



Policy Manual

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Approved:

A handwritten signature in blue ink, reading "Roxanne Miles", written over a horizontal line.

Roxanne Miles, Director

Conservation Futures Administrative Guidelines

PURPOSE: The purpose of the Administrative Guidelines is to provide additional guidance and clarity on the implementation of PCC 2.96 and 2.97 with a commitment to ensure a consistent, transparent, equitable, and fiscally responsible Conservation Futures program.



Pierce County
Conservation Futures



Pierce County Conservation Futures Program

Administrative Guidelines

February 2021



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Disclaimer: Please note that the information contained in this manual does not supersede the statutes governing the Pierce County Conservation Futures program and should be read in conjunction with the Pierce County Code.



CONSERVATION FUTURES PROGRAM OVERVIEW

Conservation Futures is a land preservation program for the protection of important open space, including parkland, timber lands, wetlands, habitat areas, and agricultural lands within the boundaries of Pierce County. Conservation Futures funds are used to acquire land or the rights to future development of land for the benefit and enjoyment of the citizens of Pierce County. The Conservation Futures program is administered by Pierce County through the Parks and Recreation Department.

The funding for this program is authorized through the Revised Code of Washington, chapter 84.34.230, whereby a county in Washington may levy up to 6.25 cents per \$1,000 of assessed property value to fund preservation of lands of public interest for future generations. The Pierce County Council (County Council) enacted the levy in 1991 and funds associated with the levy are administered through the Pierce County budget.

The acquisition of property interests under the Conservation Futures program is for the benefit of Pierce County residents. This funding is dedicated in accordance with Pierce County Code (PCC) because existing policies and regulations have been ineffective in providing long-term protection of open space, wetlands, habitat areas, agricultural lands, and timber lands, which are under the pressure of conversion and development.

Grant Application Process

Conservation Futures projects may be sponsored and received by local governments, federal agencies, special purpose districts, Pierce County Departments and nonprofit corporations who purchase property or interest in property for the benefit of the citizens as open space, parklands, timber lands, wetlands, habitat areas, and agricultural lands. Project sponsors are responsible for preparing and submitting the Conservation Futures application, hosting site visits, making a formal project presentation to the Conservation Futures and Open Space Citizens' Advisory Board (CAB), project implementation, and all contracting, reporting, and reimbursement obligations under PCC.

Applications are accepted in odd-numbered calendar years. The application period is posted on the program website and is announced in local newspapers and via email. Application materials are available on the program website or from program staff and are typically due in March or April. Sponsors are strongly encouraged to discuss projects with Conservation Futures staff ahead of application submission. Once submitted, applications are reviewed by program staff and the Technical Advisory Committee (TAC) to determine eligibility and completeness. Following initial review of applications, sponsors present eligible projects to and host site visits for the CAB. The CAB meets to review and rank projects and compose its overall recommendations to the County Council in May and June. The County Council generally makes award determinations in August or September, which are finalized with the adoption of the County budget. Funding for project implementation becomes available in January of the following year and projects must utilize authorized funds over a two-year period.

All meetings relating to the review, ranking, and funding of Conservation Futures projects are open to the public and subject to the Washington Open Public Meetings Act. Citizens are encouraged to attend, although citizen comment may not always be taken.



All projects must close within the approved biennium following the application cycle. If a project is awarded funding, then the transaction must close by the last business day in November in the second year of the funding cycle. If a project cannot close within the funding biennium then it may be resubmitted for a grant award in the next application period. If resubmitted, the project will not retain its rank or rating. Deeds, restrictive covenants, and conservation easement documents must be recorded by the Pierce County Auditor's Office within 10 days of closing.

Application Review

Completed project applications are submitted to Pierce County Parks and Recreation under the evaluation schedule noted above. The application must clearly demonstrate that the project meets the goals and eligibility requirements of the Conservation Futures program as outlined in PCC 2.97. Applications are scored based on the following criteria:

1. **Conservation Values (60% of points):** Sponsors must describe the quality and condition of at least one and up to three conservation values and demonstrate that all conservation values identified in the application will be reasonably conserved and/or enhanced through project implementation and compliance with the long-term obligations generally described in these guidelines. Projects will be scored based on the conservation values identified and how well the proposed use and long-term management goals will result in protection or enhancement of the conservation values.
2. **Program Goals (25% of points):** Sponsors must identify how the project meets the environmental and planning priorities of Pierce County or local governments. Points are awarded for properties with priority designations, project size, continuity with other preserved open spaces, and location within an area threatened by development.
3. **Matching Funds (15% of points):** Sponsors must provide a minimum of 10% of the purchase price of the property interest to qualify for Conservation Futures funding. Additional points are awarded for increasing the match and leveraging other funding sources, such as additional grants or private donations.

Each project application undergoes the following review process:

- The TAC reviews project applications for eligibility, completeness, and accuracy.
- The CAB reviews, scores, and ranks eligible project applications. The CAB sends their ranked recommendations to the County Council for review.
- The County Council reviews the recommendations of the CAB and holds a public hearing to determine which projects will be funded and the final project ranking.



ADMINISTRATIVE GUIDELINES

Match Requirement

A 10% match is required for all projects. Match must be provided through a cash contribution at the time of closing or a reduction in the purchase price by at least 10% of the appraised value, also known as a bargain sale. The percentage of match established in the project application may not be reduced at the time of closing. The source of matching funds identified in the application may change so long as new match sources are not associated with requirements that are incompatible with protection of the conservation values identified in the application and purposes described in the Agreement to Fund. Proof of availability of matching funds should be provided as soon as possible but prior to closing.

If a sponsor is unable to provide the matching funds identified in their application and the Agreement to Fund in a timely manner, Pierce County reserves the right to withdraw Conservation Futures funding from a project. In these cases, a project may be revisited later in the funding cycle if matching funds become available or a project may be resubmitted in a future grant round when readiness can be demonstrated.

Grant Notification and Agreement

Sponsors will be notified by staff of their selection for Conservation Futures grant funding as soon as possible after adoption of the County Council resolution. For simple acquisition projects are expected to obtain an Agreement to Fund in the first year that funding is available. An executed real estate purchase and sale agreement with the property owner is not required prior to obtaining an Agreement to Fund. The Agreement to Fund will include the terms and conditions for release of funding, the amount of the grant, address reimbursement of expenses, and describe the Conservation Futures project, its timeline and budget, roles and responsibilities of the sponsor and the County, and grant deliverables.

When funding is for acquisition of a Conservation Easement, the sponsor must review and coordinate with Conservation Futures staff on all proposed terms and conditions for the Conservation Easement before they can expect to obtain an Agreement to Fund. Conservation Easement terms and conditions should be considered material to the development of an appraisal. Conservation Easement terms and conditions should be approved within the first 16 months of the funding biennium to ensure adequate time for processing of the Agreement to Fund, purchase and sale agreement, and any additional documents required for closing.

Grant Award Modifications

In an effort to advance as many Conservation Futures projects during a grant cycle as possible, it is critical that sponsors manage their budgets effectively and communicate their progress on projects frequently. In general, projects are expected to be completed in the order in which they are ranked and be in a position to close within the funding biennium. From time to time sponsors may request a project modification. Determinations regarding modification requests are made on a case-by-case basis. There are several common modifications that may be necessary to successfully complete a Conservation Futures project, including but not limited to the following:

1. **Reduced project size:** If the project size can be reduced while still protecting all of the conservation priorities identified in the application, the grant award will be reduced proportionately to the size of the project.



2. Increase in project acquisition cost: If the appraisal of the property is significantly different than the value anticipated in the grant application, the sponsor may request a 10% increase in the project award to complete the project or resubmit the project for consideration during a future funding cycle. Any award increase is dependent on the availability of uncommitted funds in the grant round.
3. Increased project size: If the project size can be increased without increasing the grant award and the additional property proposed for acquisition enhances the conservation priorities identified in the application, acquisition of additional property may be considered.

Acquisition Process and Documentation

In many cases, Pierce County has negotiated favorable contracts for professional services on behalf of the Conservation Futures program. Prior to selection of professional services and/or vendors to complete tasks associated with a Conservation Futures project, sponsors are strongly encouraged to contact Conservation Futures staff to determine if there is a preferred vendor and/or rate for a professional service.

The acquisition of real property or property interests must meet the following standards to receive funding.

Title Report and Title Insurance

Pierce County or sponsors will procure a preliminary title report early in the acquisition process for review and approval of the condition of the title. The title should be reviewed for any encumbrances that may jeopardize the purpose of the acquisition project and its use as parkland, timber land, habitat, or agricultural land.

Specifically, sponsors should identify and evaluate title reports for:

- Liens and debts
- Open space classifications that require compensating taxes or notice of continuation
- Surveys of boundaries or other encumbrances, identifying encroachments that need to be resolved
- Easements (e.g., utility, storm water, access, road and benefits to neighboring properties, reciprocal access easements between timber companies, etc.)
- Reservations (e.g., mineral, timber, railroad, hunting, camping, and any other reserved rights)
- As-built plans or other surveyed documents for the built environment
- Clear legal access to the subject property
- Covenants (homeowners associations, development restrictions, etc.)

Sponsors must forward the title report and a title review checklist explaining which encumbrances will be removed and which encumbrances do not jeopardize the project and will be allowed to remain on the title. An updated title report and title insurance must be issued in conjunction with the property transaction.



Appraisal

Pierce County or sponsors must procure an independent appraisal (standard, narrative or M.A.I.) from a Washington State Certified Licensed Appraiser. No appraisal is required for properties assessed at \$25,000 or less.

The appraisal must include:

- Legal Description – Include the legal description from the preliminary title report. If only a portion of the ownership listed on the preliminary title report is to be appraised, clearly identify the area to be acquired in the property description.
- Property Description – Include the parcel number(s), acreage to be acquired and a map.
- Property Access – Describe the existing physical access to the property and the location of legal access to the public roadway, if known.
- Ownership and Occupant Information – Include any information you have about the current ownership of the property and any tenants. Note other adjacent property under the same ownership if the acquisition is for less than the entire ownership.
- Preliminary Title Report – Provide a copy of the preliminary title report with existing easements and encumbrances as an appendix.
- Identify the Client – The client must be the sponsor. It cannot include the landowner or other third party unless approved by Pierce County.
- Intended Users – The intended users must always include the client and Pierce County.
- Intended Use – The intended use must include a statement regarding the voluntary acquisition of the identified property.
- Appraisal Standards – Instruct the appraiser that the appraisal is required to comply, at a minimum, with the *Uniform Standards of Professional Appraisal Practice (USPAP)*.
- Date of Value – This typically should be the same as the date of the last property inspection unless otherwise instructed or justified.
- Encumbrances – Include encumbrances from the preliminary title report and instruct the appraiser to address whether any of the encumbrances would impact the market value of the property. If the appraiser becomes aware of unrecorded encumbrances through the course of their work, those should also be addressed as to whether they would impact the market value of the property.
- Report Format – The report format must be a self-contained appraisal report.
- Participation in the Appraisal Review Process – The appraiser should be informed that the appraisal report will be reviewed by an independent review appraiser. The appraisal contract should require that the appraiser respond to the review appraiser's inquiries and questions and provide clarifications and corrections as necessary to enhance the credibility of the appraisal report.

The appraisal must have been completed no earlier than one year from the date of the Purchase and Sale Agreement and no earlier than 18 months from the date of closing.



Review Appraisal

A review appraisal will be completed for all Conservation Futures projects. When sponsors have procured an appraisal for a Conservation Futures project, that appraisal will be reviewed by Pierce County's preferred vendor at Pierce County's expense. Review appraisals may be ordered by Conservation Futures staff or by the sponsor so long as they are completed by Pierce County's preferred vendor and the criteria specified below are met. Review appraisals should include, at a minimum, evaluation of:

1. Extraordinary Assumptions – The reviewer must note any extraordinary assumptions in the appraisal and make a determination as to their reasonableness.
2. Hypothetical Conditions – The reviewer must note any hypothetical conditions in the appraisal and make a determination as to their reasonableness.

The reviewer should develop an opinion regarding:

- The completeness of the material under review;
- The apparent adequacy and relevance of the data and the propriety of any adjustments to the data;
- The appropriateness of the appraisal methods and techniques and develop reasons for any disagreements;
- Whether the analysis, opinions, and conclusions are appropriate and reasonable and develop the reasons for any disagreements; and
- Whether the appraisal is compliant with the applicable standards, USPAP or USFLA.

The reviewer should provide a recommendation in accordance with one of the following options:

1. Approval – The appraisal is compliant with the applicable standards and the stated opinion of value is a reliable basis for establishing an offer of just compensation; OR
2. Acceptance with a Revised Value Opinion – The appraisal is compliant with the applicable standards, but the stated opinion of value is not a reliable basis for establishing an offer of just compensation. The reviewer formulates a value opinion based upon adjustments or corrections to the information and analysis contained in the appraisal and/or new information is readily available to the review appraiser within the scope of the original appraisal assignment; OR
3. Rejection – The appraisal is substantially not compliant to applicable standards and the reviewer is unable to formulate a revised opinion of value from the information available. A new appraisal may be required in order to move a project forward if the review appraisal recommends rejection.



Long-Term Obligations

Restrictions on the Property

Pierce County requires all Conservation Futures properties be restricted with a covenant or conservation easement which assures the protection of conservation priorities on the property as identified in the application. The covenant or easement shall be recorded on the title and run with the land in perpetuity. The application must include specific requirements and restrictions related to identified conservation priorities proposed for inclusion in the property management plan or conservation easement. Additional restrictions may be requested or required as a condition of grant funding following application review.

Since the Conservation Futures program is funded by tax dollars, in addition to specific management actions to protect identified conservation priorities it is expected that all projects will be consistent with municipal codes and accepted best conservation and management practices. Sponsors must explain whether the project meets the local Critical Areas Ordinance (CAO) for the intended use of the property. If the property does not meet the CAO currently, the sponsor should outline how the project will meet CAO in the future through additional resource protections and/or restoration or explain how each identified conservation priority will be protected in the future, even if those actions are less restrictive than CAO requirements. According to PCC 2.97.060 E., the CAB may request further conditions be placed on the property to ensure protection of each conservation priority in consultation with the TAC, a resource biologist, or other professional qualified to make such a recommendation.

Unless the County Council has approved active recreational uses on all or a portion of the property, the covenant and property restrictions shall specify that any improvements to a Conservation Futures property shall be limited to those which are passive in nature or related to the regular maintenance or operations of working agricultural and timber lands.

In the case where Pierce County will hold or co-hold a conservation easement, Conservation Futures staff will typically meet directly with the landowner and sponsor to discuss restrictions that will be placed on the property. Meeting with the landowner ensures that all parties are aware of the conservation requirements necessary to achieve the goals and values stated in the application.

Property Management Plan

Sponsors must provide a property management plan within one (1) year of completing the project. The plan must include a detailed description of how the property or property right acquired with Conservation Futures funds will be maintained or stewarded to ensure long-term protection and enhancement of the conservation values identified in the application. The plan should include specific actions that will be implemented to ensure protection and include regular monitoring activities that support ongoing management of the property.

The property management plan should at a minimum include:

- Long-term management goals for the property (i.e., desired future conditions)
- Restoration, enhancement, and development goals (if applicable)
- Monitoring program for the property



- A description of existing or proposed public access opportunities on the property
- Description of the project area, including the following:
 - U.S. Geological Survey quadrant map and county assessor's parcel map
 - Map showing all human-made and natural features
 - Location of public access and use areas
- An implementation timeline and budget that also identifies the source of funding for elements of the plan.

In some cases, Conservation Futures sponsors may be required to attach a specialized management plan for a project. Examples of specialized plans might include a farm management plan when agricultural land is identified as a conservation value in the Conservation Futures application and/or a forest stewardship plan when timber land or forested areas are identified. When specialized plans are required, the Agreement to Fund will provide guidance on the plan requirement. In many cases, these plans can be incorporated into the overall property management plan.

Public Access

Regardless of whether the property is developed, all property acquired with Conservation Futures funding must be open to public use. Public access means that the general public has regular or directed access and use of property acquired in a manner that is compatible with conservation values on the property.

Sponsors will have 90 days from the date of purchase to ensure lands acquired with Conservation Futures funds are open for public access. Providing public access to the site does not mean that sponsors must provide developed facilities or that the entire property must be accessible. Use of undeveloped or partially developed properties may be restricted, with access initially granted at a temporary or interim location pending site development or preparation. However, total exclusion of the public must be avoided. Pierce County may approve a sponsor's request to limit public access on properties to ensure public safety or protect sensitive natural areas or cultural resources on a case-by-case basis.

Acknowledgement and Signage

When sponsors decide to create written materials or erect signage related to a Conservation Futures project, materials must include an acknowledgement of the Conservation Futures funding. Conservation Futures staff will review and approve proposed language describing the program to ensure that it is consistent and accurate.

Acknowledgement may include:

- Prominent placement of a sign on the property. The sponsor may build such signs to harmonize with an existing design standard.
- Recognition in any media or publication developed or modified during or after project implementation.
- Recognition at dedication ceremonies. Conservation Futures staff should be notified at least 30 days before the ceremony if you wish to have a representative present.



Income

The source of any income generated in association with a Conservation Futures funded project must be compatible with the funding source, restrictive covenant or conservation easement, and the Agreement to Fund. User and other fees may be charged in connection with Conservation Future's acquired properties if the fee(s) are consistent with the:

- Value of any services furnished;
- Value of any opportunities furnished; and
- Prevailing range of public fees in the state for the activity involved.

All income and/or fees (including for entrance, leases, timber harvesting, farming, etc.) and total revenue may only be used to offset:

- The sponsor's matching funds;
- The expense of operation, maintenance, stewardship, and monitoring of the property; or
- Capital expenses for development or restoration on the property that is compatible with the funding source and restrictive covenant or conservation easement.

Expense Reimbursement

Eligible expenses for Conservation Futures projects may be incurred by the project sponsor or Pierce County as a project is negotiated and prepared for closing. In the case where sponsors expend their own funds on eligible expenses, reimbursement of expenses may be provided after closing.

Conservation Futures funds may be made available to the title company shortly before closing for the direct costs of property acquisition. Please discuss closing dates with staff to help ensure that grant funds are available when needed.

Eligible Expenses

The following expenses are eligible for reimbursement with Pierce County Conservation Futures funds:

- Costs of acquiring real property or interests in real property
- Cost of appraisal
- Cost of preliminary title reports and title insurance
- Escrow fees/Closing costs
- Recording fees
- Directly related employee/staff time, legal and/or attorney's fees, and administrative costs incurred by non-profit organizations (may not exceed 5% of the Conservation Futures funds contributed toward the purchase price of the project)

Staff Time for Non-Profit Receiving Agencies

Employee time directly related to completing the Conservation Futures project may be reported as a grant expense. The reportable amount is the employee's regular rate of pay per hour, including taxes and



benefits. Taxes and benefits are eligible only if they are paid when they are due.

Overhead may also be reimbursed as a grant expense but may not exceed 25 percent of an employee's combined salary and benefits. For organizations that have contracted out work related to the project that would otherwise be performed by an employee or staff, overhead does not apply. Mileage may be itemized as a direct expense.

All staff time reported as a grant expense must be documented on a timesheet. The timesheet must meet the following standards:

- Include specific dates, hours, and tasks completed associated with the Conservation Futures project.
- Account for the total activity for which employees are compensated.
- Be signed or authorized electronically by the individual employee or by a responsible supervisor having firsthand knowledge of the activities performed by the employee.
- Be prepared at least monthly and coincide with one or more pay periods.
- Must not include budget estimates or other distributions based on a percentage determined before the work was performed.

Reimbursement requests and supporting documentation may be submitted at any time during the project period but must be submitted no later than 45 days after closing. It is important to implement projects in as timely a manner as possible and to bill in a timely manner.

Ineligible Expenses

The following expenses are not eligible for reimbursement with Pierce County Conservation Futures funds:

- Costs associated with hazardous waste or environmental assessments or cleanups
- Structural inspections or repairs
- Real estate excise taxes
- Surveys, boundary line adjustments, or subdivisions
- Initial stewardship
- Signage, equipment, and federal, state, and county permits necessary to complete the project
- Costs billed to another funding source or agency
- Acquisition of real property or interest in real property through exercise of the power of eminent domain
- Costs associated with staff time for lobbying elected officials or their staff



RECORDS RETENTION/ PUBLIC RECORDS ACT

The project sponsor shall retain all books, records, documents, data and other materials relevant to the agreement for a minimum of six (6) years after the completion of the project. Documents related to the expenditure of Conservation Futures funds, including but not limited to purchase and sale contracts, settlement documents, invoices, e-mails, expert reports and/or appraisals, are Public Records subject to disclosure in accordance with the Public Records Act, Ch. 42.56 RCW, if requested by a citizen or entity. All meetings and activities of the Conservation Futures Citizen Advisory Board are subject to the Open Public Meetings Act, Ch. 42.30 RCW. The public is always invited and encouraged to attend.