copy of the invoice or other proof of payment of matching funds. GOCO must approve these documents and may require endorsements to the title policy prior to GOCO disbursing funds. When a title company is not used, GOCO will not send funds to an escrow account.

#### **16. Resolution Authorizing Grantee to Accept Property Interest**

In advance of closing, each entity that will accept a property interest must submit a resolution (or other proof of authorization) from its board or decision-making body exhibiting that the entity has the authority to accept the property interest.

#### **17. Baseline Documentation Report**

The grantee must submit a report that provides an assessment of the resource values and existing conditions on the property encumbered by the conservation easement at the time of conveyance. This report, referred to as a baseline report, present conditions report, baseline documentation report, or similarly titled document, shall comply with current industry standards. The grantee and the landowner shall acknowledge the existing condition of the property by signing the report. GOCO may require an update of a baseline documentation report dated more than one year before closing.

## POST-CLOSING/POST-FUNDING REQUIREMENTS

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GOCO requires grantees to submit the following documentation after closing:

1. Recorded Conservation Easement and Warranty Deed (for fee acquisitions)
2. Recorded Conservation Easement (for easement-only acquisitions)
3. Signed Buyer's Settlement Statement
4. Signed and recorded copies of all documents executed at closing
5. Title Policy (with all objectionable title exceptions removed)
6. Signed Baseline Documentation Report/Acknowledgement
7. Land Management Plan, if necessary
8. Evidence of signage installation, if necessary

### **18. Land Management Plan**

When appropriate, the grantee and/or the landowner must develop a Land Management Plan that specifically identifies how the landowner will manage the property consistent with the uses or restrictions of the project and the preservation of the conservation values (as described in the project application and/or conservation easement), when such details are not appropriate for inclusion in the conservation easement. As a general matter, GOCO will not require a Land Management Plan for purely agricultural properties with a demonstrated history of appropriate management. GOCO may require a Land Management Plan to address: (1) particular issues that, in GOCO's judgment, require more management detail than is included in the conservation easement; (2) when and where public access is appropriate for publicly owned properties (including trail location, design, construction and identification of amenities, etc.); (3) long-term clean-up recommendations identified in the environmental report. The conservation easement must explicitly reference the Land Management Plan, if required. GOCO would prefer but does not require a complete, signed Land Management Plan prior to closing but will require its submission no later than one year from the date of closing.

At a minimum, the Land Management Plan should address: 1) management objectives to protect the conservation values of the property, including any special management needs, such as weed or soil erosion control to minimize adverse impacts on adjacent properties; 2) a timeframe for implementation of the plan; 3) projection of maintenance/management costs; and 4) an explanation of how the landowner intends to cover the maintenance/management costs.

Additional funders, such as Colorado Parks and Wildlife or the Natural Resources Conservation Service, often require a land management plan. In most cases, that management plan will fulfill GOCO requirements.

At least every five years the landowner must review and/or update any required Land Management Plan.