

Thurston County Conservation Futures Program

Administrative Guidelines

December 2019

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Purpose & Background

This policy document is intended to provide a clear guide to how the annual award cycle of the Thurston County Conservation Futures Program is administered, including review of applications and project management from notice of award to project completion. It is intended to be instructional to County staff, elected officials, project sponsors, and the general public, and will be updated periodically.

This document was developed based on past policy decisions by the Board of County Commissioners (Board), incorporating administrative and Board decisions on individual projects, and by considering day-to-day program management since the last comprehensive update in 2010. This document does not discuss strategic acquisitions of mitigation property that occur outside of the annual award cycle described herein.

Conservation Futures is a land preservation program that protects, preserves, maintains, improves, restores, and limits the future use of threatened areas of open space, timberlands, wetlands, habitat areas, culturally significant sites, and agricultural farmlands within Thurston County. Conservation Futures funds, acquired through a property tax levy, are used to purchase the land or the rights to future development of the land.

The Washington State Legislature first granted the authority for a Conservation Futures tax levy in 1971 when RCW 84.34 was enacted and later amended in 1988. RCW 84.34.200 declares that the acquisition of interests or rights in real property for the preservation of open spaces and areas constitutes a public purpose for which public funds may properly be expended or advanced. RCW 84.34.230 declares the county may levy an amount not to exceed 6.25-cents per \$1,000 of assessed value of all taxable property within the county for the Conservation Futures Program.

The Legislature found that Conservation Futures are a useful tool for counties to preserve land of public interest for future generations and are encouraged to use some conservation futures as one tool for salmon preservation purposes. Any county, city, town, nonprofit historic preservation corporation (RCW64.04.130) or nonprofit nature conservancy corporation or association (RCW 84.34.250) may qualify for Conservation Futures funds. The legislature also declared that up to fifteen percent of the Conservation Futures fund may be used for the maintenance and operation of any property acquired with Conservation Futures funds.

In 1989, Thurston County became one of the first counties in the state to implement the tax levy and has been collecting it ever since.

Overall Annual Conservation Futures Process

The Conservation Futures program operates like an annual grant program. The application period opens each year on January 1. Complete applications must be submitted by 5:00 PM PST on the last day of February, by applicants who meet the requirements of RCW 84.34.220 and .250 at the application deadline. An application form is attached to this policy document as Appendix A. If the last day of February falls on a weekend, holiday, or other date the courthouse is closed, then the next day of normal County operations shall be the application deadline. Applications submitted after the due date will be rejected. No additional information may be submitted by the project sponsor after the due date.

Staff will work with the project sponsors to arrange site visits of each property by the Conservation Futures Ranking Committee, typically in April or May. Following those visits, the ranking committee will meet in May or June and rank the project proposals using the program's review and ranking criteria, located in Appendix B. They will also provide staff with any other recommendations for the Board.

Staff will brief the Board on the project proposals and the Ranking Committee's recommendations in or around July. The Board, with consideration of the Ranking Committee's recommendations, ultimately decides how Conservation Futures dollars are spent each year.

Policies

Application Requirements

1. Completed application form
2. Aerial photograph showing parcel boundaries
3. Legal description of parcel(s), if known at the time of application
4. Proof of eligibility under RCW 84.34.220 and 250 (UBI #, articles of incorporation, IRS 501(c)(3) letter). The project applicant's Articles of Incorporation must have as "one of its principle purposes...the conducting of natural resources, including but not limited to biological resources, for the general public, or the conserving of open space, including but not limited to wildlife habitat to be utilized as public areas, for the use and enjoyment of the general public." (RCW 84.34.250)

Applicants shall provide the most complete and accurate information possible on the application. It shall be the applicant's responsibility thereafter to inform Thurston County about any changes in the project, including but not limited to:

- Acreage of property to be conserved
- Anticipated post-award property management objectives
- Property ownership
- Availability of matching funds
- Land uses occurring on the property.

Match Requirement

There is no match requirement for Thurston County Conservation Futures funds. However, projects with matching funds are eligible for more points in the program's ranking criteria.

Sponsor and Project Eligibility

A project sponsor must meet the requirements of RCW 84.34.220 and 250 at the time of the application deadline. Staff shall verify that the eligibility information submitted by the project sponsor does indeed qualify that sponsor to apply for Conservation Futures funds.

Staff shall also verify that the proposed project meets the intent of RCW 84.34.

Ranking Committee Participation

The Conservation Futures Ranking Committee shall be made up representatives of the following entities:

Advisory Groups

- Thurston County Agricultural Advisory Committee
- Thurston County Historic Commission
- Thurston County Storm and Surface Water Advisory Board
- Parks representation – revolving local participation (see next section)
- Real estate representation – recommendation from Thurston County REALTORS Association

Technical Agencies

- U.S. Fish and Wildlife Service (prairie and fish habitat representatives)
- Washington Department of Archaeological and Historical Preservation
- Thurston Conservation District

Each year, staff will solicit proposed ranking committee members and provide these names to the Board for their approval. If possible, committees and agencies will provide the name of a proposed representative and a proposed alternate, should scheduling prove difficult with all proposed representatives. The methods by which each agency or committee selects its proposed representatives and alternatives is up to the discretion of each agency or committee.

Ranking Committee: Parks Representation

The Thurston County Parks Board used to provide representation to the Conservation Futures Ranking Committee, but was disbanded in 2014. Parks representation for the committee is hereby composed of volunteers from other municipal park committees/boards in Thurston County. Staff will reach out to other jurisdictions to gauge interest in participating in the Conservation Futures Program. Jurisdictions that agree to participate will be randomly selected each year to provide the roles of representative and alternate for the annual process.

Thurston County will re-up the commitment annually—briefly checking in with the randomly selected participants each year to ensure the jurisdictions are willing and able to participate. In a given year, if any of the participating cities are applicants for Conservation Futures funds, that city may not be eligible to provide representation to the ranking committee that year. If there is a Conservation Futures project application related to parks in the jurisdiction or Urban Growth Area (as opposed to, say, an agricultural easement or purchase of parcels containing significant

wildlife habitat), the city may not be eligible to participate. The Board will make these decisions on a case by case basis in order to avoid conflicts of interest, or the appearance of conflicts of interest.

Ranking Committee Term Limits

Conservation Futures Ranking Committee members may serve on the ranking committee for two (2) consecutive application cycles. This does not apply to technical agency representatives. Terms should be staggered between advisory committees. Ranking committee members are not prohibited from serving again in the future.

“Cooling Off” Between Ranking Committee Participation and Subsequent Involvement in Application for Funds

After departing the ranking committee, a former ranking committee member must wait one full funding cycle before applying for funds for any property in their ownership, sponsoring a project, or otherwise being significantly involved in a Conservation Futures funding proposal.

Land Use Violations on Properties Requesting Conservation Futures Funds

It is the responsibility of the project sponsor to disclose any known county, state, or federal land use, building, or health violations on the property for which Conservation Futures funding is sought. This information shall be included as part of the Conservation Futures application. Staff will provide information about any land use violations to the Board.

The presence of land use violations on a property does not mean an application for funds may not be submitted on that property. The Board shall have the ultimate discretion in whether to approve Conservation Futures funds for a property with known violations.

Award Notification

When the Board makes its award decision, the sponsors of any funded projects will receive notification via mail and email. The cover letter and award materials will include:

1. The award announcement
2. The amount of funds awarded
3. Parcel(s) for which funds can be applied
4. What award funds may be used for
5. The expiration date of award funds

6. Any funding conditions made by the Board.

The award packet will also include a copy of the program's administrative guidelines, and a statement of receipt/acknowledgement of program guidelines that must be signed by the project sponsor and returned to Thurston County.

It is the project sponsor's responsibility to be aware of any and all award expiration dates, appraisal dates, project timelines, and all other information included in the Thurston County Conservation Futures Administrative Guidelines.

The County reserves the right to deny funds awarded under the Conservation Futures program, due to newly discovered information that materially changes the scoring of a particular project. Denial may occur anytime from the date of application until actual disbursement of funds. In the event that an award letter is issued and the County subsequently denies funding, the applicant may at the County's discretion be reimbursed for the cost of appraisal, due diligence, and other reasonable costs incurred, except in cases of bad faith.

Award Duration and Extensions

Conservation Futures award letters will include an award expiration date. It is expected that real estate proceedings related to acquisition of property or conservation easement are substantially completed by this time, and that invoices have been submitted for all funds in the Conservation Futures award. For the purposes of this section, substantially complete shall mean that any purchase and sale agreements have been finalized, escrow is open with all funds deposited (including Conservation Futures funds), and closing is anticipated to occur in the reasonably near future (but no longer than 3 months).

A project sponsor may request a project extension, which shall be approved by the Board. All extension requests must document the reason(s) for the request, explain what steps remain to successfully complete the project, and propose a new project deadline.

Conservation Agreements

Projects that receive Conservation Futures funds must demonstrate how the County's interests in the property will be upheld over time. This is typically accomplished through completion of a conservation agreement prior to disbursement of funds for property or easement purchase. The intent of a conservation agreement is to outline the intended uses and management of a property receiving Conservation Futures funds, and to ensure that the County can maintain stewardship of the public's interest in the property. The agreement gives the County the right to enforce proper stewardship of the property's conservation values. The County can provide examples of conservation agreements.

Generally, the conservation agreement shall include:

1. Background information on the project
2. A list of the property's conservation values
3. Information regarding succession of property ownership or interest in the property by the project sponsor – transfer to qualified agency
4. The right of County enforcement of protection of the conservation values, including the right to inspect the property at regular intervals
5. Details of allowable activities on the property, if appropriate
6. Dispute resolution information
7. Indemnification/Hold Harmless for County officials, employees and agents
8. Any requirements for the project sponsor to provide periodic updates on the property to the County, and/or provide the results of any regular inspections to the County.
9. Description of circumstances where the County may access the property for monitoring purposes
10. Condemnation language

It is the project sponsor's responsibility to initiate development of the conservation agreement and request templates from staff, if needed. Conservation agreements are reviewed by Department staff and county counsel, and ultimately approved and signed by the Board.

Adequate Legal Protection

Thurston County has an interest in ensuring that all projects meet the intent of Conservation Futures funding and demonstrate proper stewardship of public dollars. The County requires all properties or easements purchased with Conservation Futures to be restricted with adequate legal protection (e.g. a conservation easement) which assure the preservation of conservation values on the property.

The project sponsor shall provide the County with documentation of any binding restrictions or other encumbrance placed on the property to ensure conservation.

If a project involves a conservation easement (vs. acquisition of real property), the project sponsor shall provide County staff an opportunity to review and comment on the draft. The project sponsor shall also keep County staff apprised of any subsequent substantial modifications to the easement language leading up to final signature of the easement.

Property Appraisal & Review Appraisals

An appraisal must be completed for all properties that receive Conservation Futures funds. Property appraisals shall conform to the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), currently referred to as a Yellow Book Appraisal. The date of appraisal must be no earlier than twelve (12) months prior to real estate closing, or the signature of a Purchase and Sale Agreement. A supplemental appraisal may be submitted if the original appraisal is more than one year old.

The appraisal must be performed by a state licensed and certified appraiser. The appraised market value of the property must be a point value, rather than a value range.

Should a project sponsor identify a reasonable and prudent reason to deviate from providing a Yellow Book appraisal on a specific project, they shall make the request to deviate in writing to Thurston County staff. Staff will administratively review any requests for waiver of Yellow Book Appraisal, with the ultimate approval lying with the Board.

If a project sponsor conducts a review appraisal, they shall provide the review appraisal to the County. Thurston County reserves the right to require a review appraisal for any Conservation Futures project.

Invoicing – General

When a Conservation Futures project is nearing closing, the sponsor shall submit an invoice for funds to the county. This final invoice for funds must be submitted three (3) weeks prior to the date of real estate closing. It is the project sponsor's responsibility to adhere to this timeline and ensure that invoices include the proper documentation. Project sponsors are advised to keep County staff informed of anticipated closing deadlines.

There is no strict format for invoice submittal, but the invoice must include an invoice number and to whom the invoice is payable. Costs must be itemized. All reimbursable expenses must be incurred and invoiced by the project closing date.

Invoicing – Allowable Costs & Documentation

Costs related to the acquisition of real property or a conservation easement that are incurred by a project sponsor are reimbursable. This includes, but is not necessarily limited to, appraisal, review appraisal, closing costs, surveys, environmental assessments, title work, recording fees, and reasonable staff time spent by the project sponsor. All invoices shall be accompanied by appropriate documentation for all items listed on the invoice. See the table below for general guidance.

Final closing costs may differ from the costs that are estimated when escrow is opened. If final closing costs are less than closing costs on the Conservation Futures invoice, the project sponsor shall promptly return unspent funds to Thurston County.

Item on Conservation Futures Invoice	Example Documentation
Property acquisition/easement cost	Property appraisal, closing statement
Due diligence item (e.g. appraisal, appraisal review, environmental survey, property survey, title search, legal fees)	Actual document, invoice from entity who performed work

Staff costs	Description of tasks performed, number of hours, hourly rate
Real estate closing costs	Closing statement

Invoicing – Interim Invoices

Typically, Conservation Futures awards are paid in full when the project enters escrow. However, from time to time project sponsors request a portion of the funds up front to cover project costs (e.g. property appraisal). Any interim invoices submitted by project sponsors will be reviewed by department staff and the county's financial analyst. The Board is the ultimate approval authority for interim invoices.

Due Diligence Reimbursement for Unsuccessful Projects

Project sponsors may seek reimbursement of due diligence funds expended for projects which ultimately are not successful, provided that:

- The sponsor can adequately demonstrate the project failure was due to no fault of the project sponsor.
- The request for funds will cover only allowable costs under the Thurston County Conservation Futures Program (see the Invoicing – Allowable Costs & Documentation section of this document), and shall be accompanied by an invoice developed to the County's specifications (see the Invoicing – General section of this document).
- Requested due diligence costs are prorated based on the Conservation Futures' contribution to the total project cost. For example, if Conservation Futures comprises 50% of the total project cost, the project sponsor may bill the program for 50% of project due diligence costs. *If other funding sources do not allow due diligence expenditures, the project sponsor shall provide documentation to the County before billing for due diligence costs above and beyond the Conservation Futures' portion of the total project cost.*

The County Manager shall be the approval authority for any requests for reimbursement for failed projects. The County Manager will coordinate requests for reimbursement with the County Budget Director, or designee.

Post-Award Property Inspection, Enforcement and Monitoring

Thurston County intends to ensure that properties that receive Conservation Futures funds are managed in a way that meets the intent of RCW 84.34 and demonstrates proper stewardship of public dollars. The County reserves the right to access the property to achieve this goal.

The County will work with the project sponsor to arrange property access, which shall not occur more frequently than once per year, unless a violation of the conservation agreement is occurring or believed to be occurring. Notice shall be provided to the project sponsor and/or landowner prior to any site visits.

Thurston County staff may periodically request updates on projects that have previously been awarded Conservation Futures funding. Project-specific information on reporting and County permission to access to the property shall be included in the conservation agreement.

Thurston County Conservation Futures Program Project Proposal Form

Project Name:

Project Sponsor:

Sponsor Contact: *(Please include name and mailing address)*

Sponsor Phone:

E-mail:

Sponsor information: Non-profit corporations need to provide information that meets the requirements in RCW 84.34.250 including but not limited to:

- Articles of Incorporation
- Washington State UBI number:
- Internal Revenue Service's §501(c) declaration of tax exemption

Acquisition type?			
Fee simple		Development Rights	
Easement		Conservation Easement	
Other:		Explain Other?	

Is the property already protected by any legal instruments (e.g. conservation easement, deed restriction)?
 _____ No _____ Yes *(Explain)*

Does the property contain any residences onsite? _____ No _____ Yes

If so, will they continue to be used as such? _____ No _____ Yes

(If yes, explain)

Describe the specific legal instrument that will protect the conservation values of this property.

Are there any known violations of local, state, or federal law occurring on the property? If so, please provide details, including whether there is a schedule for remedying the violation(s).

_____ No _____ Yes

Is the proposal prioritized by an existing plan? *(check all that apply and attach copies of the pertinent sections)*

_____ County Comprehensive Plan

_____ State Plan

_____ Federal Plan

_____ Watershed Plan

_____ Salmon Recovery Strategy

_____ Stormwater Comprehensive Plan

_____ Park Comprehensive Plan

_____ Other *(please explain below)*

Acquisition Priority: _____ High _____ Medium _____ Low

Estimated project closing date:

Estimated project total cost:

Estimated Conservation Futures contribution:

Project description: (Include all parcel numbers. Discuss how project meets intent of RCW 84.34. Identify approximate acreages of each resource type, if possible. For example: "This 45 acres property contains a 17-acre wetland and 28 acres of upland forest habitat.")

List potential funding partners *(include contribution estimate and identify what has been realized and what is potential)*:

Consulting partners:

Other than conservation futures, what other funding sources are available? *(check all that apply)*

_____ State Grants

_____ Federal Grants

_____ Land Trust

_____ Private Donations

_____ Other *(specify)*

Certainty of project success: _____ High _____ Medium _____ Low

Party(s) responsible for maintenance and operation costs *(If Thurston County is responsible for maintenance and operation, please provide an estimate of the annual cost.):*

Below is for County Use only: _____

Date project is submitted:

Thurston County Conservation Futures Ranking Criteria

Project Name: _____

Please circle your score.

- | | | | | | |
|----|---|-----|----|---|---------------|
| 1. | Meets Conservation Futures' Program Goal and Policies. | Yes | No | | |
| 2. | Rank this project in how acquisition of this site fits the objective of the plan(s): | | | | |
| | | 1 | 2 | 3 | 4 5 points |
| 3. | Is time of the essence in acquisition? | 1 | 2 | 3 | 4 5 points |
| 4. | Does this site preserve: | | | | |
| | A. Critical/sensitive lands? | | | | |
| | ✓ (e.g. wetlands, prairies, presence of species protected by the County's Critical Areas Ordinance or subject to state/federal listing, such as the Mazama pocket gopher, Oregon vesper sparrow, Taylor's checkerspot butterfly, or Oregon spotted frog). | | | | |
| | | 1 | 2 | 3 | 4 5 points |
| | B. Unique natural features and or natural resources? | 1 | 2 | 3 | 4 5 points |
| | ✓ e.g. Mima Mounds | | | | |
| | C. Historical or cultural significant lands or markers? | 1 | 2 | 3 | 4 5 points |
| | D. Desirable agricultural and forest working lands characteristics? | | | | |
| | | 1 | 2 | 3 | 4 5 points |
| 5. | Certainty of project success. | 1 | 2 | 3 | 4 5 points |
| 6. | Level of sponsor leverage or match. | 1 | 2 | 3 | 4 5 points |
| 7. | Includes public access. | 1 | 2 | 3 | 4 5 points |
| 8. | Partner and project support. | 1 | 2 | 3 | 4 5 points |

Name of Rater: _____