

MEMORANDUM

TO: City Council
FROM: Derek Delacourt, Community Services Area Administrator
SUBJECT: Greenbelt Buy-Protect-Sell Framework
DATE: February 22, 2022

Background

In 2003, residents of Ann Arbor overwhelmingly approved the Open Space and Parkland Preservation Millage, also known as the Greenbelt Millage, which authorized a 30-year, 0.5 mil tax levy to provide funds for the preservation and protection of open space, natural habitats, agricultural lands, and the City's source waters outside of City limits, and the purchase of parkland within City limits.

As delineated in City Council Resolution 377-9-03¹, one-third of the millage revenue is expected to be used for parkland acquisition within the City, and two-thirds of millage revenue for land preservation within the Greenbelt District outside the City. Chapter 42 (Open Space and Parkland Preservation Ordinance) of the City Code provides the parameters for the use of Open Space and Parkland Preservation Millage funds. Chapter 42 establishes the Greenbelt Advisory Commission, charged with making recommendations to City Council on the use of Open Space and Parkland Preservation Millage funds within the Greenbelt District, known as the City's Greenbelt Program.

Chapter 42 Section 3:63 of the City of Ann Arbor's Open Space and Parkland Preservation Ordinance authorizes City Council to:

*"Expend revenue to acquire greenbelt district land in accordance with the criteria and procedures established in this chapter. The interest acquired may either be fee title, development rights, conservation easements, or any lesser interest, easement, covenant or other contractual right pertaining to such rights. Acquisition of land and land rights may be achieved through donation, in whole or in part; or by purchase, grant, covenant or contract but only at a price that is equal to or less than the qualified appraisal. In particular, the city can acquire development rights to agricultural land and other eligible land. The revenue shall be used to acquire greenbelt district land only upon application of the owner and as authorized by this chapter."*²

To date, Ann Arbor City Council has approved 75+ acquisitions conserving 6,000+ acres in the Greenbelt District. Much of this work has been accomplished through purchase of developments rights via conservation easements. To date, all conservation easements have been secured on private property after a willing applicant has submitted the property for consideration by the Greenbelt Advisory Commission and City Council.

¹ [https://a2gov.legistar.com/ViewReport.aspx?M=R&N=Master&GID=55&ID=264752&GUID=BEA595A1-E269-4DB9-8F64-B31031A5E141&Extra=WithText&Title=Legislation+Details+\(With+Text\)](https://a2gov.legistar.com/ViewReport.aspx?M=R&N=Master&GID=55&ID=264752&GUID=BEA595A1-E269-4DB9-8F64-B31031A5E141&Extra=WithText&Title=Legislation+Details+(With+Text))

² https://library.municode.com/mi/ann_arbor/codes/code_of_ordinances?nodeId=TITIIPAPUGR_CH42OPSPAPR

Affordable Farmland Access

Land is essential to starting a farm business. It provides the soil, water, and open space necessary to grow. The location of the land determines the market opportunities, climate, and social networks that you operate in. Across the United States the future of farming faces numerous challenges, including:

- Finding and securing land to farm is the biggest challenge that beginning farmers face in starting a career in agriculture
- Farmland prices are at a record high across the country and land has become increasingly unaffordable for farmers
- The land surrounding our nation's cities, where market opportunities are greatest for beginning farmers, is often the most difficult to access
- 2/3rds of all farmland in the US will change hands in the next 25 years
- Only 8% of farmers are under 35 years old, and 34% are 65+ years old
- Only 2% of the private farmland acres in the US are owned by BIPOC
- Only 13% of farm owner-operators in the US are female
- 45% of landlords have never farmed

To address these farmland ownership, succession and inequity challenges, some visionary groups have been working to ensure that this land stays in the hands of farmers through innovative Buy-Protect-Sell (BPS) transactions that help directly facilitate affordable farmland access opportunities in their communities. Washtenaw County conservation groups are underutilizing these innovative practices. Over the years the Greenbelt has heard consistent community demand for a shift in how we work and who we help – with that demand growing by the year. The City is poised to become a leader in conservation innovations that fulfill the Greenbelt's primary objective of resource conservation while also addressing City-wide sustainability and DEI objectives.

Buy-Protect-Sell

Conservation agencies across the United States utilize a land preservation transaction model commonly known as Buy-Protect-Sell (BPS). Conservation agencies utilize BPS transactions to conserve vulnerable and/or priority conservation parcel(s) by purchasing fee title to the property with the intent to resell the property encumbered by a conservation easement. After fee title is taken by the conservation agency, BPS transactions may include some of the following components:

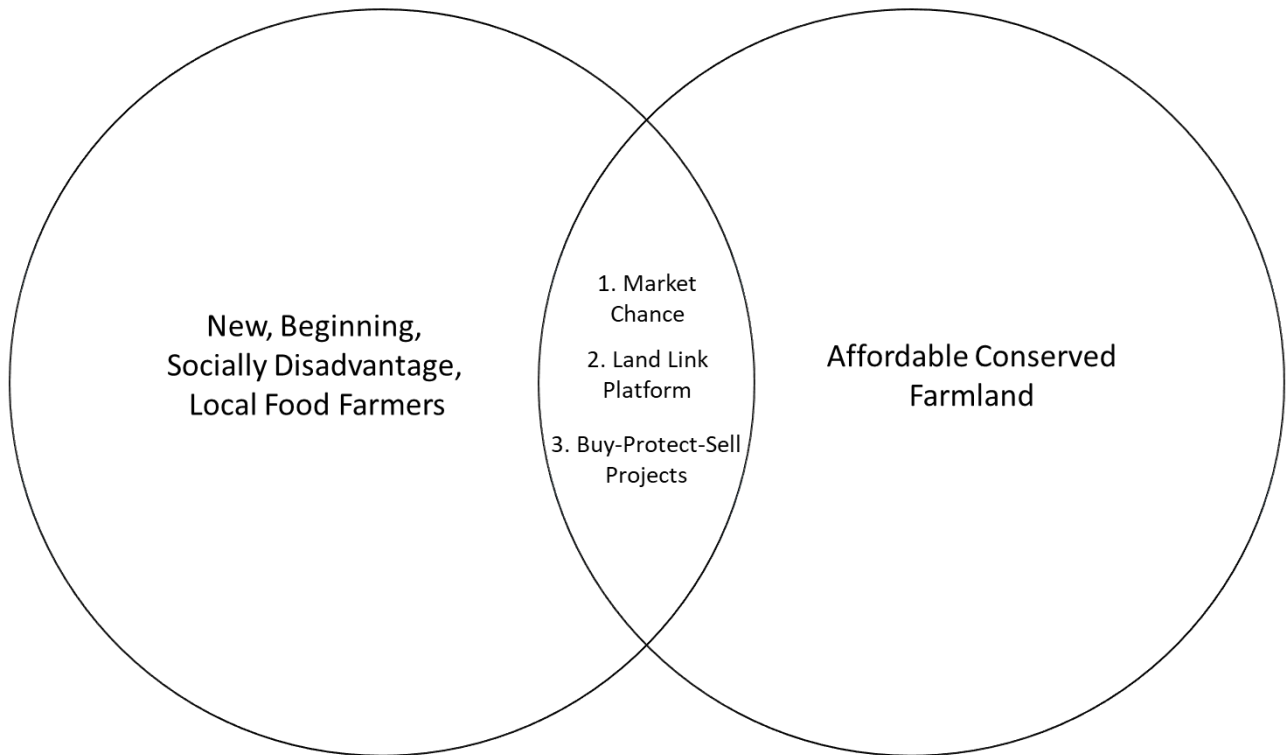
- The agency may define a resale opportunity to enhance program outcomes. For instance, an agency may choose to subdivide a 50-acre parcel into two 25-acre parcels to provide multiple affordable farmland purchasing opportunities.
- The agency may determine that it is in the best interests of the parcel to allow for future limited residential or agricultural structures within a defined area, consistent with widely used open space preservation methods through agricultural conservation easements, including federally funded NRCS conservation easements.
- The conservation agency often facilitates a public Request for Proposals process by which a buyer or buyers are selected.
- The conservation agency utilizes their own funds or works with federal, state or local partners to secure funding for the conservation easement that will encumber the parcel.

- The conservation agency sells the property to the selected buyer at the restricted value, simultaneously creating an affordable land purchase opportunity and guaranteeing the perpetual conservation of open space on the priority parcel.

The scarcity of affordable farmland threatens the future viability of agriculture in the Greenbelt District. As such, it may be in the City’s interest to purchase priority parcels that are threatened by land conversion and utilize a BPS transaction model to facilitate affordable land transfer to a new generation of farmers in the course of meeting the purpose of the Greenbelt millage to protect open space.

Local Need for Affordable Farmland Access Solutions and Leadership

As illustrated below, there are limited opportunities and conditions under which a new, beginning, socially disadvantaged and/or local food farmer can successfully secure affordable conserved farmland. Land succession or transfer is most often left to market chance. In some areas of the US, land linking platforms have thrived connecting older retiring farmers with newer farmland-seekers, but no such platform exists in Michigan – though there have been multiple unsuccessful attempts. As a result, innovative Buy-Protect-Sell transactions by conservation agencies are the most viable option for creating affordable farmland access solutions in our region. Michigan State University Extension has surveyed southeast Michigan farmland-seekers and found that there is overwhelming demand for affordable farmland in Washtenaw County area, and that ownership is the preferred model over long-term lease agreements.



Greenbelt Buy-Protect-Sell Policy & Guidance

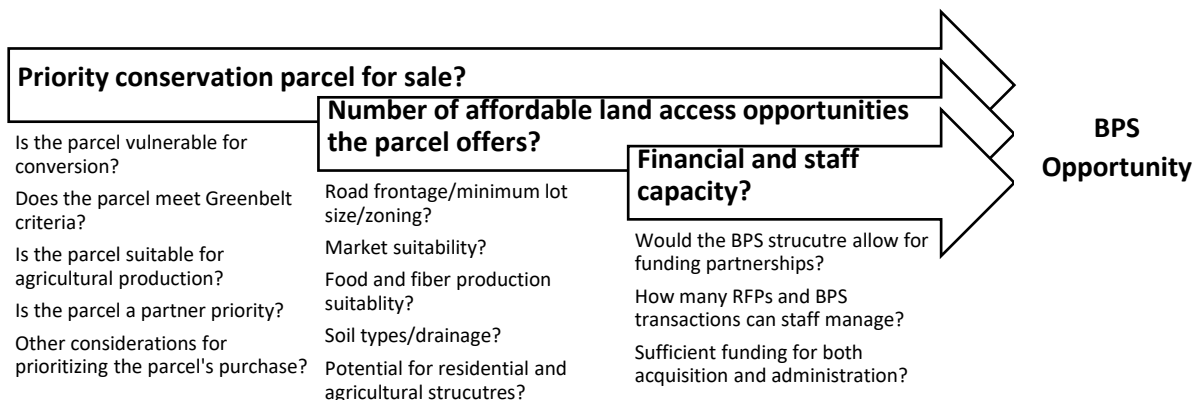
If the City leads or participates in a Buy-Protect-Sell (BPS) transaction, the following supplemental guidance to Chapter 42 of the City Code will be utilized by staff and the Greenbelt Advisory Commission to ensure the project meets the following minimum standards:

1. *Purchase and Sale Prices:* When restricted by partnership funding parameters, the City will not seek to profit from a BPS transaction by selling a BPS parcel for more than (a) its bona fide appraised value at the time of sale or (b) the amount paid (adjusted for inflation) for the BPS parcel, whichever amount is higher.
2. *Financing of Sale:* The City will not finance the selected buyer's purchase of a BPS parcel via mortgage, land contract, or similar note. The selected buyer will be responsible for securing the requisite funds and/or financing to take fee title to the BPS parcel.
3. *Public Process:* When selling a BPS parcel, the City will issue a public Request for Proposals (RFP), solicit proposals, and establish criteria by which to evaluate proposals. RFPs will be distributed widely through the City's conservation network. When considering the initial purchase of a BPS parcel, the City will use the same review and approval process it requires for Greenbelt acquisitions.

At its December 2nd, 2021 meeting the Greenbelt Advisory Commission adopted this Buy-Protect-Sell policy and related acquisition guidance prepared by staff in consultation with the City Attorney's Office, Washtenaw Parks & Recreation Commission and Michigan State University Extension.

Evaluating BPS Opportunities

While each Buy-Protect-Sell (BPS) opportunity will be unique, below are the principal factors that will guide staff, Greenbelt Advisory Commission and City Council's assessment of prospective BPS opportunities.



Buy-Protect-Sell Transaction Structure

If a Buy-Protect-Sell (BPS) opportunity has merit and advances, staff will take the transaction through four primary stages: (1) Preliminary review and approvals, (2) fee simple purchase of priority conservation parcel, (3) site preparation, developing/issuing the public RFP, and (4) outsale of conserved parcels to selected buyer(s). It should be noted that not all BPS transactions will look the same and each will require varying degrees of administrative capacity to facilitate. How the transaction may be structured and the extent to which that structure will draw on administrative capacity will be contemplated during the evaluation process of each BPS opportunity.

