



# **King County Conservation Futures Program Manual**

**December 2021**

# King County Conservation Futures Program Manual

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Available online at: [www.kingcounty.gov/CFTapplication](http://www.kingcounty.gov/CFTapplication)

## **SECTION 1. OVERVIEW**

### **Conservation Futures Funding Source**

Conservation futures tax levy (“CFT”) is a property tax levy that was authorized by the State of Washington in the 1970s. Counties may collect up to 6.25 cents per \$1,000 of assessed value to acquire open space lands in fee, acquire easements, or otherwise conserve land.

King County began collecting a CFT levy in 1982, the first county in Washington to do so. King County adopted the maximum allowable levy rate of 6.25 cents per \$1,000 of assessed value. Due to limits on property tax collection, in 2019 the levy rate is 3.4 cents per \$1,000 of assessed value. In 2019, King County CFT levy collections are projected to exceed \$20 million.

CFT tax levy dollars are the source of funding for the CFT grant program. CFT funding awards have protected >100,000 acres of open spaces, parks, trails, natural areas, urban greenspaces, forests, farmlands, and shoreline throughout King County, in cities and the unincorporated area.

Historically, approximately 50% of the yearly revenues have been awarded to projects through a competitive annual award process (for example, FY 2019 annual award funding is \$12.4 million). The remaining yearly revenues have been used to pay debt service on past bonds that were issued for major open space purchases. In 2018, a policy was added to King County Code that allows up to 80% of collections to be used for debt service.

### **Policy Basis**

This Program Manual reflects conservation futures requirements in state law (Revised Code of Washington, or “RCW”) and King County Code (“KCC”), adopted policies, and practices. The primary state law, county code, and policies that govern the King County CFT program include: chapter 84.34 RCW, chapter 26.12 KCC, and the Application Evaluation Criteria and General Conditions adopted in Motion 15513.

### **Conservation Futures Goals**

King County Code describes the goals of the county conservation futures tax allocations over time as follows. “In accordance with chapter 84.34 RCW, the county shall maintain, preserve, conserve, expand and otherwise continue in existence adequate open space lands, and the county shall also achieve a broad geographical distribution of conservation futures proceeds.

Conservation futures proceeds shall be allocated in a manner that addresses equity and social justice by providing open spaces in communities in greatest need.” (KCC 26.12.005)

## **SECTION 2. ADVISORY COMMITTEE AND STAFFING**

The King County Conservation Futures Advisory Committee (“Committee”) is a volunteer board with 16 positions that are appointed by the King County Executive and confirmed by the King County Council. The Committee’s primary role is to review applications for CFT funding and make funding recommendations to the Executive and the King County Council. Membership is comprised of:

- One individual from each King County Council district (nine total)
- Four individuals from council-at-large appointments (coordinated by the King County Council Chair)
- Three individuals from executive-at-large appointments (coordinated by the King County Executive)

The King County Department of Natural Resources and Parks appoints a CFT program coordinator to oversee the administration of the CFT funding program and the Committee process. The CFT program coordinator is the point of contact for all CFT-related questions (see *Section 11 - Contact Information*).

### **SECTION 3. APPLICATION TIMELINE**

The typical yearly application and award timeline is as follows.

January	CFT program coordinator announces the annual CFT application process on the website and by email to agencies & interested parties.
March	Applications due in early March.
March to June	Committee reviews applications, conducts site visits with applicants, and determines its project funding recommendations.
By July 1	Committee provides a funding recommendation report to the King County Executive and the King County Council. Report is shared with all CFT funding applicants.
September	King County Executive makes CFT award recommendations by ordinance.
Late fall	The King County Council makes final decisions about CFT funding awards and adopts awards by ordinance (typically November). CFT program coordinator notifies the applicants of final award decisions.
During the following year, the CFT program coordinator works with successful applicants to make awarded funding available.	

The timeline could vary in years when CFT bond funding is available for application and award.

### **SECTION 4. ELIGIBILITY TO APPLY FOR AND RECEIVE FUNDING**

CFT funding awards can only be made to the following eligible parties (based on RCW 84.34.210 and KCC 26.12.010):

- agencies (county, cities, towns, metropolitan park districts)
- eligible nonprofit historic preservation corporations<sup>1</sup>

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<sup>1</sup> ‘Nonprofit historic preservation corporation’ means an organization which has IRS tax exempt status, and “which has as one of its principal purposes the conducting or facilitating of historic preservation activities within the state, including conservation or preservation of historic sites, districts, buildings, and artifacts.” (RCW 64.05.130)

- eligible nonprofit nature conservancy corporation or associations<sup>2</sup>

While not eligible to receive awards, applications for CFT funding may also be made by other nongovernmental organizations or individuals. An applicant that is not eligible to receive CFT funding can work in partnership with a governmental agency or an eligible nonprofit who can receive awards and own CFT-funded land.

Properties purchased with CFT funding must always remain in the ownership of an eligible party as listed above.

## **SECTION 5. ELIGIBLE OPEN SPACE LANDS & PROPERTY INTERESTS**

Properties eligible for funding must meet the definitions of open space land in RCW 84.34.020, which describes open space lands as land area that, if preserved, would:

- conserve or enhance natural or scenic resources
- protect streams or water supply
- promote conservation of soils, wetlands, beaches, or tidal marshes
- enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open space
- enhance recreation opportunities
- preserve historic sites
- preserve visual quality along highway, road, and street corridors or scenic vistas
- retain urban open spaces
- preserve farm and agricultural land

King County Code defines ‘open space land’ as “the fee simple interest in open space land, farm and agricultural land, and timberland as such are defined in chapter 84.34 RCW, including urban greenspaces<sup>3</sup> in dense urban environments, for public use or enjoyment, or any lesser interest in those lands, including development rights, conservation futures, easement, covenant or other contractual right necessary to protect, preserve, maintain, improve, restore, limit the future use of or otherwise conserve the land.” (KCC 26.12.003.I)

CFT funding may be used to acquire property interests on open space lands such as:

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<sup>2</sup> ‘Nonprofit nature conservancy corporation or association’ means an organization which has IRS tax exempt status, and “which has as one of its principal purposes

- the conducting or facilitating of scientific research;
- the conserving of natural resources, including but not limited to biological resources, for the general public;
- or the conserving of open spaces, including but not limited to wildlife habitat to be utilized as public access areas, for the use and enjoyment of the general public.” (RCW 84.34.250, bullets added)

<sup>3</sup> “Urban greenspaces” as used in CFT can refer to a variety of parks and open spaces in an urban setting that meet CFT use requirements (for example, it may include a small park with grassy areas, a small playground, and picnic tables; a forested greenbelt with trails; a regional trail; a community garden)

- fee title to properties (i.e. purchasing the property outright)
- less-than-fee property rights such as easements or development rights to achieve conservation goals, while the property remains in private ownership

The applicant may seek to protect a parcel in its entirety, or to protect just a portion of a parcel. Applications often propose to conserve more than one parcel.

CFT funding may not be used to acquire any property interest through the exercise of the power of eminent domain or condemnation (KCC 26.12.010.H).

## **SECTION 6. EVALUATION CRITERIA**

CFT Application Evaluation Criteria were adopted by Motion 15513. The following are the “Open Space Resources” criteria described in the motion:

- |   |   |
|---|---|
| • wildlife habitat or rare plant reserve      | • park, open space or natural corridor addition   |
| • salmon habitat and aquatic resources        | • passive recreation opportunity in an area with unmet needs                                      |
| • scenic resources                            | • projects that seek to redress historic disparities in access to open space in opportunity areas |
| • community separator                         |   |
| • historic or cultural resources              |   |
| • urban passive-use natural area or greenbelt |   |

The motion also describes “Additional Factors” that are to be considered as criteria:

- |   |   |
|---|---|
| • educational or interpretive opportunity                                 | • identification in an adopted park, open space, comprehensive, or community plan |
| • impact to open space resources  | • Transferable Development Rights (TDR) participation                             |
| • feasibility: ownership complexity, willing seller(s), community support |   |
| • partnerships  |   |

The Committee also considers anticipated stewardship and maintenance of property, regional significance, availability of match, equity, and adopted financial policies.

## **SECTION 7. ALLOWABLE USES**

### **Adopted Policy Guidance**

King County Council Motion 15513 adopted the following policies for use of CFT funding, as “General Conditions” #3 and #4:

“3. Future use of the property is restricted to low impact, passive-use recreation, which means that development of facilities to support organized/structured athletic activities such as ballfields, courts, and gyms is not allowed. Small playgrounds for children are allowed, within the 15% non-vegetative impervious surface limit described below, not to exceed 5,000 square feet, and compatible with the other open space values of the

property. Future use is further limited to non-motorized use, except as is necessary for the following types of uses (and provided in a way that protects open space resources): maintenance, staging areas, entrance roads, and parking to provide public access.

4. A maximum of 15% of the total surface area of a proposed acquisition project may be developed or maintained with non-vegetative impervious surfaces. Trail surfaces (soft-surface or paved) are not included in the calculation of this restriction. This percentage may be adjusted in instances where the Advisory Committee recommends, and the King County Council determines, that parking or other developed features necessary for the use of the site are required, are compatible with open space resources, and would exceed the 15% limit (e.g., scenic viewpoints).”

### **Allowable Uses**

Examples of allowable passive recreational uses on CFT-funded lands include:

- hiking
- walking
- horseback riding
- mountain biking on dispersed trails
- fishing
- gardening or farming
- playing on playgrounds
- free play on grass (e.g. kicking a ball or tossing a frisbee around)
- picnicking
- nature viewing

Other uses may also be compatible that do not require significant built infrastructure or programming.

On CFT-funded lands, green stormwater infrastructure approaches may focus on protecting natural landscapes that retain and infiltrate stormwater, add features that function and look like natural systems such as wetlands, and treat runoff from parking lots or impervious surfaces on the property (and nearby area) using features such as rain gardens and bioswales.

### **Incompatible Uses and Infrastructure**

Recreational uses that require extensive/intensive infrastructure, development, and/or programming are typically not compatible with CFT funding. Examples of incompatible uses and infrastructure include:

- ballfields
- golf course
- disc golf course
- campgrounds
- fenced off-leash dog parks
- mountain biking park with a high density of trails and/or constructed course features
- dedicated equestrian training area with constructed course features

Regularly scheduled, organized events that could damage the site’s resources are not compatible with CFT funding.

### **Compatible Infrastructure – Within the 15% Limit**

Development that supports low-impact passive recreational uses is allowed, subject to the 15% limit on non-vegetative impervious surfaces. Trail surfaces (both paved and unpaved) do not count toward the 15% limit. Compatible infrastructure that may be built within the 15% limit includes features such as (see above, Allowable Uses, about considering green stormwater infrastructure to treat runoff if possible) :

- parking lots
- trailheads
- kiosks
- restrooms
- picnic tables
- picnic shelters
- small playgrounds (<5,000 s.f.)

Generally, on CFT-funded parks and open spaces there should not be permanent structures other than those passive recreation amenities noted above. There may be situations where other minor structures directly related to allowable uses of the site may be appropriate (e.g., a tool shed or greenhouse on a community garden; farm buildings if purchasing a farmland). Maintenance shops may be a temporary use in some cases.<sup>4</sup>

### **Accommodating More Intensive Uses or Infrastructure**

An applicant may seek to secure CFT funding only for a portion of a larger site, proposing to use the remainder of the site to support more intensive recreation or infrastructure that is not compatible with CFT funding.

In such cases, the application could identify the specific CFT-eligible portion of the property that would meet CFT use and infrastructure requirements. The CFT-eligible portion of the property could be purchased with 50% CFT funding and 50% match funding (unless it qualifies for a match waiver, see Section 8). The funding used to purchase the remaining non-CFT-eligible portion of the site cannot count as match for CFT funding. The cost of the CFT-eligible portion of the property would need to be specifically evaluated, likely requiring analysis through an appraisal.

Applying CFT to only a portion of the site does not require a boundary line adjustment or legal lot segregation; the designation of where funding applies can be made administratively and referenced on the deed.

After an award is made and land has been purchased, if the owner of a CFT-funded property seeks to allow more intensive uses or development, the owner may follow conversion procedures

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<sup>4</sup> In limited circumstances, the CFT Advisory Committee may approve retaining an existing building on the property for a period of time to be used as a maintenance shop to maintain the CFT-funded property, within the 15% non-vegetative impervious surface limit. That proposal should be noted in the application. CFT funding cannot pay for the value of the structure used for a shop, and the funding used for structure purchase would not count as match to CFT funding. The building should be demolished when maintenance use ceases, and it should not be a long-term use on the property.



to provide replacement land or reimbursement funding in order to remove CFT funding restrictions from the site (see *Section 10 – Award Administration/Conversions*).

### **Charging Fees**

Fees may be charged on CFT-funded property subject to other applicable laws and regulations.

## **SECTION 8. MATCH**

### **Match Requirement**

For most projects, the agency or nonprofit must commit to providing a matching contribution that is no less than the amount of CFT funding awarded to the project, before CFT funding is paid to the agency or nonprofit. This is often referred to as a dollar-for-dollar match.

KCC 26.12.010E identifies allowable sources of match:

1. cash
2. land match with a valuation verified by a reviewed appraisal
3. the cash value, excluding King County Conservation Futures contributions, of other open spaces acquired within the previous two years from the date of the submittal of the application by the agency or nonprofit organization

The latter two types of match should be directly linked to the property under application and meet CFT allowable use policies (see *Section 7 – Allowable Uses*).

While match must be secured before CFT funding is paid to the award recipient, match does not have to be secured at the time of application for CFT funding. CFT funding is sometimes the first funding awarded to a project, helping a project secure awards from other grant sources.

### **Match Waiver for Opportunity Area Projects**

Some projects may qualify for a “match waiver,” meaning that CFT funding could pay 100% of the eligible project acquisition costs.

The match waiver policy was designed to help fund projects that would provide parks and open spaces in the most under-served parts of the county, where “past history of inequities, discrimination, injustices, and limited regional investment is evident today.”<sup>5</sup> Providing a match waiver is intended to help “eliminate disparities in access to public open spaces and trails in communities with the greatest and most acute needs.”<sup>6</sup>

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<sup>5</sup> King County Land Conservation Advisory Group, Final Report, Dated December 2017, page 15 (available at: <http://kingcounty.gov/land-conservation>)

<sup>6</sup> Ibid, page 16

A project may qualify for a match waiver if it is determined to be located in an “opportunity area,” by one of two methods as described below.

**Method 1. Meeting Three Mapped Criteria**

**Project is located in a part of the county with the lowest incomes, highest hospitalization rates, and no nearby open spaces (as mapped by King County DNRP).**

Described in code as:

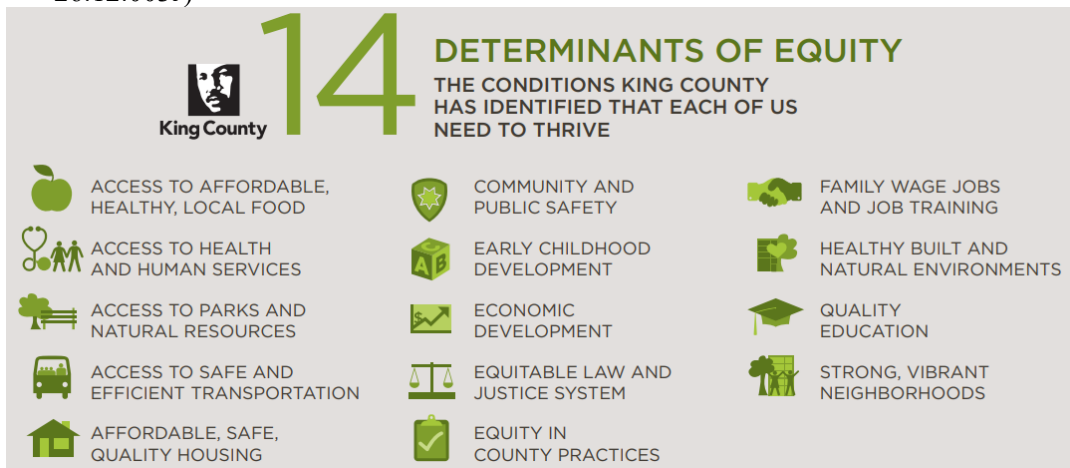
1. Areas within King County that:
  - a. are located in a census tract in which the median household income is in the lowest one-third for median household income for census tracts in King County;
  - b. are located in a ZIP code in which hospitalization rates for asthma, diabetes and heart disease are in the highest one-third for ZIP codes in King County; and
  - c. are within the Urban Growth Boundary and do not have a publicly owned and accessible park or open space within one-quarter mile of a residence, or are outside the Urban Growth Boundary and do not have a publicly owned and accessible park or open space within two miles of a residence. (KCC 26.12.003J):

**Method 2. Qualitative Method**

**CFT Committee determines that residents in the project area, or the population served by the project, experience disproportionately limited access to open spaces, and demonstrated hardships related to income, health, social, environmental or other factors.**

Described in code as:

2. Areas where the project proponent or proponents can demonstrate, and the advisory committee determines, that residents living in the area, or the populations the project is intended to serve,
  - disproportionately experience limited access to public open spaces and
  - experience demonstrated hardships including, but not limited to, low income, poor health and social and environmental factors that reflect a lack of one or more conditions for a fair and just society as defined as "determinants of equity" in K.C.C. 2.10.210. (KCC 26.12.003J)



Source: “Building Equity & Opportunity” Infographic, dated April 2015<sup>7</sup>

<sup>7</sup> [https://www.kingcounty.gov/elected/executive/~/\\_media/B102A4C8AAE440F1A79BCE76986E80F5.ashx?la=en](https://www.kingcounty.gov/elected/executive/~/_media/B102A4C8AAE440F1A79BCE76986E80F5.ashx?la=en)

## **Applying for a Match Waiver/Opportunity Area Determination**

An applicant seeking a match waiver should contact the CFT program coordinator well in advance of application submittal to discuss the proposal, and to receive a data report on how the project meets certain relevant criteria.

The applicant needs to make the case in the application that they are in an opportunity area and thus eligible for a match waiver. Information in the data report may be used in completing the application; the applicant is welcome to provide other relevant information.

Opportunity area proposals should have engagement and collaboration with community-based organizations and/or members of the community. Collaboration can be demonstrated through at least two letters of support and a description of community outreach held to date, or planned in the future. In reviewing how a project meets criteria, proposals that demonstrate community support would be prioritized higher than those without demonstrated support.

During project review, the Committee will determine whether the project meets opportunity area criteria and qualifies for a match waiver. As with every other application, the project will also be reviewed on its merits and how it meets CFT criteria and policies (see *Section 6 - Evaluation Criteria*). The Committee would then determine whether to recommend a funding award.

The applicant is asked on the application if the Committee should consider the project for a standard CFT funding award (requiring dollar-for-dollar match) if the Committee determines that the project does not meet opportunity area criteria and does not qualify for a match waiver.

## **SECTION 9. ELIGIBLE COSTS**

The following is a list of acquisition-related costs eligible for CFT funding, as described in KCC 26.12.010.H (bullets added for clarity):

“Disbursement requests shall be made only for:

- capital project expenditures that include all costs of acquiring real property, including interests in real property

and the following costs, though it shall not include the cost of preparing applications for conservation futures moneys:

- cost of related relocation of eligible occupants
- cost of appraisal
- cost of appraisal review
- cost of title insurance
- closing costs
- pro rata real estate taxes
- recording fees
- compensating tax
- hazardous waste substances reports
- directly related staff costs
- related legal and administrative costs”

For most projects, CFT funding can pay up to 50% of eligible costs (up to the total amount of CFT funding awarded to a project), with the remaining costs paid by matching funding. For

opportunity area projects that qualify for a match waiver, CFT funding may pay up to 100% of eligible costs.

The purchase price of the property should be determined by a reviewed appraisal; i.e., the property should be valued based on an appraisal, and that appraisal should be reviewed by an independent third-party appraiser. (KCC 26.12.010.H and 26.12.003.L)

## **SECTION 10. AWARD ADMINISTRATION**

### **Award Agreements**

The CFT program coordinator works with governmental agencies such as cities or park districts to create or amend Interlocal Cooperation Agreements in order to disburse funding to acquisition projects. The CFT program coordinator works with nonprofits on award agreements. These agreements and amendments are typically when an acquisition is successful but can be put in place before project completion.

### **Deed Restriction**

CFT-funded property must be managed in accordance with the funding source requirements in perpetuity, and must remain under the ownership of an entity eligible to receive CFT funding (see *Section 4 – Eligibility to Apply for and Receive Funding*). All properties purchased in fee with CFT funding must have the following language recorded on the deeds (acquisitions by nonprofits may have additional deed language or recorded instruments required):

The property herein conveyed was purchased with King County Conservation Futures Tax Levy funds and is subject to open space use restrictions and restrictions on alienation as specified in RCW 84.34.200, et seq., and King County Code 26.12.005, et seq.

If CFT funding is used to acquire only a portion of a site, the document should specify the restricted footprint through a written description and/or a map. If CFT funding is used to acquire a conservation easement or other less-than-fee interest, the recorded document should cite CFT funding in a manner similar to the deed restriction above. This deed restriction should also be applied to properties used as match.

Deeds will be reviewed when a reimbursement request is made. If the deed lacks the appropriate language, the award recipient can work with the CFT program coordinator to record a declaration of restrictive covenant.

### **Reimbursement**

Refer to *Section 9 – Eligible Costs* above for a list of costs that are eligible for CFT funding once an award agreement is in place.

Often CFT funding is provided as reimbursement for completed acquisitions, based on an invoice and supporting documentation (e.g., closing statement, wire transfer, recorded deed, deed restriction documentation, invoices for appraisals, payroll reports). It may be possible for King County to make funding available during the acquisition process once an award agreement is in

place (e.g. making CFT funding available to the title company for escrow at the time of purchase).

### **Retroactivity for Prior Costs**

At times, an applicant may need to incur costs (e.g., order title and appraisal) or even purchase a parcel in advance of applying for or receiving a CFT award. Those expenditures may be able to be counted as match and/or receive CFT reimbursement if the project is awarded CFT funding. There is no requirement to file prior notice with the CFT program if making advance expenditures, but discussion with the CFT program coordinator is always recommended. If seeking to count previously incurred costs or property expenditures as match, the applicant should review CFT policies and match guidelines to ensure these costs can qualify. There is no guarantee that CFT funding will be awarded to a project which makes advance expenditures or land purchases.

### **Scope Changes**

A CFT award recipient can contact the CFT program coordinator to discuss potential changes or clarifications to scope (e.g., acquisition failed on the target parcel so the project manager seeks to add a new parcel to the scope, or to shift focus to parcels previously identified as secondary priorities in the scope). Some scope changes may be made during the year. Scope changes can also be requested during the annual reporting process, with requested changes typically discussed at the Committee's "Project Progress Review and Supplemental Funding Request Meeting." Scope changes are documented in the Committee's "Annual Project Progress Report."

### **Opportunities for Additional Funding**

At times a CFT project that has been awarded funding may need additional funding (e.g., if the project only received a partial funding request, or if costs are higher than anticipated). There are two opportunities to seek additional funding:

1. An award recipient may apply for additional funding during the standard application cycle.
2. An award recipient may request additional funding by contacting the CFT program coordinator. Requests will be heard once a year at the Committee's "Project Progress Review and Supplemental Funding Request Meeting," when the Committee may recommend redistribution of CFT funding that is excess from other projects. County Council approval is required to make redistributed CFT funding available.

### **Project Completion**

CFT funding awards should typically be expended within two years of approval by the King County Council as indicated in Motion 15513. If CFT funding in a project remains unspent after two years, the award recipient will be asked to report to the Committee at the "Project Progress Review and Supplemental Funding Request Meeting." The project manager will need to demonstrate to the Committee a compelling reason for an extension of CFT funding award beyond the two-year limit, or unspent project funding may be reallocated to another project.

If a funded CFT project fails and the property cannot be acquired, the award recipient should report that outcome to the CFT program coordinator at the earliest opportunity so funding can be made available to other projects.

### **Property Transfer**

CFT-funded property must be managed in accordance with the funding source requirements in perpetuity, under the ownership of an entity eligible to receive CFT funding. King County Code states that “Projects carried out in whole or part with conservation futures tax levy proceeds shall not be transferred or conveyed except to an agency or nonprofit organization by written agreement providing that the land or interest in land shall be continued to be used for the purposes of K.C.C. chapter 26.12 and in strict conformance with the uses authorized under RCW 84.34.” (KCC 26.12.010.I)

### **Conversions/Change in Use**

At times, the owner of a CFT-funded site may propose to sell or use the land for purposes that are inconsistent with CFT funding. This is considered a “conversion” of the CFT-funded property. The owner of the property must either provide equivalent<sup>8</sup> lands or cash reimbursement, based on a valuation of the CFT-funded property in its changed status or use<sup>9</sup>, and as approved by King County. The owner should contact the CFT program coordinator at the earliest opportunity to discuss the procedures for a conversion.

## **SECTION 11. CONTACT INFORMATION**

Please visit the Conservation Futures website for current contact and program information:  
[www.kingcounty.gov/CFT](http://www.kingcounty.gov/CFT).

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<sup>8</sup> “Equivalent” considers a number of factors including value, acreage, open space function, location, etc.

<sup>9</sup> The phrase “in its changed status or use” means that the appraisal should calculate the current market value of the property as though Conservation Futures funding restrictions have been removed and it is developable.