



JEFFERSON COUNTY PUBLIC HEALTH

615 Sheridan Street ♦ Port Townsend ♦ Washington ♦ 98368
 www.jeffersoncountypublichealth.org

February 10, 2014

JEFFERSON COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA REQUEST

TO: Board of County Commissioners
 Phillip Morley, County Administrator

FROM: Jared Keefer, Environmental Health & Water Quality Manager
 Tami Pokorny, Environmental Health Specialist II

DATE: *March 17, 2014*

SUBJECT: **Agenda Request:** Conservation Futures Project Agreement for the L. Brown Trust II Acquisition, Amendment #1; June 25, 2012 – June 25, 2015; transfer-\$4,333.45 from reimbursable acquisition expenses to operation and maintenance within existing budget

STATEMENT OF ISSUE:

Jefferson County Public Health, Water Quality Division, requests Board approval of the Conservation Futures Project Agreement for the L. Brown Trust II Acquisition, Amendment #1; June 25, 2012 – June 25, 2015; transfer-\$4,333.45 from reimbursable acquisition expenses to operation and maintenance within existing budget

ANALYSIS/STRATEGIC GOALS:

Jefferson Land Trust (JLT) requests to amend the Conservation Futures Project Agreement for the L. Brown Trust II Acquisition project to allow residual acquisition funds to be used for operations and maintenance activities.

This project was approved for funding in 2012 and closing took place in August 2013. The original agreement provided up to \$24,900 for acquisition expenses and up to \$2,000 for operation and maintenance related to the property (APN 902-362-003) based on an estimate of value. The appraised value was lower, and the actual amount of conservation futures funds needed for acquisition totaled \$20,566.55. JLT is requesting that the remaining acquisition funds (\$4,333.45) be made available to match a grant from the Salmon Recovery Funding Board (RCO# 12-1301) to support operations and maintenance activities including thinning of dense alder stands, noxious weed removal, planting additional conifers, and planting and maintaining a dense native shrub along the north and east boundaries to protect the property from incursion

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by non-native species from adjacent roadways and to funnel any public access to the site via prescribed routes. The hedge was not part of the original CF application. Such activities are considered allowable expenses in the 2012 Conservation Futures Program Manual. The purpose of the L. Brown Trust II Acquisition project is to permanently protect fifteen acres of vacant land spanning Snow Creek as part of a larger effort to provide habitat for ESA-listed Strait of Juan de Fuca summer chum salmon.

This amendment changes Section F of the agreement from:

Acquisition	Percentage	Dollar Amount
Conservation Futures – L. Brown Trust II	18%	\$24,900
Project Sponsor	82%	\$126,100
Total Project Contribution Cost	100%	\$151,000
Operations and Maintenance	Percentage	Dollar Amount
Conservation Futures – L. Brown Trust II	50%	\$2,000
Project Sponsor	50%	\$2,000
Total Operations and Maintenance Cost	100%	\$4,000

To read:

Acquisition	Percentage	Dollar Amount
Conservation Futures – L. Brown Trust II	17%	\$20,566.55
Project Sponsor	83%	\$98,794.28
Total Project Contribution Cost	100%	\$119,360.83
Operations and Maintenance	Percentage	Dollar Amount
Conservation Futures – L. Brown Trust II	19%	\$6,333.45
Project Sponsor	81%	\$27,305.72
Total Operations and Maintenance Cost	100%	\$33,639.17

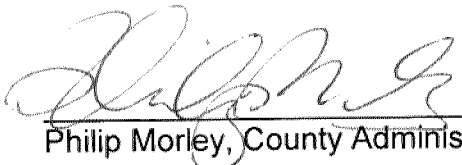
FISCAL IMPACT:

No cost change. *17+0% is within regulatory limits of total CF revenue.*

RECOMMENDATION:

JCPH management requests approval of the Conservation Futures Project Agreement for the L. Brown Trust II Acquisition, Amendment #1; June 25, 2012 – June 25, 2015; transfer-\$4,333.45 from reimbursable acquisition expenses to operation and maintenance within existing budget

REVIEWED BY:


 Philip Morley, County Administrator

2/25/14

 Date

**JEFFERSON COUNTY CONSERVATION FUTURES PROGRAM
PROJECT AGREEMENT**

Project Sponsor: Jefferson Land Trust
Project Title: L. Brown Trust II
Project Number: 2012JLTLBr
Approval: Resolution No. 40-12 on June 25, 2012

A. Parties to the Agreement

This Project Grant Agreement (Agreement) is entered into between County of Jefferson (County), PO Box 1220, Port Townsend, Washington 98368 and Jefferson Land Trust (Sponsor), 1033 Lawrence Street, Port Townsend, WA 98368, and shall be binding upon the agents and all persons acting by or through the parties.

B. Purpose of the Agreement

This Agreement sets out the terms and conditions by which a grant is made through the Jefferson County Conservation Futures Fund. The grant is administered by Jefferson County Environmental Health for the Sponsor for the project named above.

C. Description of Project

The subject Project is described in the attached 2012 Conservation Project Application for the L. Brown Trust II project. Conservation Futures Fund ("CFF") from Jefferson County in an amount not to exceed \$24,900 will be used towards fee simple acquisition of the real property known in the records of the Jefferson County Assessor as APN 902-362-003 and \$2000 to reimburse for operations and maintenance expenses incurred before June 25, 2022.

D. Term of Agreement

The Project Sponsor's on-going obligation for the above project funded by this Agreement is to provide maintenance of the site or facility to serve the purpose for which it was intended in perpetuity unless otherwise identified in this Agreement.

E. Period of Performance

The Project reimbursement period for acquisition expenses shall begin on June 25, 2012. The Project reimbursement period for acquisition expenses will end on June 25, 2015 unless proof of match is provided prior to this date. No expenditure made before June 25, 2012 is eligible for reimbursement unless incorporated by written amendment into this Agreement.

F. Project Funding

The total grant award provided by the Conservation Futures Fund (CFF) for the Project shall not exceed \$26,900 and Jefferson County CFF shall not pay any amount beyond that approved herein for funding of the Project. The Sponsor shall be responsible for all total costs for the Project that exceeds \$151,000. In no event will the CFF funds expended for this purchase exceed eighteen percent (18%) of the overall acquisition cost of APN 902-362-003. This Project is eligible for reimbursement of capital project and operations and maintenance expenditures as described in the Jefferson County Conservation Futures Program Manual for the 2012 Funding Cycle.

The contribution by the Sponsor toward work on the Project at a minimum shall be as indicated below. The contribution by the County toward work on the Project is described immediately above and in "C" above.

Acquisition	Percentage	Dollar Amount
Conservation Futures – L. Brown Trust II	18%	\$24,900
Project Sponsor	82%	\$126,100
Total Project Contribution Cost	100%	\$151,000
Operations and Maintenance	Percentage	Dollar Amount
Conservation Futures – L. Brown Trust II	50%	\$2,000
Project Sponsor	50%	\$2,000
Total Operations and Maintenance Cost	100%	\$4,000

G. Unexpended Project Allocations

Should unexpected Project allocations, including, but not limited to project completion at less than the estimated cost or, alternatively, the abandonment of the Project occur, then the Sponsor shall notify the County.

H. Rights and Obligations

All rights and obligations of the parties to this Agreement are subject to this Agreement and its attachments, including the Sponsor’s Application and Jefferson County Conservation Futures Program Manual for the 2012 Funding Cycle, all of which are attached hereto and incorporated herein.

Except as provided herein, no alteration of any of the terms or conditions of this Agreement will be effective unless provided in writing. All such alterations, except those concerning the period of performance, must be signed by both parties. Period of performance extensions need only be signed by Jefferson Board of County Commissioners.

I. Indemnification

Sponsor shall indemnify, defend and hold harmless the County, its officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, including attorneys fees and costs, arising from injury or death to persons, including injuries, sickness, disease or death to Sponsor's own employees, or damage to property occasioned by a negligent act, omission or failure of the Sponsor.

J. Insurance

The Sponsor shall secure and maintain in force throughout the duration of this contract:

1. Worker's compensation and employer's liability insurance as required by the State of Washington.
2. Comprehensive general liability insurance with a minimum coverage of \$1,000,000 per occurrence and \$2,000,000 aggregate in connection with the Sponsor’s performance of this Agreement.
3. Commercial Automobile Liability Insurance providing bodily injury and property damage liability converge for all owned and non owned vehicles assigned to or used in the performance of the work for a combined single limit of not less than \$500,000 each occurrence.
4. Sponsor shall provide all required proofs of insurance to the County in care of, Contracts Manager at Jefferson County Public Health, 615 Sheridan St. Port Townsend, WA 98368 prior to fee simple acquisition of APN 902-362-003.

K. Independent Contractor

The Contractor and the County agree that the Contractor is an independent contractor with respect to the services provided pursuant to this agreement. Nothing in this agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither Contractor nor any employee of Contractor shall be entitled to any benefits accorded County employees by virtue of the services provided under this agreement. The County shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance program, otherwise assuming the duties of an employer with respect to Contractor, or any employee of Contractor. The Contractor shall not sublet or assign any of the services covered by this contract without the express written consent of the County or its authorized representative. Assignment does not include printing or other customary reimbursable expenses that may be provided in an agreement.

L. Ownership and Use of Documents

All documents, drawings, specifications and other materials produced by the Sponsor in connection with the services rendered under this agreement shall be the property of the Sponsor whether the project for which they are made is executed or not. The County shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference, and use in connection with the Sponsor's endeavors.

M. Compliance with Applicable Statutes, Rules, and Jefferson County Policies

This Agreement is governed by, and the Sponsor shall comply with, all applicable state and federal laws and regulations, including RCW 84.34.210, and published agency policies, which are incorporated herein by this reference as if fully set forth.

N. Sponsor's Accounting Books and Records

The Sponsor shall maintain complete financial records relating to this contract and the services rendered including all books, records, documents, receipts, invoices, and all other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect cost of any nature expended in the performance of this contract. The Sponsor's records and accounts pertaining to this agreement are to be kept available for inspection by representatives of the County and state for a period of six (6) years after the date of the final payment to Sponsor. Copies shall be made available upon request.

O. Licensing, Accreditation and Registration

The Sponsor shall comply with all applicable local, state and federal licensing, accreditation, permitting, and registration requirement/standards necessary for the performance of this contract.

P. Disputes

Except as otherwise provided in this contract, when a bona fide dispute arises between Jefferson County and the Sponsor and it cannot be resolved, either party may request a dispute hearing with a mediator assigned by or associated with Jefferson County District Court. Either party's request for a dispute hearing must be in writing and clearly state:

- a. the disputed issue(s),
- b. the relative positions of the parties, and
- c. the Sponsor's name, address and Agency contact number

These requests must be mailed to the Project Manager, Jefferson County Environmental Health Department, 615 Sheridan St., Port Townsend, WA 98368, within fifteen (15) days after either party received notice of the disputed issue(s). The parties agree that this dispute

process shall precede any action in a judicial or quasi-judicial tribunal. The parties will split evenly the cost of mediation or whatever form of dispute resolution is used.

Q. Termination for funding

Jefferson County may unilaterally terminate this contract in the event funding from state, federal, or other sources are withdrawn, reduced, or limited in any way after the effective date of this contract.

R. Termination for Convenience

The County reserves the right to terminate this agreement at any time by giving ten (10) days written notice to the Sponsor.

S. Assignment

The Sponsor shall not sublet or assign any interest in this Agreement, and shall not transfer any interest in this agreement without the express written consent of the County.

T. Non-Waiver.

Waiver by the County of any provision of this agreement or any time limitation provided for in this agreement shall not constitute a waiver of any other provision.

U. County Does Not Assume Additional Duties

The County does not assume any obligation or duty, except as required by federal or state law, to determine if Sponsor is complying with all applicable statutes, rules, codes ordinances or permits.

V. Agreement Representatives

All written communications sent to the Sponsor under this Agreement will be addressed and delivered to:

Sponsor Contact
Sarah Spaeth, Executive Director
Jefferson Land Trust
1033 Lawrence St.
Port Townsend, WA 98368

Conservation Futures Program Contact
Jefferson County Environmental
Health – Conservation Futures
615 Sheridan Street
Port Townsend, WA 98368

These addresses shall be effective until receipt by one party from the other of a written notice of any change.

W. Entire Agreement/Severability

This agreement, along with all attachments, constitutes the entire agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties. If any part of this Agreement is ruled or adjudicated to be unlawful or void, all other sections of this Agreement shall continue to have full force and effect.

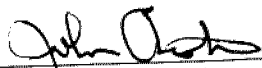
X. Effective Date


This agreement, for the L. Brown Trust II project shall be effective upon signing by all parties.

Y. Venue:

Venue for any litigation arising from this Project Agreement shall be only in the Superior Court In and for Jefferson County. Each party to this agreement shall be responsible for their litigation costs, including attorney's fees.

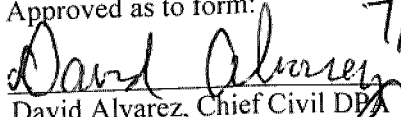
DATED this 5th day of August 2013.

By 
John Austin, Chair
Jefferson Board of County Commissioners

By  ERIK KINGSTORK
Jefferson Land Trust FOR SARAH SMITH

Attested:


Carolyn Avery, Clerk of the Board

Approved as to form: 7/17/13

David Alvarez, Chief Civil DPA