



# **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 but 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 <https://www.goco.org/grantee-support> and include:

- 1) Due Diligence Checklists
- 2) Sample Resolution
- 3) Budget Form
- 4) Model Conservation Easement
- 5) Appraisal Guidelines
- 6) the Competitive Grant Program Procedures

**Note: The due diligence requirements discussed in this document ensure compliance with GOCO policies and procedures for transactions. Each real estate transaction is unique and may involve components not discussed here. GOCO reserves the right to request and 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. Please coordinate with GOCO's Grant's Officer upon receipt of your award to discuss what due diligence documents are required for your specific transaction.

GOCO may periodically revise or update these Land Acquisition Procedures. Please read these procedures carefully and contact your GOCO Grants Officer with any questions regarding these due diligence requirements.

**Issued: July 2021**

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\*Not required for past Transaction Costs grants.

**Important Note:** GOCO's participation in most transactions entails wiring funds to a closing; therefore, these Land Acquisition Procedures generally cover that scenario. GOCO's Grants Officer for Land Protection will need to receive and review the above referenced documents prior to wiring funds to closing. Please communicate with GOCO's Grants Officer upon receipt of your award to discuss the status of the transaction, transaction timing, and closing deadline.

As you coordinate the land acquisition transaction, please factor in the necessary time to complete the required due diligence and closing. This often takes longer than expected especially when there are several entities involved with the transaction, so please plan accordingly. GOCO will make every effort to meet your anticipated closing date. However, please recognize that GOCO requires internal review of all due diligence material and GOCO staff is simultaneously reviewing due diligence for other grants. Delays in providing materials to us may prevent us from wiring funds to meet a specified closing date.

While we will work to meet your anticipated closing date, please be advised that GOCO requires a minimum of 60 days from award date to closing to review all due diligence documentation and complete our closing and payment process. If the transaction includes more than one land acquisition, has considerable complexity, or if the due diligence process identifies issues that need to be resolved, please be aware that these types of scenarios may require additional time for disbursement of funds and will be handled on a case-by-case basis.

If the transaction must close prior to the completion of GOCO's review, grantee may choose to receive the grant award via reimbursement. There are additional due diligence requirements associated with this scenario, the details of which are addressed in this document. Please be



aware that there is more risk involved when electing to complete a transaction via reimbursement and GOCO will still review and approve all associated due diligence and closing documentation.

## Due Diligence Requirements

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 the items discussed in this guidance, documentation referenced in the Grant Agreement Checklist, and may include additional information that GOCO deems 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 GOCO's questions about the project adequately and in a timely manner in order 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 is described in detail below. Please submit all documents electronically unless requested otherwise.

**Note: If 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 may request to review and approve certain due diligence documents associated with the previous transactions, including the items listed in these Land Acquisition Procedures.**



## **Grant Agreement**

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

Grantee will need to provide GOCO with a resolution authorizing the grantee and any co-grantees to execute the Grant Agreement. The adopted resolution must contain at least those elements included in GOCO's Sample Resolution. The Resolution will be attached as an Exhibit to the Grant Agreement, so timely execution of any and all Resolutions is pertinent.

Grantee(s) should consider incorporating the governing body's acceptance of the property interest in this resolution if the timing is applicable.

### **2. Signed Grant Agreement**

Following the grant award, GOCO will provide the grantee with a draft of the Grant Agreement for review. Grantee may propose suggested edits to the draft grant agreement to address specific transaction details and requirements for GOCO's consideration. After negotiating any proposed edits, GOCO will provide the grantee with the final Grant Agreement for execution via electronic signature system. Exhibits to the Grant Agreement will include the proposed budget and the resolution(s) referenced above granting signature authority. Grantee should provide GOCO with the name(s) and email address(es) for all signatories to the Grant Agreement, as well as any specific signing procedures and/or signature routing requirements. 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.

GOCO reserves the right to add co-grantee(s) to the Grant Agreement as applicable. If co-grantees are added, each party should plan to review, approve, and sign the agreement.

### **3. Grant Agreement Timing**

The Grant Agreement process will commence after the Board's approval of the application. Grantee will receive a copy of the draft agreement as soon as possible after the Board's approval, although timing of receipt of the agreement will ultimately depend on the complexity of the transaction. Grantee and any co-grantee(s) should review and provide edits to GOCO in a timely manner. Ideally, the grant agreement will be fully executed within 60 days of the award, but timing is flexible to allow for complex transactions with multiple parties involved in reviewing and signing the agreement. Timely execution of the grant agreement and associated documents



is critical to ensure all parties are aware of and agree to the terms of the agreement.

### **Appraisal Documents**

#### **4. Appraisal Review & Signed Appraisal Guidelines**

GOCO will hire an independent appraiser to review the appraisal for the interest acquired. GOCO's contracted appraiser is hired to ensure that the appraisal meets USPAP (Uniform Standards of Professional Appraisal Practice), other applicable standards, and GOCO's appraisal policies and requirements. Once an appraiser has been selected by Grantee, Grantee should notify GOCO staff so a review appraiser can be assigned. Once assigned, GOCO's review appraiser is responsible for coordinating with Grantee's appraiser to complete the review. GOCO must receive an approval letter from GOCO's review appraiser prior to the disbursement of funds.

The details of GOCO's appraisal requirements are explained in GOCO's Appraisal Guidelines. The guidelines will be provided to the grantee and are also available at <https://www.goco.org/grantee-support>. Please note that Grantee and the contract appraiser for the project must sign the Appraisal Guidelines and return them to GOCO.

For transaction cost grants, GOCO staff will review the appraisal for consistency with the grant application and the conservation easement. A review appraiser and signed appraisal guidelines are not required for GOCO's transaction cost grant awards.

#### **5. Final Qualified Appraisal**

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 GOCO's review appraiser 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.

## 6. Appraisal Timing Requirement

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

## Transaction Documents and Reports

### 7. Signed Purchase or Option Agreement

GOCO will review any and all signed purchase or option agreements including 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(s) 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.), GOCO may request that the grantee/co-grantee(s) 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.

### 8. 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 or as soon as possible thereafter, the grantee should provide GOCO with a copy of a title insurance commitment. GOCO may request copies of 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 requiring resolution 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.

Ahead of closing, GOCO will issue closing instructions to the title company requesting the removal of 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 may not approve the project for funding if an exception to title is unacceptable to GOCO.

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.

If the title commitment shows a lack of legal access to the property, GOCO may require grantee to establish legal access to the property before GOCO will release funds for closing. If the title company issues a policy 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.

#### **9. 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.

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 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, wastewater, 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(s) depicting the locations of all water features and structures, including but not limited to ditches, pipelines, wells, reservoirs, and ponds, as well as boundaries of irrigated acreage
- CDSS (Colorado Decision Support System) website report(s) detailing historic and current use of the water right(s).
- 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

#### **10. 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.

## 11. 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 requirement applies to both fee title and conservation easement acquisitions. The geologist’s report 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. 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 as soon as possible. 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 request 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 may require an update, prepared by the contracted professional, of a mineral assessment dated more than one year prior to closing.

## **12. Baseline Documentation Report**

The baseline report (also known as a present conditions assessment, baseline documentation report, or similarly titled document) provides an assessment of the resource values and existing conditions on the property encumbered by the conservation easement at the time of conveyance. The report should be prepared by a qualified environmental professional and comply with current industry standards. The grantee and the landowner will 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.



### 13. 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.

#### Property Conveyance Documents

### 14. Draft and Final Deed of 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.

Grantee should involve GOCO staff in the early stages of drafting and negotiating the conservation easement. 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 as soon as possible.

The draft easement should 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.

To the greatest extent possible, the development or reserved rights in the draft easement should reflect what was proposed in the application. Where differences exist, GOCO will request that the conservation easement holder evaluate the reserved rights to ensure that the proposed changes will not detrimentally impact the Property's conservation values. If there is a significant change, GOCO may reduce the grant award. GOCO reserves the right to deauthorize a grant if the reserved rights change so significantly that the outcomes of the project as awarded are significantly diminished.



If GOCO is wiring funds to closing, GOCO will need an execution copy (final version) of the conservation easement. The final version should be identical to the document signed at closing. GOCO will include the execution copy of the conservation easement as an Exhibit to GOCO's closing instructions for reference by the title company's closing agent.

If the grant is being awarded via reimbursement, (i.e. GOCO's funds will not be delivered to closing) GOCO will need to receive a copy of the recorded conservation easement prior to the disbursement of funds.

### **15. Draft and Final Warranty Deed**

For fee title acquisitions, grantee must submit a draft 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).

When GOCO is contributing funds to a fee title acquisition, GOCO will work with Grantee to ensure an appropriate long-term protection tool is in place.

If GOCO is wiring funds to closing, GOCO will need an execution copy (final version) of the conveyance document (warranty deed, special warranty deed, etc.). The final version should be identical to the document signed at closing. GOCO will include the execution copy of the conveyance document as an Exhibit to GOCO's closing instructions for reference by the title company's closing agent.

If the grant is being awarded via reimbursement, (i.e. GOCO's funds will not be delivered to closing) GOCO will need to receive a copy of the recorded conveyance document prior to the disbursement of funds.

### **Closing Documents**

#### **16. Signage Form**

Signage is an important means of communicating the investment of GOCO/Lottery proceeds, which are public funds, throughout Colorado. Therefore, GOCO requests that the grantee erect one or more signs visible from the nearest public roadway, or from an alternative location proposed to 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 <https://www.goco.org/grantee-support> GOCO will review changes to the number, placement, design, or wording of the signs, prior to their installation. For approved custom signs, GOCO will provide its logo in an appropriate digital format.

GOCO will provide the Signage Form for grantees acknowledgement and signature in order to begin processing. 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 install a custom sign. Please contact Rosemary Dempsey, GOCO's Director of Communications ([rdempsey@goco.org](mailto:rdempsey@goco.org)) to discuss design and signage questions.

### **17. 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. The budget should identify the sources and amounts necessary to complete the project and delineate the uses of all funds used for the project. The grantee should submit the final budget, clearly marked and identified as final, using the GOCO budget form.

### **18. Buyer's Settlement Statement, Wire Instructions, GOCO's Closing Instructions**

To receive funds at closing, Grantee must provide GOCO with all associated buyer's settlement statement(s), wiring instructions, and copies of any other documents to be signed at closing. Ideally, these documents should be provided at least 10 days prior to closing or as early as possible to allow for any necessary changes.

The title company **MUST** provide wire instructions on BANK letterhead in order to comply with the requirements of the Colorado Department of the Treasury, which manages GOCO' funding and **WILL NOT** release funds if this requirement is not satisfied.

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. When GOCO's funds are delivered to 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).**



Unless GOCO delivers its funds to the title company's escrow account in advance, GOCO will initiate the wire transfer two days before closing by instructing the Colorado Department of the Treasury to wire funds to the title company's account the day before closing.

Based on the completion of all the foregoing requirements, GOCO will send closing instructions to the title company, with copies to the grantee and project partners, in advance of the scheduled closing. GOCO's closing instructions will include the execution copy of the conservation easement as an exhibit as well as any conveyance document as applicable. 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 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.

#### **19. 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. If applicable, this requirement may be incorporated into the resolution granting signature authority.

#### **Reimbursement & Post-Closing Requirements**

#### **20. Funds through reimbursement**



If Grantee wishes to receive their funding award via reimbursement for a property transaction, Grantee should pay special attention to the reimbursement requirements outline throughout this document. In summary, Grantee must submit all of the above referenced documents as applicable for GOCO's review. GOCO reserves the right to request edits and modifications to each respective document as applicable. GOCO must also receive all recorded documents (i.e. recorded conservation easement and warranty deed); all final signed closing documents including the final signed buyer's settlement statement; and the final title policy. GOCO may request endorsements to the title policy if GOCO's standard requests are not addressed.

## **21. Post-Closing Requirements**

If GOCO's funds are delivered to closing, GOCO requires grantees to submit the following documentation within 60 days after closing:

1. Recorded Warranty Deed and applicable Conservation Restriction
2. Recorded Conservation Easement
3. Signed Buyer's Settlement Statement(s)
4. Title Policy (with all objectionable title exceptions removed)
5. Signed Baseline Documentation Report/Acknowledgement
6. Land Management Plan, if necessary
7. Evidence of signage installation, if applicable
8. Environmental clean-up letter, if applicable

## **22. Land Management Plan**

When appropriate, the grantee and/or the landowner will 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 should 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.