

# CONSERVATION COVENANTS & EASEMENT PROGRAM MANUAL



OWEB | Oregon Agricultural Heritage Program

September 2025



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# Working Lands Conservation Covenant & Easement Program

## *Oregon Agricultural Heritage Program*

### Overview

#### Background

The Oregon Agricultural Heritage Program (OAHP) is a program within the Oregon Watershed Enhancement Board (OWEB). Through direction provided by ORS 541.977-541.989 and Oregon Administrative Rules Chapter 698, OAHP offers grants for working land conservation covenant and easements, conservation management plans, technical assistance, and succession planning.

**There is \$1,760,000 available in funding for the Working Lands Conservation Covenant and Easement Program for the September 2025 solicitation.** Please see below for additional details regarding application submission. Applications will be evaluated and ranked by the technical review team, which will be summarized and presented to the Oregon Agricultural Heritage Commission (Commission or OAHC) by OWEB staff. The Commission is tasked with developing a funding recommendation to the OWEB Board based on the availability of funding from the Oregon Agricultural Heritage Fund.

In August 2025, the Commission acknowledged that with the limited funding available and high demand among program participants, it is expected that the solicitation will be highly competitive. Given that expectation, the Commission expressed an interest in funding multiple projects. For projects that rank similarly based on evaluation criteria, the Commission may then factor project cost into funding recommendation deliberations.

The Commission recognizes the statewide nature of the program and has expressed interest in seeing broad geographical representation in applications submitted. The Commission also stated that geographical distribution may be considered in their ultimate funding recommendation.

***This document provides guidance for the 2025 OAHP Working Land Conservation Covenant and Easement grant offering only. Contact program staff for previous versions of program guidance.***

#### Program Purpose

**The purpose of the OAHP is to contribute to the public benefits of the following:**

1. Increased economic viability of Oregon's agricultural operations and economic sector;
2. Reduced conversion and fragmentation of Oregon's working land; and
3. Enhanced fish or wildlife habitat, water quality, and other natural resources on Oregon's working land.

**The purpose of the OAHP Working Land Conservation Covenant or Easement grant offering** is to ensure the continued use of the land for agricultural purposes while maintaining or enhancing fish or wildlife habitat, improving water quality, or supporting other natural resource values on the land.

## Oregon Agricultural Heritage Commission

The Commission was established under ORS 541.986, its duties described in ORS 541.989. The Commission is responsible for assisting OWEB with the development of rules for administration of programs in the OAHP. The Commission reviews staff recommendations on all OAHP applications and provides funding recommendations to the OWEB board based on the availability of funds in the Oregon Agricultural Heritage Fund.

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## Conservation Covenant and Easement Grant Offering

The purpose of the Working Land Conservation Covenant and Easement grant offering is to ensure the continued use of the land for agricultural purposes while maintaining or enhancing fish or wildlife habitat, improving water quality, or supporting other natural resource values on the land.

The grant process is open and competitive. OWEB encourages applicants to carefully review the following guidance and associated information to facilitate the submission of complete and competitive applications, and to understand what will be expected of successful applicants. The purpose of this document is to aid program participants in developing, applying for, and managing OAHP working land conservation covenant or easement projects. Please note that in the case of unintended conflicts between the OWEB-provided guidance and OWEB statutes and rules, OWEB [statutes](#) and [rules](#) will control. All documents referred to below are available on the [OAHP page](#) on the OWEB website.

For additional general OWEB information about grant budgets, getting access to OWEB's Grant Management System, understanding insurance requirements, or using OWEB's online applications, see the [video resources](#) on the OWEB website. Eligibility

Covenants and easements funded under this program: (1) Must contribute to the public benefits of increased economic viability of Oregon's agricultural operations and economic sector, reduced conversion and fragmentation of Oregon's working land, and enhanced fish or wildlife habitat, water quality, or other natural resources on Oregon's working land; and (2) Must provide for carrying out a purpose of a conservation easement, as defined in [ORS 271.715](#).

## Eligible Applicants

**Eligible applicants** for Working Land Conservation Covenant and Easement Grants are Holders as defined in ORS 271.715, with the exception of state agencies. The definition in statute states:

- The state, any county, metropolitan service district, soil and water conservation district, city or park and recreation district or a county service district established under ORS 451.410 to 451.610 to construct, maintain and operate service facilities in Washington or Clackamas Counties for the purposes specified in ORS 451.010 (1)(a) and (b) and in Washington County for the purpose specified in ORS 451.010 (5) acting alone or in cooperation with any federal or state agency, public corporation or political subdivision;

- A charitable corporation, charitable association, charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property; or
- An Indian Tribe as defined in [ORS 97.740](#).

**Individual owners of working land are not eligible to apply for a Working Land Conservation Covenant and Easement Grant.** There are a variety of eligible entities across Oregon that work with landowners interested in a working lands conservation easement or covenant. The majority of those entities can be found on the website for the [Coalition of Oregon Land Trusts](#) or the [Oregon Association of Conservation Districts](#).

Qualified applicants and proposed interest holders that are a government entity, such as Soil and Water Conservation Districts, should submit a copy of the relevant statute or other policy outlining their purpose and authority regarding the conservation of agricultural land with their application.

In all cases the grantee is OWEB’s direct partner and is responsible for working with the private landowner to develop and implement the project.

## Eligible Properties

**Eligible properties** for Working Land Conservation Covenant and Easement Grants are working lands as defined in ORS 541.977(2): “Working land” means land that is actively used by an agricultural owner or operator for an agricultural operation that includes, but need not be limited to, active engagement in “farm use” as defined by [ORS 215.203\(2\)](#).

## Application Process

OWEB will solicit project applications to the [OAHP Conservation Covenant and Easement Program](#) as funds are apportioned by the OWEB board. Applications are designed to solicit such information as OWEB staff determines necessary for staff, the technical review team(s), due diligence contractor(s), and the OAHC to complete a project review using the established evaluation criteria in OAR 698-015-0090 (listed fully below).

## Pre-Application Consultations

Applicants are strongly encouraged to consult with OWEB staff before applying to discuss: (i) the project’s opportunities, benefits, potential challenges, and schedule; (ii) the applicant’s match sources; (iii) the grant application and review processes; and (iv) the expectations for project implementation if awarded funds. An OWEB funding decision is not made during the pre-application consultation.

The pre-application consultation is an informal conversation and an opportunity for applicants to gain feedback on applying for grant funds and an understanding of what to expect if funds are awarded. Applicants should review this document (OAHP Conservation Covenant and Easements Program Administration Manual) and the Oregon Administrative Rules (OAR 698-015-0010 to 698-015-0180) and

Oregon Revised Statute (ORS 541.977 to 541.989) before the consultation and be prepared to ask any questions regarding the grant application and review processes.

**The following should be sent to OWEB before the scheduled consultation:**

- A map of the property, prepared from an aerial photo and including the property boundaries and the proposed conservation easement/covenant boundaries.
- A recent preliminary title report or status of record title report (preferably less than **one year** old).

**Consultation topics will include:**

- OWEB's Program
  - Templates, forms, guidance materials
  - OWEB's administrative role and project material review
  - Q&A
- Proposed Project
  - Transaction and long-term protection
    - Working Land and Natural Resource Conservation Values
    - Property interest intended for purchase (covenant or conservation easement)
    - Intended long-term holder
    - Match funder(s)
    - Timing of match
    - Project budget, including estimated purchase price
    - Project team and expertise
    - Project partners
  - Proposed use and management
    - Actions
    - Funding
    - Partners
  - Due Diligence
    - Historic and current property uses
      - Property improvements
      - Known or suspected contamination issues
      - Tenants
      - Agricultural uses
    - Future uses
      - Short and long-term agricultural uses
      - Residential or other building rights to be reserved or maintained
      - Rights intended for reservation by the landowner in conservation easement
    - Property management actions, stewardship needs, restoration objectives if any
    - Property boundaries
    - Use of adjacent properties
    - Access
    - Title encumbrances, deed of trust and other liens
    - Water rights

## Application Submittal Instructions

**OWEB strongly recommends that applicants submit their grant applications at least three working days in advance of the application deadline.** Verifying and submitting the grant application at least three days in advance allows time for applicants to address problems during the submission process. All applications must be successfully submitted through OWEB's online grant application system (OGMS) by 5 pm on the application due date.

### Application Instructions

All information submitted in association with the application (support letters, maps, title reports, etc.), whether required or optional, must be submitted online with the application by the application deadline.

OWEB staff may work with applicants during the review process to clarify information submitted.

### Budget

OWEB's online application budget page and OWEB budget guidance is complex. Please reach out to OWEB staff early and often while developing your application budget in OGMS. An accurate budget is essential to ensuring the correct figures for the OWEB request are captured in the final application. Applicants are encouraged to carefully consider all cost factors associated with the project before applying. A [budget worksheet](#) is included on the [OAHP webpage](#) to assist applicants with preparing budget information for the online application. The worksheet will not be accepted in lieu of, or in addition to, the budget in the online grant application. Under OAR 698-015-0070, Working Land Conservation Covenant or Easement grant funds may be applied toward costs related to purchasing, implementing, holding, monitoring, stewarding, or enforcing the covenant or easement, including:

- The purchase price and the purchase option fees associated with the working land conservation covenant or easement:
  - The purchase price for easements shall be based on an appraisal and review appraisal completed in accordance with applicable appraisal standards, including the Uniform Standards of Professional Appraisal Practice, and if required by other funding sources the Uniform Appraisal Standards for Federal Land Acquisitions (i.e. "Yellow Book"). The applicant is responsible for working with the landowner on any appraisal required for the Internal Revenue Service if applicable.
  - The purchase price for covenants shall be based on an assessment of fair market value for a permanent easement using methodologies similar to those described above and then reduced to a price of 1%/year (example: 20-year covenant = 20% value of permanent easement, 50-year covenant = 50% value of permanent easement).
- The interest on bridge loans needed to secure closure on the property prior to when funding will be available for distribution through the program;

- The staff costs incurred as part of the covenant or easement acquisition process related to the property;
- The cost of due diligence activities, including appraisal, environmental site assessment, survey, title review, and other customary due diligence activities;
- The cost of baseline inventory preparation;
- The legal fees incurred;
- The closing fees, including recording and title insurance costs. OWEB will pay for “typical and customary” closing costs for the buyer’s side only. Acceptable closing costs may include: half of an escrow fee, conservation easement deed recording fees, title insurance (although often this is a seller paid cost), E-filing fee.
- The cost of securing and maintaining the agriculture and conservation values associated with the property in accordance with the application or a conservation management plan approved by the Director; and
- Up to 50% match for the value of a stewardship fund, but program funds contributed to a stewardship fund may not exceed 5% of the total appraised value of the covenant or easement.

The budget should include all project costs regardless of funding source. The application allows for the designation of funding sources for each project item and the applicant to decide which items to include as match for the OWEB grant.

The budget page will require the applicant to categorize project costs as follows:

**SALARIES, WAGES AND BENEFITS:** Costs related to in-house staff of the applicant (this does not include overhead)

**CONTRACTED SERVICES:** Services and deliverables to be provided by *non-staff*. Examples are appraisals, surveys, title reports, closing costs, etc.

**TRAVEL AND TRAINING:** Mileage, per diem, lodging, etc. for in-house staff of the applicant. Must use current State of Oregon rates.

**MATERIALS AND SUPPLIES:** Consumable items to be purchased by the applicant and used up during the project. It is unlikely anything in this category would be under an allowable use of grant funds for this grant type.

**OTHER:** Costs that do not fit into the categories listed above. Examples include the purchase price of the property interest and stewardship fund request.

**Note that while indirect costs are allowed and is included as a category in the application budget, certain budget items are ineligible for the indirect cost calculation and must be marked as “excluded” by the grantee in the application’s project budget. This includes the purchase price of the property interest and stewardship fund request. Refer to [OWEB’s Guidance on Budgeting in Grants \(GoBig\)](#) for additional guidance on this matter.**

Allowable costs identified in OAR 698-015-0070 and match contributions under OAR 698-015-0060 that were incurred no earlier than 18 months before the applicable grant application deadline may be reimbursed if

included in the project budget. Items not included in the application's project budget as OWEB costs cannot be added at a later date and it is imperative that the applicant include anticipated project costs at the time of application. **OAHF grant funds may not be applied to legal fees or other costs incurred by the seller of the conservation covenant or easement.**

OWEB strongly encourages applicants to provide information that is as complete as possible regarding the approximate cost of the property interest proposed for purchase. An acquisition cost estimate relating to a conservation easement to be placed on a part or all of a property has to reflect the loss attributable to the property rights relinquished by the property owner. Therefore, the applicant must have a reasonably complete understanding of the rights the easement or covenant will restrict, such as specific development, timber cutting, or agricultural rights. If an applicant opts to obtain an appraisal report prior to the grant application, they should consider incorporating future appraisal fee cost estimates for updating the initial appraisal report into the appraiser's engagement agreement.

Additional grant application budget guidance is contained in the [GoBig Guidance](#) document, available on the OWEB Grants page. Please contact OWEB staff if you have any questions regarding the applicability of guidance in GoBig to the OAHF Working Lands Conservation Covenant and Easement grant offering.

## Match

Applicants must demonstrate that they are seeking or have secured an amount of match that is equal to at least 25 percent of the total amount of project funds they are requesting from OWEB. Confirmation of secured match may be a signed document that indicates the amount of match and states that it is dedicated to the project.

### **The following funds and activities qualify as match:**

1. In-kind contributions to activities listed under OAR 698-015-0070;
2. Funding commitments made by others as a result of grant applicant efforts;
3. A donated portion of a sale; and
4. Funds deposited in a stewardship fund before the time that OWEB funds are released for acquisition of the covenant or easement.

Costs incurred in the same timeframes as described in the Budget section above may qualify as matching contributions, subject to approval by OWEB.

Match claimed for one OWEB grant may not be claimed for any other grant. For example, if a grantee has a \$50,000 grant from U.S. Fish and Wildlife Service (USFWS), the grantee may either claim the entire \$50,000 to match a single OWEB grant or claim portions of the \$50,000 to match multiple OWEB grants until the entire \$50,000 is allocated. The grantee may not match each grant with \$50,000 from the same USFWS grant.

At the time of OWEB's final payment on a grant, the grantee is required to submit a final accounting of match. The match must be spent by that time, except for stewardship funds dedicated to the Project. Records that support any cash match costs must be maintained in the grantee's accounting system and be available for audit and review. Additional match requirements are included in the GoBig guidance document.

## Project Schedule

Applicants are required to prepare a projected schedule for key actions associated with the proposed acquisition. This schedule will inform the grant agreement and the expectations of the grant implementation timeline. It is important that the schedule incorporate realistic timeframes for actions such as the purchase agreement, appraisal, survey, and title review to ensure the transaction is completed, with OWEB's funding conditions met, within a timely manner. The schedule may reflect project activities that occurred prior to the grant application deadline, but only qualified costs that were incurred within 18 months prior to the application deadline are eligible for reimbursement. Project timing will be discussed at the pre-application consultation.

## Management Plan

OAHCP Conservation Covenants and Easement applicants have the option to specify the development and implementation of a management plan within the covenant or easement at the time of application. If included, an OAHCP management plan will require a description of the stewardship, monitoring, and uses of working land intended to carry out the purposes of a working lands easement or covenant. The management plan must contain an adequate framework for protection, restoration (if applicable), and monitoring of the property's conservation values in a manner consistent with the terms of the conservation easement and the commitments made in the grant application. The management plan must be provided to OWEB once developed. Management plan development is an eligible cost for OAHCP conservation covenant/easement projects **if** the Grantee elects to reference the management plan in the covenant/easement text. OWEB will review a resulting plan that is paid for with OWEB funding for consistency with the project goals and outcomes stated in the application and the easement terms.

## Documents Required for All Applications

All documentation must be submitted online. Incomplete applications will not be considered for funding. It is advisable to cross reference the requirements in this document prior to submitting the application. When uploading documents to the online applications system, select the upload type specified for each document to ensure that your information is properly identified and kept confidential as applicable. Expectations and further description of those documents are detailed below.

***If due diligence materials exist at the time of application, they should be submitted with the application.***

However, these documents may need to be revised or updated to meet OWEB standards and the applicant should account for the potential for additional costs to update due diligence items in the application budget. Provided the documents are uploaded correctly into the online application system, the following application items *will not* be maintained in OWEB's public-facing grant database: landowner acknowledgement forms, transaction agreements, title documentation, appraisals and appraisal information, surveys, environmental site assessments, water rights documentation, organizational documents, financial and sensitive business information, and detail related to stewardship endowments. Refer to the section on confidentiality, below, for related information.

### ***Maps (Upload all maps under Image Type: Map)***

The application requires several maps depicting important features and characteristics of the property proposed for protection with an OAHP working lands conservation covenant or easement. Each map should clearly indicate the information conveyed corresponding to the categories below. Each map should be clearly labeled with which category of information requested below it is depicting. To help facilitate parity of review across all applications, the application requires the following maps:

#### ***Property Boundary***

An aerial photograph of the project property, with the property boundary clearly depicted and without any shading on the photo. If the conservation covenant or easement will not encumber the entirety of the property, the boundary of the encumbrance must be identified. Acreage of the project property and the conservation covenant or easement must be included.

#### ***Vicinity and Context***

Depict the project property and the location relative to the closest town. Include the location of surrounding conservation areas (e.g. federal, state, and tribal lands, conserved properties, conservation management areas, mapped habitat locations). If additional resource values, such as species migration patterns, are used to support significance of the working land in the proposal, identify those resources on the map. The information may be combined or separated out for ease/clarity of communicating information.

#### ***Infrastructure and Current Land Cover***

Aerial photo-based map delineating the current land cover and relevant infrastructure on the property, including any infrastructure outside the proposed conservation easement boundary but adjacent.

#### ***Future Infrastructure/Building Envelopes***

Depict the location of anticipated future infrastructure, including roads, building envelopes, and any anticipated structures related to the agricultural operations or other intended reserved uses on the property. If building envelope(s) is/are to be designated within the project area, the location and size/dimensions of existing and/or proposed envelope(s) must be identified. The information may be combined or separated out for ease/clarity of communicating information.

#### ***Agricultural Resources and Use***

Delineate current agricultural activities (crops, orchard, grazing, etc.) across the property and identifying irrigated acres, non-irrigated acres, rangeland/grazing (if applicable), non-agricultural acres (e.g. building and infrastructure and exclusive habitat/natural resource conservation areas).

#### ***Soils Map***

Provide a map depicting the soil types and distribution across the property. Maps can be found using [NRCS Web Soil Survey](#) online.

#### ***Water Resources and Use***

Identify the water resources, including surface water (e.g. streams, rivers, ponds, wetlands) and irrigation infrastructure (e.g. ditches, pivots, wells).

### ***Habitat, current condition***

Delineate the current habitat types across the property.

### ***Future Land Use Map***

If changes to current management or use practices are expected following the implementation of the proposed conservation covenant or easement, depict the areas expected to change and to what type of use. For instance, if an area is currently being utilized for crop production but is intended to be transitioned into a habitat area under the terms of the covenant or easement, this should be spatially depicted and visually represented for reviewers to evaluate.

### **Administrative and Capacity Related Information**

The following information is required to be uploaded and submitted with the application.

#### ***Landowner Acknowledgement Form (Upload Image Type: Landowner Acknowledgement Form)***

The [OAHP Conservation Covenant and Easement Landowner Acknowledgement Form](#) signed by the seller or the seller's representative. The form, which must state the estimated value of the property interest being acquired, is available on the OAHP website.

#### ***Organizational Eligibility Documents (Upload Image Type: Evidence of Organization Eligibility)***

Documents demonstrating the entity's eligibility as a Holder and documents evidencing the applicant's conservation mission that includes the acquisition of interests in property for conservation purposes and a demonstrated commitment to the preservation of working lands (e.g. applicable section of corporate charter by-laws, statute, or board resolution). Non-profit entities must submit the following with their application: Articles of Incorporation and by-laws documenting the principal charitable or public purposes of the nonprofit organization; and, adopted policy that details the organization's goals and purposes, including the organization's primary purpose of preserving, protecting, or enhancing land in its natural, scenic, historical, agricultural, forested, or open space condition or use.

#### ***Financial Documents (Upload Image Type: Organizational Financial Documents)***

Documents appropriate to the applicant (or the long-term holder if the property interest will be transferred) which reasonably characterize the organization's existing financial circumstances. Examples include: a copy of the organization's year-end-budget-to-actual-outcomes report for the most recent fiscal year; the summary of the organization's most recent financial audit or review; and balance statements for the organization's existing stewardship and legal defense funds. If the organization is a political subdivision of the state, documents can include applicable parts of adopted budgets which dedicate funds to the proposed project.

#### ***Stewardship Calculator (upload Image Type: Other)***

Documentation of the costs associated with conservation covenant or easement stewardship as defined in OAR 698-015-0020, which includes monitoring, recordkeeping, processing amendments and landowner correspondence, managing stewardship funds, resolution of violations, enforcement actions, and defense. This document should include the amount of stewardship funding (principal) that is needed to cover the total annual cost of activities and the amount of annual investment income that the principal is expected

to generate. This document is required regardless of whether stewardship funds are requested as part of the OWEB grant.

### ***Transaction and Real Estate Information***

The following information documentation is required at the time of the application. OWEB strongly encourages potential applicants to contact title companies well in advance of the application deadline to obtain updated title documents if necessary.

#### ***Vesting Deed (Upload Image Type: Vesting Deed)***

A copy of the deed that vested title in the party identified in the preliminary title report or Status of Record Title and listed as the landowner in the application.

#### ***Draft Conservation Easement (Upload Image Type: Conservation Easement)***

A draft of the conservation covenant or easement or copy of the Conservation Covenant/Easement Plan (CC[E]P). The draft of the conservation easement/covenant or the CC[E]P submitted should be specific to the property in the application, demonstrate a reasonably complete understanding of the rights the property owner will relinquish and retain, such as specific development, timber management, and level and location of agricultural use. The Land Trust Alliance describes a CC[E]P as a document that is a precursor to the final conservation easement deed that describes the agreed upon terms in plain language. The applicant and landowner should be aware that revisions may be required to the easement deed based upon OWEB's review. The OWEB grantee is responsible for negotiating with the landowner to make any revisions required by OWEB. All conservation covenant and easements are required to address the significant resources and features identified in the application. Consult the Project Requirements and Due Diligence Expectations section below for more detail regarding the expectations and requirements for OAHF conservation easements.

#### ***Preliminary Title Report (PTR) or Status of Record Title and Title (SORT) Documentation (Upload Image Type: Preliminary Title Report, Documentation of Title Exceptions)***

A recent (12 months or less) preliminary title report or status of record title. Include legible copies of recorded documents for the exceptions listed in the PTR or SORT. Do not rely on hyperlinks within the PTR or SORT.

#### ***Title Analysis Sheet (Upload Image Type: Other Due Diligence)***

Worksheet providing detail on exceptions to title, potential impacts to conservation purposes, and the anticipated path to resolution if needed. The [worksheet](#) can be found on the OAHF website under the Forms tab.

## **Conditionally Required Documents**

The following additional documents are required in the instances specified below.

#### ***Transaction Agreement (Upload Image Type: Sale Agreement)***

If a transaction agreement exists at the time of application, it must be submitted as an upload with the application. A letter of intent, memorandum of understanding, or other documentation evidencing commitment and terms agreed upon by the applicant and the landowner if present prior to the execution of a transaction agreement must be submitted if existing at the time of the application.

***Appraisal (Upload Image Type: Appraisal)***

If an existing appraisal is being used to justify the expected purchase price, it should be submitted with the application. However, this requirement may be waived by OWEB if the appraisal is not in the possession of the applicant and/or the applicant does not have permission to share the appraisal at the time of application. An appraisal that conforms to the appraisal requirements of the OAHF (see Appendix A of this program manual) will be required and must be approved by OWEB prior to closing if the project is awarded funding.

***Purchase Price Information (Upload Image Type: Purchase Price Information)***

***If documentation other than an appraisal (opinion of value, sales comparison analysis, etc.) to support the purchase price is available and discussed in the application, it should be submitted for review. Survey (Upload Image Type: Boundary Survey)***

Any survey material that exists at the time of the application should be submitted by the applicant. This includes survey maps, legal descriptions of the proposed covenant or easement boundary, or surveyor opinions on boundary discrepancies or errors in the legal description of the underlying fee.

***Environmental Site Assessments/Environmental Hazard Investigations (Upload Image Type: Environmental Site Assessment)***

If an Environmental Site Assessment (ESA) or other environmental hazards investigation information for the property exists at the time of application, it should be submitted for review. If the OWEB Board awards conditional funding for an acquisition project, the grant agreement will require the grantee to employ all appropriate inquiries to determine if the real property in question, including any improvements, is subject to environmental hazards known as recognized environmental conditions. The inquiries must also be sufficient to determine if and how any recognized environmental conditions can be remediated and ensure that the purpose of the OWEB grant can be met. An ESA performed in compliance with the American Society for Testing and Material (ASTM) standards will satisfy these requirements.

***Accreditation Information (Upload Image Type: Accreditation Information)***

If the applicant is accredited by the Land Trust Alliance, attach a copy of the accreditation letter.

If the property interest will be transferred to a long-term holder, and the long-term holder is accredited by the Land Trust Alliance, attach a copy of the accreditation letter.

***Long-Term Holder Letter (Upload Image Type: Long-Term Holder Letter)***

If an entity other than the applicant will hold or manage the property interest over the long term, attach a board resolution or letter from that entity that clearly demonstrates its intent and ability to accept, as applicable, long-term ownership and monitoring and enforcement responsibilities for the property interest.

***Water Rights Documentation (Upload Image Type: Water Rights Information)***

If the property has appurtenant water rights, including any surface, instream, stored, or groundwater rights, attach the following information as applicable: (i) water rights applications, permits, certificates, transfers, and claims; (ii) the status of each right; and (iii) a map of the area of use and point of diversion or point of appropriation for each right. This information is typically available from the Oregon Water Resources Department website.

### ***Match Source Documentation (Upload Image Type: Secured Match Forms)***

For any secured match included in the project budget, provide individual documentation from an authorized representative of the match source describing the amount and allowable uses for the match. This can be in the form of a signed Secured Match Form, which can be found on the [Forms page](#) of the OWEB website, or a letter signed by a representative of the match entity. Each should specify the amount and allowable use of the match funds.

## **Evaluation Criteria**

Working Land Conservation Covenant and Easement applications will be evaluated by the evaluation criteria detailed in [OAR 698-015-0090](#).

## **Project Review Procedures**

After applications are submitted, they will be reviewed by OWEB staff to confirm eligibility and completeness. Once applications have been determined complete and eligible, the applications will be evaluated and ranked by the technical review team. The role of the technical review team is to provide feedback on the technical components of the project presented in the application. OWEB staff will also consult with OWEB's due diligence contractor and develop a summary of the technical review team evaluation to be presented to the Commission who will make a formal funding recommendation to the OWEB Board.

## **Application Evaluation Criteria**

Working Land Covenant and Easement Grant applications will be evaluated on the evaluation criteria identified in Oregon Administrative Rule 698-015-0090 and 698-005-0045. Applications that best articulate how the proposed project addresses all of the criteria will rank higher than those that do not specifically address the identified criteria.

### **698-015-0090**

- (1) The regional significance of the agricultural, natural resource, and related social values of the working land that will be subject to the Working Land Conservation Covenant or Working Land Conservation Easement, including:
  - (a) The potential viability of the property for agriculture, including but not limited to soil types, suitability for producing different types of crops, and water availability;
  - (b) The land's contribution to long-term conservation of the region's agricultural land base;
  - (c) The regional significance of the agricultural operation based on location, its associated infrastructure, and other relevant factors including supporting agricultural values important to the region; and
  - (d) Supporting implementation of local, regional, state, federal or Tribal priorities and plans that support fish or wildlife habitat, water quality or other natural resource values.

(2) The extent to which the Working Land Conservation Covenant or Working Land Conservation Easement would protect, maintain, or enhance farming or ranching on the working land, including:

- (a) Reducing the potential for future conversion or fragmentation of the property and surrounding working land; and
- (b) Maintaining or enhancing the ability of the land to be in productive agricultural use that supports a viable agricultural operation.

(3) The extent to which the Working Land Conservation Covenant or Working Land Conservation Easement would protect, maintain or enhance significant fish or wildlife habitat, water quality or other natural resource values, including:

- (a) Protecting, maintaining, or improving the quality and connectivity of plant or wildlife habitat on and around the working land; and
- (b) Utilizing land stewardship practices that maintain or enhance soil health.

(4) The extent to which the project supports the integrated management, maintenance or enhancement of the agricultural and natural resource values on the working land.

(5) The extent to which the Working Land Conservation Covenant or Working Land Conservation Easement would protect agricultural outcomes or benefits from other related investments.

(6) The capacity and competence of the applicant and the proposed Working Land Conservation Covenant or Working Land Conservation Easement holder to purchase, accept, implement, hold, monitor, steward, and enforce a Working Land Conservation Covenant or Working Land Conservation Easement, including:

- (a) Accreditation from the Land Trust Accreditation Commission, or implementation of standards and practices that are similar to an organization that is eligible for accreditation;
- (b) Inclusion of working land preservation in the organization's mission, vision or other organizational documents;
- (c) The financial capability of the organization to steward conservation Working Land Conservation Covenants or Working Land Conservation Easements over time; and
- (d) Demonstrated relevant commitment, ability, expertise, and track record to purchase, accept, implement, hold, monitor, steward, and enforce Working Land Conservation Covenant or Working Land Conservation Easement or other relevant projects.

(7) The extent to which the benefit to the state from the investment may be maximized, based on:

- (a) The ability to leverage grant moneys with other funding sources;
- (b) The duration and extent of the agreement, with a preference for longer term agreements;
- (c) The cumulative effect of similar conservation or agricultural investments in the community, including other OAHP funded plans, covenants, or easements; and
- (d) Consistency with local comprehensive plans and statewide planning goals.

(8) The extent and nature of the impacts of the Working Land Conservation Covenant or Working Land Conservation Easement on owners or operators of neighboring lands.

(9) The extent to which project will benefit the local area, as evidenced by engagement with and support from the local community and Tribes.

(10) The level of threat of conversion or fragmentation of the working land.

(11) The soundness of the legal and financial terms of the proposed real estate transaction.

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Grant applications shall also be evaluated, whenever possible, on:

(1) How engagement with, and input from, local communities disproportionately impacted by climate change has informed or will inform the project.

(2) How changing climate conditions are incorporated into the project and how the project will contribute to durable adaptation and resilience for ecosystems, including human communities.

(3) How consideration of greenhouse gas emissions or long-term carbon sequestration or storage has informed the project.

**For more information on how to address the climate related criteria in your grant application, see [OWEB's Water and Climate Resources](#) webpage.**

### Site Visits

***\*\*NEW\*\* Applicants will be required to present virtually for the technical review team during the application review period. OWEB staff will provide applicants with scheduling options for the presentation once applications have been determined eligible and complete.***

Applicants will also be expected to host an on-site visit for OWEB staff to verify the accuracy of and to better understand the proposal, as well as to clarify any outstanding questions identified during the review. For on-site visits, applicants will be asked to arrange a tour of the property, which must be attended by a representative of the applicant. The property owner or property owner representative is welcome to attend, but at the discretion of the applicant. OWEB will not require the property owner's presence on site visits.

### Soundness Review

Applications will be evaluated on the soundness of the legal and financial terms of the proposed transaction. Applicants should be sure to include all relevant information regarding the transaction structure and to provide any necessary context for the submitted real estate materials to aid reviewers in evaluating the technical strength of the proposed real estate transaction. OWEB utilizes contractors with expertise in conservation real estate to evaluate soundness questions and materials. These contractors also review the application for organizational capacity considerations related to the applicant's proposed transaction structure's likelihood of completing the project in the required 24-month timeline. Review will include analysis of the transaction structure, title materials, proposed timeline, and due diligence needs. Due diligence reviewers will determine whether any clarification of application information is needed, and OWEB staff will provide the applicants an opportunity to respond to any request. Applicant responses to requests for clarifications are optional.

## Technical Review Teams

Review teams are selected by OWEB staff to review project proposals each funding cycle. The review team will be comprised of experts who may be representatives of federal, state, and local agencies, academic institutions, Tribes, and others with expertise OWEB determines beneficial to the review process. Review will be conducted by individuals with agricultural, natural resource, and fish and wildlife habitat expertise.

The review team will evaluate applications according to criteria described in OAR 698-015-0090. Reviewers review applications as submitted. New information unrelated to materials presented with the application will not be considered.

The review team will meet virtually to discuss, evaluate, and rank applications. OWEB staff will summarize the review team ranking and summarize the project evaluations and provide a funding recommendation to the Commission.

## Funding Determinations

The Commission reviews and considers the recommendations of OWEB staff and shall make funding recommendations to the Board based on the availability of funding from the Oregon Agricultural Heritage Fund. The Board considers and awards Working Land Conservation Covenant and Easement Grants.

## Public Engagement

OWEB staff will notify the nine federally recognized Tribes in the State of Oregon and the Nez Perce Tribe about the applications through OWEB's Tribal liaison and will provide them the opportunity to comment on grant applications. More broadly, the public will be provided with meaningful opportunities to comment on grant applications being considered by the Board and Commission.

OWEB will send notice to the governing bodies of cities and counties with jurisdiction in the area where their Project is located, as well as affected governmental agencies of the Commission's intent to consider comments at the meeting in which applications will be considered. Notice to governing bodies and governmental agencies will again be provided prior to the OWEB board meeting where OAHP applications will be recommended for funding award. Notice will also be posted in OWEB's GovDelivery email notification system.

# Project Requirements and Due Diligence Expectations

## Due Diligence

A funding award will be conditioned on certain transaction requirements being fulfilled prior to closing. OWEB will require review of all appropriate due diligence information relevant to the property interest being purchased, including, but not limited to: appraisals, title reports, environmental site assessments, surveys, water rights documentation, transaction agreements, leases, licenses, rental agreements, permits, easements, security instruments, UCC financing statements, fixture filings, documents pertaining to litigation, encroachments, disputes (including boundary line disputes), prescriptive rights, a description of any work

performed on or use made of the property by parties other than the landowner, and other documents and information that OWEB determined are reasonably necessary to review before disbursing grant funds.

Grantees are strongly encouraged to seek the assistance of experienced attorneys and to work closely with OWEB staff throughout the due diligence phase of the acquisition. Applicants are encouraged to consider OWEB due diligence review needs when establishing timelines in purchase agreements and contracts for due diligence items to ensure all project requirements are reviewed and completed within the 24-month time period for closing.

## Conservation Easement Template and Review

Working Land Conservation Covenant and Easement acquisitions require the use of a conservation easement/covenant consistent with OAHP's requirements, rules, and policies. A working land conservation covenant or easement purchased with OAHP funds must preserve and protect the continued use of a working land for agricultural purposes and maintain or enhance fish and wildlife habitat, water quality, or other natural resource values on the land.

All OAHP conservation easement and covenants will require OWEB review and approval prior to the release of funds for the purchase. OWEB review, with assistance from the Oregon Department of Justice, is intended to ensure that the easement language is consistent with: (i) sound conservation easement drafting principles; (ii) OAHP statutes and rules; (iii) the grant application for the conservation easement; and (iv) the grant agreement for the Project. Revisions may be required based upon OWEB's review. OWEB will also require language regarding subsequent conveyances of the property interest that requires prior approval by the Commission; and that the conveyance comply with the requirements of ORS 541.977 – ORS 541.989 and OAR 698-010 and OAR 698-015.

OWEB has provided an example of a conservation covenant/easement which may be used to inform the development of the project proposed for OAHP funding on the OAHP webpage. Using the example is not mandatory. However, unless otherwise agreed by OWEB, highlighted text in the example easement must be included in any conservation covenant or easement purchased with OAHP funds. The language establishes the OWEB grantee as the party that is responsible for enforcing the conservation covenant/easement and meeting other obligations specified in the covenant/easement. The language also establishes OWEB's third-party right to enforce the conservation covenant/easement, stating that OWEB may initiate legal remedies available to address covenant/easement compliance issues, including recovery of the OWEB grant funds that were used to purchase the covenant/easement, together with interest. OWEB's intent is to enforce the conservation covenant/easement only if the OWEB grantee does not meet its obligations under the easement.

Where differences between the draft submitted for OWEB review and approval and the draft/plan submitted with the application exist, OWEB will request that the conservation easement holder provide an evaluation of the reserved rights to ensure that the proposed changes will not detrimentally impact the Property's conservation values. ***The applicant and landowner should be aware that revisions may be required based upon OWEB's review. The OWEB grantee is responsible for negotiating with the landowner to make any revisions required by OWEB.***

If zones are used to separate farming, ranching, and forestry activities from areas designated exclusively for habitat protection, the document must state the allowed and prohibited activities for each zone, and clearly define the location of each zone in the covenant or easement.

The use of building envelopes is encouraged for residential or agricultural structures, to identify the footprint within which buildings are located or may be constructed in the future. Applicants should work closely with landowners to identify appropriate locations for buildings to minimize disruption to the farm's agricultural and other identified conservation values. In general, OWEB encourages building envelopes to be near property edges and roads, where they won't degrade long-term viability of the farm or encourage estate-like development, thereby creating a property value more reflective of an estate, rather than a farm or ranch. Applicants must identify in the conservation easement the locations of building envelopes and allowed improvements and also on a site map, preferably by survey, that will become an exhibit to the easement. These locations should be identified, at least generally, at the time of application to allow reviewers to consider their impacts to the long-term viability of the working land and the other identified conservation purposes of the project.

A covenant/easement may reserve the right of the grantor or grantee to sell, give, or otherwise make available mitigation credits, wetland credits, carbon credits, habitat credits, species credits, and other types of credits as may be established in the future ("Ecosystems Services Credits"). However, in approving any provision for the reservation of Ecosystems Services Credits, OWEB will ensure consistency with its guidelines and policies, including that credits may not in any way be attributable to or derived from: (i) protections, restrictions, or obligations of the easement; or (ii) activities that are inconsistent with any terms of the easement or existing laws and regulations. OWEB's conservation easement example provides template language to incorporate into any easement deed utilized by a grantee.

When negotiating the terms of a conservation easement deed, the applicant and landowner should consult with their own attorneys and other technical and financial advisors to ensure that all legal requirements and any applicable Internal Revenue Service requirements are met as OWEB makes no representations and will not provide advice regarding the tax implications of these transactions.

## Access Requirements

Applicants must demonstrate to OWEB's satisfaction that sufficient legal and physical access exists to the property proposed for a covenant or easement to be acquired with OAHP funds and that this access can be legally used by the Holder for the purposes of monitoring the acquisition. Access must be in a form acceptable to OWEB. The easement deed or covenant shall include provisions stating OWEB and its designees will be provided with sufficient legal access to the property, given reasonable notice, for the purpose of completing covenant or easement inspections.

If the preliminary title report for the property reflects a lack of legal and physical access, the exception to title must be removed prior to closing, unless otherwise agreed by OWEB. While road access is typically a requirement, reasonable water access may suffice in certain situations.

A grant application may be submitted if legal and physical access does not exist at the time of application, subject to the applicant having a reasonable plan for securing legal and physical access prior to closing.

## Compliance and Enforcement

The ongoing use of the property encumbered by a covenant or easement that received funding from the OAHP Working Land Conservation Covenant and Easement Grant Program shall be consistent with the purposes specified in ORS 541.977-ORS 541.989. If significant compliance issues cannot be resolved to the full satisfaction of the Director, the Director, after informing the Commission and the Board and providing reasonable written notice to the Grantee, may in his or her discretion initiate any and all legal remedies available to OWEB, including recovery of the OAHP grant funds that were used to purchase the covenant or easement, and reasonable interest and penalties at the option of the Director. To this end, all conservation covenants and easements will include a third-party right of enforcement granted to OWEB.

## Stewardship Funding

OAHP funds can be used for the cost of securing and maintaining the agriculture and conservation values associated with the property and up to 50% match for the value of a stewardship fund, but program funds contributed to a stewardship fund may not exceed 5% of the total appraised value of the covenant or easement. Stewardship funds received by the Grantee will be detailed further in the Grant Agreement.

OWEB funds provided through the OAHP for contribution to a stewardship fund must be utilized as defined in OAR 698-015-0020(3), defined as a fund that is used to cover the holder's long-term costs for stewardship of the Working Land Conservation Covenant or Working Land Conservation Easement. If the funding source allows investment of stewardship funds, funds may be used for investment management costs. Stewardship, as it pertains to the use of stewardship funds, means management of the Working Land Conservation Covenant or Working Land Conservation Easement after its acquisition, including: monitoring, recordkeeping, processing amendments and landowner correspondence, managing stewardship funds, resolution of violations, enforcement actions, and defense

In general, Grantees will be required to provide annual monitoring reports that include a certification that the grantee has been monitoring the Conservation Easement or Covenant and any funds contributed by OWEB to the stewardship fund are being used in a manner that is consistent with OAR 698-015-0020.

## Land Use Information Form

The land use information form is required only for working land conservation or covenant projects that disturb land. Examples of land disturbance include remediating soil contamination detected during an environmental site assessment and treating invasive species during a project's site stabilization period. If land disturbance is planned as part of the project, the land use information form must be signed and submitted before the first grant payment request. If an unexpected need for land disturbance occurs, the form must be signed and submitted before the first payment request following the determination that land disturbance is necessary.

If applicable, applicants are required to submit OWEB's [Land Use Information Form](#) that has been signed by the appropriate planning official, either with the grant application, or upon a conditional funding award. The land use information is needed, in accordance with ORS 197.180, to determine if the proposed project

complies with statewide planning goals and is compatible with local comprehensive plans. The form can be found on [OAHP's webpage](#).

## Grant Agreement

Applicants conditionally selected to receive funding will be required to sign a standard form grant agreement soon after the Board awards funds. The release of the grant funds will be conditioned on the grantee meeting the requirements specified in the grant agreement and requirements for disbursement of funds detailed in OAR 698-015-0130.

## Good Standing Requirement

Any grantee that has not met reporting requirements or other obligations of any grant agreement it has with OWEB must become compliant with the obligations prior to executing a grant agreement for a new OAHP funding award. Delays in executing a grant agreement caused by outstanding reporting obligations may jeopardize a grantee's ability to close a transaction within the required 24-months from the date of the Board award. OWEB will not release grant funds to close a transaction if the grantee is not in compliance with all terms of the grant agreement and any outstanding management planning and reporting requirements under all grant agreements it has with OWEB.

## Availability of Grant Funds

If the OWEB Board makes a conditional funding award for a project, the funds will be held and made available for that project, consistent with the terms of the grant agreement, while the grantee fulfills the funding requirements.

## Budget Amendments

The project budget may be revised after an award of grant funds if approved by the OWEB project manager, who, in consultation with OWEB's Business Operations staff, will assess the reasonableness of revision requests and their consistency with OWEB's established requirements, guidance, and policies. Formal budget amendments will be required in accordance with OWEB's guidance document '[When a Budget Amendment is Required](#)'. This document is also located under [Manage Your Grant](#) on the OWEB website.

## At Closing

Grantees have 24 months after the award of grant funds to fulfill funding conditions related to the purchase of the property interest and to close the transaction. Grant funds for purchase of the property interest will be distributed only if the grantee meets all related grant requirements, and only if the purchase closes.

## Binding Commitment to Sell

The binding transaction agreement between the grantee and landowner must be submitted to OWEB for review. If the grantee is seeking compensation for a completed acquisition which qualifies for

reimbursement, the transaction agreement for the completed transaction must be submitted to OWEB for review. OWEB encourages applicants and grantees to use contemporary option or purchase and sale agreements when negotiating the purchase of the property interest. An [example of a purchase and sale agreement](#) is provided on the OAHP website. Use of the template is encouraged but not required, unless specified by the OAHC and the Board as a condition of a funding award. Whether or not an OWEB template is used, grant applicants should:

1. Understand that OWEB will require review of all appropriate due diligence information relevant to the conservation easement or covenant being purchased, including, but not limited to: appraisals; title reports; environmental site assessments; surveys; water rights documentation; rights of first refusal; option agreements; purchase and sale agreements; leases; licenses; rental agreements; permits; easements; security instruments; UCC financing statements; fixture filings; documents pertaining to litigation, encroachments, disputes (including boundary line disputes), or prescriptive rights; a description of any work performed on or use made of the property by parties other than the seller; and other documents and information that OWEB determines are reasonably necessary to review before disbursing grant funds.
2. Understand that OWEB will not be obligated to complete its due diligence reviews within the timeframes established in purchase agreements negotiated between grant applicants and landowners.
3. Ensure that the purchase agreement, including but not limited to the seller's representations and warranties, is consistent with OWEB's requirements for the conservation easement deed or covenant and all other due diligence items. The provisions of the purchase agreement must not diminish the agreements or outcomes established by any other due diligence items.
4. Become familiar with tenant relocation obligations that may result from an OWEB-funded acquisition. For more information, refer to the Relocation Guidance in this document.
5. Understand that the landowner may not play a role in the selection of the appraiser for an OWEB-funded project, or otherwise be involved in the appraisal process except to the extent described in OWEB's appraisal guidance.
6. Understand that OWEB requires sellers to sign OAHP's Landowner Acknowledgement Form, available on the OAHP webpage at the link above. The signed form must be submitted with the grant application.

## Appraisal

The purchase price for a property interest acquired with OAHP grant funds must be supported by an appraisal and an OWEB appraisal review, completed in accordance with applicable appraisal standards, including the Uniform Standards of Professional Appraisal Practice, [OWEB's appraisal guidance](#), and if required by another funding entity, the Uniform Appraisal Standards for Federal Land Acquisitions. OWEB will only reimburse funds for an appraisal that is approved by the state and used for the completed acquisition.

The grant applicant is responsible for selecting and hiring the appraiser and must be the sole client of the appraisal, unless OWEB agrees otherwise. OWEB must be listed as an Intended User of the Appraisal Report. Any appraiser preparing a report for use by OWEB after the grant application deadline may coordinate with OWEB staff to contact the OWEB review appraiser before beginning work to discuss any initial issues related to the appraiser's adherence to the OAHP appraisal guidelines.

Applicants are strongly encouraged to use the [OAHP appraisal contracting worksheet](#) when completing the scope of work for the appraisal (available on the OAHP webpage).

If the applicant is seeking grant funds to secure a termed conservation covenant, they should submit an appraisal for the value of a permanent conservation easement along with their application materials. OWEB will determine the value of the covenant based on the value of the permanent easement at a rate of 1% per year, e.g. a 30-year covenant = 30% of permanent easement value.

## Environmental Site Assessment

OWEB grantees are required to employ all appropriate inquiries to determine if real property, including any improvements, is subject to environmental hazards known as recognized environmental conditions. The inquiries must also be sufficient to determine if and how any recognized environmental conditions can be remediated to ensure that the purpose of the OWEB grant can be met. An Environmental Site Assessment (ESA) performed in compliance with the American Society for Testing and Material (ASTM) standards specified below will satisfy these requirements.

### Standards and Procedures

ESAs must be conducted by qualified third parties in compliance with ASTM standards issued under the fixed designation E1527 (Commercial Real Estate) or E2247 (Forestland or Rural Property).

OWEB grantees are responsible for working with their selected consultants to determine which of the two ASTM standards best accomplishes all appropriate inquiries for the property being assessed, and which version of the selected standards is in effect. Consultants must soundly explain the reason for their choice of standards, including the version of the standards, in the ESA or an accompanying cover letter. Grantees should contact OWEB staff with any questions about which ASTM standard to use.

The findings of a Phase 1 ESA may result in the recommendation of additional investigations, including, but not limited to, a Phase 2 ESA, to further assess environmental conditions. Grantees must consult with OWEB before proceeding to a Phase 2 ESA.

### Inspection and Report Requirements

If an ESA is conducted for more property than is proposed for OWEB funding:

- 1) The consultant must make a reasonable effort to inspect the area proposed for OWEB funding;
- 2) The report's text must clearly explain which findings pertain to the area proposed for OWEB funding;
- 3) The report's maps and figures must clearly delineate the area proposed for OWEB funding;
- 4) The report's text and maps must clearly indicate if and how any recognized environmental conditions found on any relevant parcel may affect any other parcel; and

- 5) OWEB may require grantees to obtain an updated ESA, depending on the findings or age of the initial ESA or events known or reasonably assumed to be occurring on a property. For example, if a property has an in-use farmstead that includes old fuel tanks that will remain in use until the grantee purchases fee simple title more than six months after the date of the ESA, OWEB may require the grantee to obtain an updated ESA.

## Encumbrances

A property interest acquired with OWEB funds must be free of encumbrances (e.g., reserved mineral rights or incompatible easement rights) that conflict with the purpose of the grant. Furthermore, mortgages and liens must be subordinated or paid off when a conservation covenant or easement is acquired.

### *Mineral Rights*

If the OWEB Board awards conditional funding for the purchase of a property interest in which mineral rights are held by a party other than the proposed seller of the property (i.e., there is a split estate), the grant agreement will require the grantee to make reasonable efforts to extinguish (see ORS 517.180) or acquire the mineral rights before OWEB funds are released. If a mineral reservation is suspected, in addition to obtaining an OWEB-required preliminary title report, grant applicants are encouraged to review property records maintained by the Bureau of Land Management and the Oregon Department of State Lands, as applicable.

If OWEB's grantee demonstrates that extinguishing or acquiring the mineral rights is not feasible due to the specific circumstances associated with those rights, OWEB may allow the grantee, at the grantee's expense, to contract for the services of an Oregon-licensed professional geologist or engineering geologist whose license is in good standing and who possesses the skills and experience necessary to: (i) assess the likelihood that the mineral resources, if any, associated with the mineral rights will be developed; and (ii) describe the likely impacts, if any, of the mineral resource development on the conservation values intended to be protected by the OWEB-funded acquisition project. Upon review and approval of the geologist's assessment, OWEB may reimburse the grantee for the cost of the assessment, if the assessment is included in the approved project budget.

#### **The objective of the geologist's assessment is to conclude that:**

- The probability of surface mining on the property that is the subject of the OWEB grant is so remote that it is negligible; and
- The exploration or extraction of subsurface resources associated with the mineral rights (e.g., oil, gas, coal bed methane or geothermal resource) through means other than surface mining (e.g., extraction wells) either: (i) is of such remote probability that it is negligible; or (ii) would likely be limited to activities that would not materially affect the agricultural and habitat conservation values that are intended to be protected by the OWEB-funded acquisition project.

#### **The geologist's assessment must contain and consider the following information at a minimum:**

- The specific mineral right(s) severed from the surface estate as identified in the preliminary title report for the property that is the subject of the OWEB grant, including the current holder of the right(s);

- The aerial extent of the severed mineral rights on, and as applicable, adjacent to, the property that is the subject of the OWEB grant;
- The geologic characteristics of the overall geographic area considered by the assessment, along with the mineral commodities (fuel and non-fuel) typically associated with that geologic environment;
- The known presence of non-fuel mineral commodities (e.g., aggregate, gold, etc.) and fuel mineral commodities (e.g., oil, gas, coal bed methane) in the general vicinity of the property that is the subject of the OWEB grant;
- The most recent activity, if any, related to the mineral rights (e.g., title transfer, lease activity) or to the mineral commodities associated with those rights (e.g., seismic exploration);
- Historic and current exploration, mining and extraction activities near the property that is the subject of the OWEB grant, or elsewhere in the region, if relevant;
- Infrastructure that is available to develop and market the mineral resources or plans to develop the necessary infrastructure;
- The feasibility of obtaining permits and any other authorizations necessary to exercise the mineral right(s);
- Mitigation and restoration actions that will likely be required in association with the mineral resource development and how those requirements will relate to the conservation values intended to be protected by the OWEB grant; and
- Other reasonably necessary information to determine the probability of mineral resource development affecting the property that is the subject of the OWEB grant, and the likely impacts of the resource development on the conservation values intended to be protected by the OWEB-funded acquisition project.

The report format: (i) can be flexible; (ii) must include a clear and concise conclusion regarding the probability, type, and extent of impacts from mineral development on or under the property that is the subject of the OWEB grant; and (iii) should incorporate information obtained from reasonable literature reviews, as well as from consultation with knowledgeable individuals relative to the key matters addressed in the assessment (e.g., real property, economic, ecological and permitting matters).

## Title Insurance

A property interest acquired with OWEB funds must be insured in a manner and for an amount which sufficiently insures OWEB's investment.

Boilerplate title defect provisions are contained in the [example conservation easement](#), available on the OAHP webpage. The boilerplate assumes that if an applicant is seeking OWEB funds as a reimbursement for a prior purchase of a property interest, the title company will update the applicant's existing title insurance policy to address any OWEB requirements, such as the removal of a lien at the time OWEB's funds are released. If the title company will not update the applicant's existing title insurance policy, the applicant may be required to purchase a separate policy for OWEB. The applicant should consult with their title company for an understanding of the company's procedures and fees and refer to [OWEB's budget guidance \(GoBig\)](#) for information about allowable closing-related costs for projects that include a prior purchase of a property interest.

## Relocation of Displaced Persons

OWEB has certain responsibilities under the Relocation of Displaced Persons statutes (ORS 35.500-35.530) and the federal Uniform Relocation and Real Property Acquisitions Policies Act of 1970 (Uniform Act). Specifically, business and residential tenants that are displaced as a result of an OWEB-funded acquisition may be eligible for advisory services and relocation benefits. Landowners are not eligible for relocation services or benefits in association with OWEB-funded acquisitions, which are voluntary transactions.

OWEB is responsible for providing relocation services and benefits in accordance with applicable laws. Any relocation costs will be paid by OWEB outside of grant awards. Lawful tenants will be eligible for relocation services and benefits when the property is purchased or upon receiving a notice to vacate the property, whichever occurs sooner. Relocation-related costs incurred by tenants prior to the eligibility date may not qualify for reimbursement by OWEB.

### **The grant applicant is required to:**

1. Submit a fully executed Landowner Acknowledgement Form with the grant application. The form is structured to meet the requirements of the Uniform Act and applicable State law related to voluntary acquisitions. Specifically, to qualify as a voluntary acquisition, the seller must: (i) be advised in writing that the property will not be acquired if negotiations fail; and (ii) be provided with a written estimate of the property value and the basis of that estimate.
2. Inform OWEB, in the grant application, of any tenants on the property and cooperate with OWEB to determine the estimated time, effort and cost that will be associated with OWEB fulfilling relocation obligations, if any, to tenants if the grant is awarded.
3. If the grant is awarded, agree to a condition in the grant that requires the grantee to allow any tenants to remain on the property until OWEB has fulfilled its statutory obligations, if any, regarding relocation of displaced persons.

Prior to closing, grantees must not act independently of OWEB on any matters pertaining to tenants on a property for which OWEB has granted land acquisition funds. If tenants exist on the property, or the potential exists for tenants on the property before the property is purchased (or conservation easement is purchased on the property), the grantee must cooperate with OWEB's efforts to: 1) Determine whether existing tenants may be eligible for relocation advisory services or benefits; 2) Provide initial information to tenants who may be eligible for relocation advisory services or benefits; 3) Advise existing tenants not to vacate the property until OWEB has fulfilled its statutory obligations, if any, regarding relocation of displaced persons; 4) Avoid relocation obligations under any new tenancies; and 5) Complete other efforts necessary to comply with relocation laws.

If OWEB's grantee is a local government that has demonstrated the experience and capacity to provide relocation benefits to tenants, OWEB, subject to approval by the grantee and the Oregon Department of Justice, may elect to delegate all or a portion of relocation duties to the grantee. Details of any such arrangement would be specifically provided in the OWEB grant agreement.

## Access

If the OWEB Board awards conditional funding for the purchase of a covenant or easement, the grant agreement will require that both the grantee and OWEB are provided legal and sufficient access to the property encumbered by the covenant or easement. Access must be in a form acceptable to OWEB and include the right of access over other land owned by the seller of the covenant or easement if the encumbered area does not have direct legal and sufficient access.

If the preliminary title report for the property reflects a lack of legal and sufficient access, the exception to title must be removed prior to closing, unless otherwise agreed by OWEB.

## Legal Description and Survey

All conservation covenants and easements may require a legal description of the conservation easement boundary and management zones, and a survey map appropriate for recording as an exhibit to the covenant or conservation easement deed. Survey matters must be completed in accordance with applicable law and in a manner that is acceptable to OWEB. Applicants are encouraged to discuss survey matters with OWEB staff before initiating survey actions. Survey costs are allowable costs and should be included in the grant application, detailing the amount the grantee is requesting from OWEB.

## Water Rights

If an applicant is proposing to acquire a conservation covenant or easement with the authority to use appurtenant water rights, the use of those rights shall be consistent with the terms of the conservation covenant or easement, including use of water for agriculture, habitat restoration or in-stream purposes. Grantees may be required to take specific actions necessary to comply with this expected outcome as a condition of a grant award, including but not limited to, providing current water rights information in table form. The water rights information table should include applicable certificate or other identifying numbers, acreages, authorized use, and notes as necessary to understand the evolution of a particular water right. The information in the water rights table should be easy to cross-reference to the water rights maps submitted with the grant application.

## Confidentiality

OWEB understands that much of the information provided in support of an OAHP Working Land Conservation Covenant or Easement grant will contain sensitive details. Applicants should consider that Oregon Public Records law provides that, in general, any document used or retained by a public agency is a public record subject to disclosure in response to a public records request unless an exemption applies. In general, OWEB will make all its public records, not otherwise exempt from disclosure by law, available for inspection and copying during regular business hours as described in OAR 695-003-0020(3). Many of the exemptions to disclosure in Oregon Public Records law are conditional exemptions where, when presented with a public record request, the public agency must weigh the public interest in disclosure against the agency and public interest in nondisclosure. ORS 192.345 lists the categories of public records conditionally exempt from disclosure in a particular instance. This list includes, but is not limited to, “trade secrets” (192.345(2)), production and business records (192.345(5)), information relating to the appraisal of real estate prior to its

acquisition (192.345(6)), and information regarding habitat, location or population of threatened or endangered species (192.345(13)). In the event of a public records request related to any of these documents, OWEB will inform the applicant of the request and will analyze whether public records law requires disclosure.

# Appendix A

## Appraisal Guidelines and Supplemental Standards

### *Oregon Watershed Enhancement Board*

#### Introduction

These appraisal guidelines and supplemental standards are meant to ensure high quality appraisals that provide a sound basis for OWEB grants for the acquisition of property interests. They provide information about the appraisal process as well as OWEB-specific requirements which the OWEB grantee and the appraiser must follow. OWEB requires that all appraisal reports adhere to the current version of the Uniform Standards of Professional Appraisal Practice (USPAP) as published by the Appraisal Foundation and in certain cases, to the current version of the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA) a.k.a. “The Yellow Book” as well.

#### 1. Intended User and Intended Use

OWEB must be an intended user of any appraisal submitted to support an OWEB grant. Any other public entity that will fund the acquisition should also be an intended user of the appraisal. Intended users of the appraisal must be limited to OWEB and other funders of the acquisition. The appraisal’s intended use must be limited to valuation support for the appraisal client’s OWEB grant and grants of other funders, as applicable.

If other public funders are possible but not confirmed at the time of the appraisal, the OWEB grantee should inquire whether the appraiser is willing to include “other public funders, if any, later identified” as intended users of the appraisal.

The OWEB grantee’s supplemental assignment instructions must require the appraiser to distribute copies of the appraisal report to the client and intended users and authorize the appraiser to discuss the appraisal with the intended users. If any intended users have specific supplemental standards they expect to have addressed in the appraisal, the grantee and the appraiser should make themselves aware of such supplemental standards and appropriately include them within the appraisal report as intended by such Intended User.

The appraisal must include a copy of the engagement letter and any supplemental assignment instructions in the report addenda.

#### 2. Client of the Appraisal

The OWEB grantee is responsible for selecting and hiring the appraiser and must be the sole client of the appraisal. The property owner may not be involved in the appraisal process, except to the

extent allowed under *Involvement of the Property Owner*, below. OWEB grantees are expected to uphold the highest level of professional and ethical conduct during the appraisal process. Grantees must not attempt to influence an appraiser's analyses or valuation conclusion, nor encourage any other party to exert such pressure on the appraiser.

### 3. Appraiser Qualifications and Selection

The appraiser must be an Oregon state-certified appraiser with geographic competency in the area he or she is appraising as well as recent experience appraising similar property types and property interests. If the project entails a partial acquisition, the appraiser should also have experience in "before and after" valuation. In addition, if UASFLA applies, the appraiser should have successfully completed a UASFLA appraisal course from a recognized appraisal education provider within the last 5 years and include a statement in the appraisal certifying which course(s) the appraiser completed and the date(s) of completion. If the project involves the appraisal of a conservation easement, the appraiser must provide documentation of their completion of a conservation easement valuation, eminent domain appraisal course, or Yellow Book course.

While not intended to be a specific appraiser qualification requirement, the OWEB grantee is encouraged to request from the appraisers they are considering hiring, statements regarding: (i) Properties similar to the subject property they have appraised in the past three to five years; (ii) Properties in the general locale of the subject property they have appraised in the past three to five years; (iii) UASFLA appraisal assignments they have completed within the past three to five years involving properties similar to the subject property; and (iv) confirmation of the appraiser being in good standing with the Oregon Appraiser Certification and Licensure Board.

If federal funds from the U.S. Fish and Wildlife Service's (USFWS) Coastal Wetlands Conservation Grant Program (Coastal Wetlands Program) will be used for the acquisition, and an appraiser training is available online from the Appraisal and Valuation Services Office (AVSO) of the U.S. Department of the Interior, the appraiser should take the training, or confirm prior completion of the training, before beginning work on the assignment. It is the OWEB grantee's responsibility to work with OWEB to determine whether an online training is available.

The OWEB grantee's supplemental assignment instructions must require the appraiser to include a copy of their appraiser certification from the State of Oregon in the appraisal report.

Listings of potentially qualified appraisers may be obtained from the following sources:

- Land trusts that have completed similar OWEB-funded land acquisition projects.
- OWEB's acquisitions staff. The staff will facilitate contact with OWEB's review appraiser, who can provide names of appraisers who are experienced in the appraisal of rural properties. OWEB's review appraiser will not recommend a specific appraiser.
- American Society of Farm Managers and Rural Appraisers (ASFMRA) at <http://www.asfmra.org>

- Appraisal Institute at <http://www.appraisalinstitute.org>
- AgWest Farm Credit Services at [Home - AgWest Farm Credit \(agwestfc.com\)](http://www.agwestfc.com)

## 4. Information from the Client

### ***Responsibilities***

It is the responsibility of the OWEB grantee, who is the client of the appraiser, to provide the appraiser with this document and guidance, if any, from other entities that will fund the acquisition. If appraisal guidance of any other party conflicts with OWEB's appraisal requirements, the appraiser should consult with OWEB's Review Appraiser to determine an appropriate course of action regarding the inconsistency.

The OWEB grantee is also responsible for providing the appraiser with all pertinent information about the property, including physical, economic, and legal characteristics; property sales and use history; and the property rights to be appraised. Typical items to be provided include a current preliminary title report (PTR); plot plans, maps, or surveys; water rights information; and signed agreements or contracts. The OWEB grantee should promptly provide new or updated property information to the appraiser.

The OWEB website contains an Appraisal Contracting Worksheet, designed to assist grantees in giving information to the appraiser. The worksheet provides a format for organizing relevant information including that pertaining to merchantable timber, mineral estates, and water rights. The worksheet is located on both Oregon Agricultural Heritage Program page on the OWEB website. OWEB expects the grantee to provide all relevant property information to the appraiser at the beginning of the appraisal assignment, including any supplemental appraisal requirements from each funding source, to avoid appraisal cost increases caused by separately incorporating previously overlooked information.

### ***Timber Data***

If the property includes merchantable timber of contributory value, a current, complete timber inventory including a qualitative analysis must be provided to the appraiser. The inventory may include raw data collected by the seller. However, the data must be verified and analyzed by an independent third party, free of any involvement by the seller.

### ***Preliminary Title Report***

An appraisal's title information should be consistent with the current PTR for the property. If the OWEB grantee thinks the PTR is in error, the grantee should obtain corrections from the title company before engaging the appraiser. The grantee should not address errors in the PTR by having the appraiser make an extraordinary assumption or rely on a hypothetical condition that is contrary to the information in the PTR (see Section 13, As-is Market Value Appraisals). Preliminary title reports are the most complete account of a property's title condition. OWEB prefers the appraisal's

title information to be consistent with a current PTR, rather than a Status of Record Title. However, if a PTR cannot be obtained prior to the commencement of the appraisal, the Grantee must require the title investigation include access rights and water rights information. If the Grantee is aware of a property condition that is crucial but may not be clarified in the title investigation, it should address these issues before the completion of the appraisal report.

If the legal description in the title documentation does not describe the property or conservation easement intended for purchase, then: (1) the OWEB grantee should inform their selected appraiser that the legal description in the title documentation includes additional property owned by the seller; (2) the grantee should provide the appraiser with the legal description of the property or conservation easement intended for purchase as prepared by a qualified person or, if such legal description has not yet been prepared, provide the appraiser with sufficiently accurate maps and land sizes to identify the property or conservation easement intended for purchase, and in cases of a before and after appraisal, the same information as related to the after condition; and (3) the grantee should provide the appraiser with a comprehensive description of the land use actions that must occur to create a discrete legal parcel for purchase by the grantee if the appraisal is for the purpose of determining the fair market value of a fee acquisition. During the time the appraisal is being prepared, if the legal description becomes available for the property intended for purchase, the grantee should provide the appraiser with the legal description, for inclusion in the appraisal report.

## 5. Consultation with OWEB Review Appraiser

Any appraiser preparing a report for use by OWEB after the grant application deadline should contact the OWEB Review Appraiser before beginning work to discuss the appraiser's approach to the appraisal problem and clarify any issues before beginning the assignment. Appraisers should ask their clients for the Review Appraiser's contact information, which OWEB staff will provide.

It is highly recommended, but not required, that appraisers preparing reports prior to the grant application deadline also consult with the OWEB review appraiser, if the client is certain that they will submit an OWEB grant application.

## 6. Role of the OWEB Review Appraiser

All appraisal reports submitted to OWEB must be reviewed and approved before they may serve as a basis for an acquisition grant. Once the appraisal assignment is complete, a copy of the appraisal report will be given to OWEB's Review Appraiser for technical review. Appraisers must agree to work with the OWEB Review Appraiser as needed to obtain an approvable report. In addressing any corrections requested, the report's principal appraiser will be required to communicate directly with the OWEB Review Appraiser.

OWEB may share review appraisals with match funders, if the engagement letter also states that the match funders are intended users of the appraisal.

## 7. Involvement of the Property Owner

If a UASFLA report is being prepared, the appraiser is required to give the property owner or designated representative of the property owner the opportunity to accompany the appraiser on the property inspection. This practice is also recommended for USPAP reports. The property owner is also invited to present pertinent information regarding property characteristics, history, and current uses as well as relevant area sales if known during the appraiser's interview with the owner.

## 8. Appraisal Standards

The report must be written to USPAP standards using OWEB's supplemental reporting standard (see Section 22 below). The supplemental reporting standard applies only to USPAP reports. If federal funds will be used for the property purchase, a UASFLA appraisal may be required. UASFLA specifies its own reporting requirements. Both are aimed at presenting a logical narrative with adequate supporting data. If preparing a UASFLA-compliant appraisal report, the appraisal should rely on the market value definition as contained within UASFLA. If the appraisal is not intended to be UASFLA compliant, but instead USPAP compliant, the definition of market value should be that which is recommended in the Oregon Department of Transportation (ODOT) Guide to Appraising Real Property.

## 10. Scope of Work

The appraiser's scope of work must result in credible assignment results for the intended use.

## 11. Date of Valuation

The date of valuation should be the date of final inspection. OWEB grantees are encouraged to ensure that the date of valuation is no more than 60 days apart from the date of the appraisal report. Furthermore, the report delivery date should be no more than 120 days from the date of the report.

## 12. Property Inspection

The appraiser must make an onsite inspection of the appraised property. Giving the property owner, or property owner's representative, the opportunity to accompany the appraiser on the property inspection is required by UASFLA and OWEB supplemental standards.

## 13. "As-is" Market Value Appraisals

OWEB requires that appraisals must be "as-is" market value appraisals using all applicable approaches to value. Therefore, any assignment conditions, or "extraordinary assumptions" or

“hypothetical conditions” developed as a part of the appraisal project must be discussed with the OWEB Review Appraiser and preapproved for use in the report. An exception to this rule is that if the transaction involves a conservation easement valuation, the appraiser must assume a hypothetical condition in the after valuation: that the property is already encumbered with the easement (see Section 16 below). Preapproval of this hypothetical condition is required only if the project will be funded by the Coastal Wetlands Program.

## 14. Highest and Best Use

The appraiser must base the highest and best use of the property on an economic use. A non-economic highest and best use, such as *conservation, natural lands, preservation*, or any use that requires the property to be withheld from economic production in perpetuity, is not a valid use upon which to estimate market value. Nor may a highest and best use be speculative or conjectural. A highest and best use requires showing reasonable probability that the land is both physically adaptable for such use and that there is an economic need or demand for such use in the reasonably near future. A point-by-point highest and best use analysis is required in the report covering the four tests of physically possible, legally permissible, financially feasible, and maximally productive.

## 16. Appraisal of Conservation Easements

The following additional guidelines apply to the appraisal of conservation easements.

- All conservation easement appraisals will be based on the “before and after” methodology. The appraiser may refer to UASFLA or to the Appraisal Institute’s or ASFMRA’s courses on appraising conservation easements for further guidance.
- The “substantially agreed upon” or final copy of the conservation easement must be provided to the appraiser. Changes in the document will require the appraiser be given an opportunity to consider and address any possible impact to the valuation. The appraiser must assume a hypothetical condition in the after valuation, that the property is already encumbered with the conservation easement. The Grantee **must** obtain OWEB’s initial agreement on the terms of the conservation easement prior to obtaining the appraisal.
- All other documents pertaining to the property’s conditions and anticipated uses under the conservation easement including, but not limited to, wetland inventories if any, draft baseline inventory documentation, the draft management plan or management plan outline, easement zone maps, and zone acreages should be provided to the appraiser.
- Comparable sales used in the “after” valuation should be properties similarly encumbered, if possible. A larger geographic search is typical.

## 17. Property Photographs and Maps

Required map exhibits include an aerial photo with parcel boundary overlay, assessor's plat map, and a topographical map. The appraiser should also include other illustrative maps as appropriate (plot plan, soils, wetlands, floodplain, location/access, proposed conservation easement configuration etc.) Color photos taken at ground level should show both the exteriors and interiors of major improvements, views of road access to the property, any significant or unusual features, and views of the property's land types taken from enough locations to provide an adequate understanding of the property's physical characteristics to someone who has not visited the property.

## 18. Data Analysis

The appraiser must include a separate narrative for each comparable sale explaining what value it indicates for the subject, together with an overall summary conclusion. The preferred method of adjusting comparable sales is through supported quantitative adjustments (percentage, \$/acre, etc.); qualitative adjustments (similar, inferior, or superior) are to be used only when the market variables cannot be quantified. Quantitative adjustments without support cannot be accepted. When the appraiser must resort to qualitative analyses, a discussion of the appraiser's reasoning why a comparable sale is similar, inferior, or superior to the subject property is required. A summarization of the appraiser's analysis in an adjustment grid is highly recommended and may allow for a more concise narrative. The final reconciliation must clearly state which indicators of value are the most reliable and explain how each indicator affects the appraiser's final conclusion of value.

## 19. Limited Market Conditions

OWEB recognizes that the appraisal assignment may involve a limited or inactive market. To the extent possible, the appraiser should use only private transactions for comparable sales. Valuations based entirely or mostly on government or land trust transactions are not acceptable unless there are no other reasonable alternatives. If it is necessary to base the appraisal on such transactions, their confirmation is subject to the requirements of UASFLA Sections 4.4.2.4 and 4.4.2.4.2(5), (6) and (7). If market data is limited in the market area of the subject property, it may be necessary for the appraisal to include additional market analysis to support the highest and best use conclusion.

## 20. Analysis of Agreements Impacting the Subject Property

The appraiser must analyze and report all listings of the subject property, and all agreements of sale and options, including any such agreements into which a grantee has entered, all as of the effective date of the appraisal. Any contracts with the Natural Resources Conservation Service (NRCS), such as

Conservation Reserve Program (CRP) or Conservation Reserve Enhancement Program (CREP) entitlements should also be analyzed.

## 21. Report Format

For USPAP reports, the narrative may follow the outline published by the Appraisal Institute<sup>[11](#)</sup>. For UASFLA reports, the narrative must follow the outline provided in Part 2, Appraisal Reporting of the current UASFLA. Appraisal reports submitted to OWEB must be in final form and signed by the appraiser.

If a grantee receives an appraisal, and before transmitting it to OWEB, the appraiser changes any of the appraisal's value conclusions, both the original appraisal and the revised appraisal should be forwarded to OWEB.

## 22. Supplemental Reporting Standard

As a public agency, OWEB requires full explanation and complete analyses to support stated value opinions. Therefore, for USPAP reports, OWEB will continue to require a self-contained report as defined in the 2012-2013 USPAP, Standard 2-2(a) regardless of subsequent reporting definitions in the 2014-2015 USPAP and later versions thereof. UASFLA reports must meet the standards described in Part One (Appraisal Development) and Part Two (Appraisal Reporting). Areas that are sometimes overlooked but are expected in a UASFLA report include:

- Title report exceptions and their potential impact on value
- Type and extent of any water or mineral rights and their potential impact on value
- Area/neighborhood description including land use pattern and economic trends
- A detailed description of access to the property, both physical and legal, including directions to the nearest major arterial
- For partial acquisitions, a determination of the larger parcel with consideration given to all three elements of ownership, use, and contiguity
- Point-by-point highest and best use analysis
- Full explanation of exclusion of any approaches to value (per USPAP 2-2 (a) (viii))
- Either a full narrative of how each sale compares to the subject and the value indication thus derived, or a shorter narrative supplemented using Adjustment Grids for the Valuation Analyses (preferred)
- Proper analysis of the sales defining the value components recognized in the marketplace and analyzing the contribution each makes to the entire sales price. For rural properties, components would typically include irrigated cropland, dry cropland, pasture, woodlot, floodplain, or bottomland, etc. Other common allocations include home sites, residences, and outbuildings.

## 23. Waiver from Reporting Standard for Low-value USPAP Reports

The standard for self-contained reports is waived if the appraisal problem is uncomplicated<sup>[2]</sup> and the property is estimated by the OWEB grantee to be worth less than \$100,000 based on current comparable sales within the applicable market area. This waiver only applies to fee acquisitions.

## 24. Comparable Sales Data

Under both the USPAP self-contained and UASFLA reporting standards, complete comparable sales write-ups are required with analyses/allocations of the contributory value of the various property elements. Documentation of each comparable sale should include the following information, which should be summarized for each sale on comparable sales sheet and included in the report or in the addenda of the report

- Name of buyer and seller
- Date of sale
- Legal description or tax parcel number
- Type of sale instrument
- Document recording information
- Price
- Terms of sale
- Location
- Zoning
- Present use
- Highest and Best Use (intended use)
- Brief physical description of the property
- Allocation of the sales price into appropriate contributory components
- A description of pertinent circumstances surrounding the transaction including buyer motivation
- Photograph (on the ground or aerial with property boundary delineation; aerial is preferred)
- Plat map and/or topo map of the property
- Name and phone number of the party that confirmed the transaction and the party's role in the transaction

## 25. Comparable Sales Location Map(s)

Sales map(s), showing the relative location of the comparable sales in relation to the property being appraised are required. Either this map or the maps used for each comparable sale should be detailed enough to locate the property on the ground using Google Maps or other digital mapping programs.

<sup>[1]</sup> The Appraisal of Real Estate, 15th Edition, Appraisal Institute, 2020

<sup>[2]</sup> Definition of “Uncomplicated” is as follows:

- No change of Highest and Best Use.
- No Damages other than “Cost to Cure.”
- The property consists of only one land type.
- Cost or Income approach to value not required to estimate value.

## Appendix B

# Baseline Documentation Report Guidance

## *Oregon Agricultural Heritage Program*

### Introduction

OWEB requires Oregon Agricultural Heritage Program (OAHP) working lands conservation easement and covenant grantees to develop Baseline Documentation Reports (a “BDR”) for all conservation easements or covenants in which OWEB invests grant funds. A BDR must be incorporated by reference into a conservation easement or covenant purchased from a private landowner by an OAHP Working Lands Conservation Easement or Covenant grant recipient.

A BDR records the property’s existing physical conditions, natural and human-made, at the time the conservation easement or covenant is executed. The information provides the baseline for measuring changes in the condition of the property’s conservation values and other features.

The contents of a BDR depends on the terms of the conservation easement or covenant, the property’s features, and the conservation objectives for which OWEB has awarded funding. At a minimum, a BDR must include the items below to be approvable by OWEB. Additional information may need to be included in the BDR to meet Federal Treasury requirements.

OWEB encourages grant applicants to include the cost of preparing a BDR in their proposed project budget if necessary to ensure that adequate resources are available to produce a document that meets OWEB’s requirements.

### Minimum BDR Requirements

The information in the BDR must clearly differentiate the conservation easement or covenant area from the larger property when a conservation easement or covenant does not encumber an entire property. Where necessary for context and completeness, the BDR should include information both about the encumbered area and the property when the two differ.

#### I. General Contents

- Purpose of the conservation easement
- Date BDR was prepared
- Date of BDR site visit and photographs, if different than BDR preparation date
- BDR authorship and authorship qualifications
- Landowner contact information (name, address, phone numbers)

- Land manager contact information, if different than landowner
- Physical address of the property, including the county
- Directions to the property from the nearest town or major highway

## II. Property Description and Data

- Acreage
- Township, Range, Section, tax lot numbers, and legal description
- Physical setting – a general description of the area surrounding the property, including adjacent land uses
- Historical ownership and use – a description of the history of the property, including past land uses such as agriculture, forest management, wildlife management, and residential
- Present land use – a description of the property’s current zoning and uses such as agriculture, forest management, wildlife management, and residential
- Appurtenances, including any access easements and water rights that benefit the property
- Encumbrances on the property’s title, with descriptions linked to document recording numbers or book and page numbers if document recording numbers were not assigned
- Existing development – a description of all human modifications to the property, such as structures, roads, trails, ditches, fences, and utility lines
- Conservation values – a description of the agricultural, natural resource, and ecological features and conditions that will be protected by the conservation easement or covenant. The agricultural resources, ecological systems, plant communities, and species, and acreages if applicable, must be documented and consistent with those stated in the OWEB grant application and conservation easement or covenant. The conservation values must be described in objective and specific terms, using quantitative information collected onsite (e.g., biological survey data) as appropriate for tracking changes in conditions over time.
- A description of any observed threats to the conservation values, such as invasive species, evidence of trespass, and erosion. The information should be presented in objective, specific terms, including quantitative data as appropriate for tracking changes in conditions over time.
- In this BDR guidance, an invasive plant refers to any plant, non-native or native, that may degrade the property’s conservation values. Invasive plants must be mapped as described in the Maps section below. An estimate of the abundance of each species must be provided, either as density (number of plants per area) or percent cover of each species per mapped polygon. Abundance estimates assist in detecting and responding to an increase in invasive plants.
- Survey and GPS data (e.g. plant surveys, boundary data).

- If a prior assessment of the property (e.g., rangeland assessment, invasive plant survey, wetland delineation) is being relied on, the assessment must be:
  - Prepared no more than 18 months before the BDR
  - Appended to the BDR; or at a minimum, incorporated into the BDR by reference and a statement that the assessment will be kept together with the BDR (see BDR Format, below)

### III. Photographs and Drone Images

- Consistent monitoring methods assist in detecting and understanding property changes and implementing timely adaptive management strategies. OWEB expects grantees to monitor properties using the same methods as the BDR. For example, if the BDR includes drone images, the grantee should replicate the drone images when monitoring the property. Grantees must maintain inhouse capacity, resources for a contractor, or the assistance of a partner organization for obtaining drone images. Non-drone aerial images (e.g., satellite and fixed wing airplane images) are not accepted, except for use as imagery for basemaps.
- More information about drone images is provided below.
- Photographs of features on the property, including all of the following as applicable: houses; barns; other structures; fences; roads; utility lines; trails; areas of potential restoration or future land use change (e.g., site of allowed future kiosk construction); threats or impacts present at the time of the BDR (e.g., an unauthorized trail used by trespassers or a dumping area); and priority ecological systems, plant communities, and other features identified as conservation values in the grant application and conservation easement or covenant.
- Photographs must be taken at a distance that is appropriate for clearly depicting the features and conditions at the photo point.
- Photographs must be accompanied by directional notations and a label that describes what the photos depict.
- Photographs must be taken in the four cardinal and four ordinal directions when documenting 360-degree conditions.
- All photographs must be accompanied by GPS coordinates and the location of the photographs must be depicted on a map (see Maps, below).
- The amount of photo documentation that is appropriate for a property depends on the size and features of the property. For example, a large property that contains extensive infrastructure and ecological variation will require more photographs than a small property that lacks infrastructure. -Grantees should consult with OWEB staff regarding a plan to photograph the property's features. The goal will be to ensure agreement on the extent of

photographs that is necessary for monitoring conservation easement or covenant compliance.

- Grantees should consult with OWEB staff regarding organization of the BDR’s photographs. For a large property with numerous photographs, it may be more effective for the photographs be grouped by type or by zones or areas of the property, with a map of photo points for each grouping. The goal is to ensure that the photographs are clearly linked to photo points on a map and the scale allows the map to be easily read.
- Drone images may be included in the BDR, subject to the following conditions:
  - Drone images alone are not adequate to capture all features of a property. Ground photographs must be used for features that can only be clearly depicted on the ground, including but not limited to structures, property boundaries such as entrances where trespassing is possible, instream habitat structures, site conditions under dense canopy cover, and any threats visible only at ground level. Drone-based photos may be appropriate for capturing conditions at the landscape scale (e.g., juniper thinning, floodplain inundation).
  - Drone images must be still images. Videos are not accepted.
  - The spatial resolution of drone images must be sufficient to clearly discern features required by this BDR Guidance.
  - Drone images must be accompanied by a repeatable flight plan that includes GPS points. A screenshot of the flight plan with flight altitude above ground (e.g., 200 ft), photo numbers, and the direction of view of each photo must be included in the BDR. A map of the property showing the location of each flight plan must also be provided to locate each flight plan relative to the rest of the property. Drone software must be used to document the path, angle, elevation and other important aspects of the drone flight and photography, so that images are repeatable. The grantee must have the capability to store drone images and metadata so further flights can be replicated.
  - All drone images must include captions that describe site features captured by each photo.
  - The grantee’s stewardship fund must include funds to obtain drone images, such as the cost of a drone contractor, or the cost of the drone, drone-related software, staff technical expertise, time required for flights and post-flight image analysis, time required for staff to complete the FAA Remote Pilot Certification process to be legally allowed to fly a drone, and the cost of providing drone images to OWEB every five years. If the stewardship calculator provided with the grant application does not include these expenses, the grantee must update the calculator to incorporate the

expenses and secure additional stewardship funds to ensure adequate resources for drone images over time.

- Use of drones requires grantees follow [Federal Aviation Administration \(FAA\) Guidance on Drones](#) and comply with any state, county, local, or tribal laws and regulations related to the use of drones.
- The BDR for conservation easement and covenant projects must include the landowner's agreement to all future drone use that is necessary to replicate drone images (see BDR Use and Acceptance and Acknowledgement, below).

#### IV. Maps

- General location map
- An aerial-photo-based map of the property, depicting conservation easement or covenant boundaries and features listed above, as applicable; (multiple years of aerial photos are useful for understanding the property's history)
  - If property features or encumbrances are numerous, more than one map may be necessary for readability. Encumbrances must be labeled by document recording number, or book and page numbers if a document recording number was not assigned.
- Map(s) depicting the location of photo points
- If drone images are included in the BDR, include a map of the property showing the location of each flight plan, to locate each flight plan in the context of the property
- Map of the conservation easement or covenant area in the context of the larger property, if the encumbrance does not cover the entire property
- Map of conservation easement or covenant zones or other areas with special allowances or restrictions, if applicable
- Topographical map
- Soils map
- Map depicting the location and extent (polygons) of priority natural resource and/or ecological resources as determined by GPS
- Map depicting the location and extent (polygons) of invasive plants as determined by GPS

#### V. BDR Use and Acceptance and Acknowledgment

The BDR is intended to be used every year during monitoring, to compare current property conditions to those documented in the BDR. All conservation easements and covenants need to be monitored once per calendar year, using the same methodology as the BDR.

The BDR must include a statement of acceptance, signed by the parties to the conservation easement. The statement will also be an exhibit to the conservation easement or covenant.

Include the landowner's agreement to future drone use if the BDR includes drone images for a conservation easement or covenant project.

#### **VI. BDR Format**

The BDR should consist of a single PDF file, with all maps and photographs incorporated as appendices if possible. A single PDF eliminates the need to ensure that multiple BDR files are organized and kept together as a unified document.

The BDR PDF file should be 20 MB or less, to allow for transmission by email. It may be necessary to use the file size reduction tool in Adobe. Compressing maps and images before inserting them in the BDR may help control the size of the document.

OWEB will only accept a BDR consisting of more than one PDF file if photographs or drone images are too large to include in a PDF file of 20 MB or less. In such a case, the grantee must minimize the number of additional files, to enable the information to be easily accessed by OWEB during monitoring. The BDR must contain a statement identifying and incorporating all other files by reference. An example of such a statement is:

*“A total of 50 images were captured from photo points 1 through 10 on May 1, 2024. The images, which are incorporated into the BDR by this reference, are contained in the PDF file named ‘NorthwestPreserveBaselinePhotos.PDF’ which will be stored together with this signed document.”*

Any questions should be referred to Robin Meacher at 971-301-1578 or [robin.m.meacher@oweb.oregon.gov](mailto:robin.m.meacher@oweb.oregon.gov).

## Appendix C

# Management Plan Guidance for Easements and Covenants

## *Oregon Agricultural Heritage Program*

### General Considerations

OAHP Working Land Conservation Covenant and Easement acquisition grantees may elect to develop a management plan for the property interest purchased with OAHP funds. If the grantee so chooses to seek OWEB funds to support the development of the management plan, the plan must be incorporated into the property interest terms and provided to OWEB for review prior to closing on the conservation easement or covenant.

The management plan is a description of the stewardship, monitoring, and uses of the working land intended to carry out the purposes of the working lands easement or covenant. (OAR 698-005-0020(12)). The management plan should describe the farm or ranch management system, the natural resource concerns on the property, and the conservation measures and practices that may be implemented to address the resource concerns and promote the long-term viability of the land to meet the purpose of the easement. OWEB is required to ensure that the ongoing use of the property encumbered by a covenant or easement funded through OAHP be consistent with the purposes specified in the programs enabling statutes (ORS 541.977 – 541.989). The management plan can serve as a communication tool between the holder of the easement or covenant, the landowner, and OWEB.

Below is a general description of management plan format and content that can be used as a guide for grantees that choose to include a management plan as part of the OAHP project.

### Management Planning Costs

Certain management planning costs are eligible for OAHP funds. For more information, refer to the budget section of OAHP Conservation Covenant and Easement Application Guidance Document.

### Management Plan Format

OWEB recognizes the need for flexibility in management plan format and content. Your organization may have its own format, another funding entity may have a required format, or the property may be part of a larger, landscape-scale management plan. Regardless of the format, the plan must contain certain minimum elements. The elements should be augmented and organized as necessary to produce a management plan that best addresses the needs of a property and documents the

actions that will be taken to manage it. OWEB expects that at a minimum, the plan will include the following items:

- Cover Page
- Table of Contents
- Introduction
- Purpose and Goals of the Project
- Inventory
- Desired Future Conditions (if applicable)
- Priority Management Strategies
- Implementation Plan and Schedule
- Monitoring, Maintenance and Adaptive Management
- Plan Term and Updates
- Maps

## Cover Page

Include the property name and location, OWEB grant number, and date of the management plan. If the property has been renamed since the time of the grant application, include both names for clarity.

## Introduction

The management plan introduction should include the following:

- General description of the property location
- General property description, including any difference between the acreage encumbered by the conservation easement and the larger property if applicable
- Date of conservation easement purchase date (month and year is acceptable)
- The names, organizational affiliations, and qualifications of the person(s) who prepared the management plan
- Summary of agricultural and natural resource values identified for protection in the conservation easement
- Detail on the management implications surrounding prohibited and permitted uses of the property during the management plan timeline
- A brief, general description (1-2 paragraphs) of the landowner's intended uses of the property, and a statement that the easement is the controlling document in the event of any inconsistencies between the management plan and the easement

- Adjacent land uses and landscape context: a brief summary (one paragraph), a reference to the section of the baseline documentation report (“BDR”) that provides more information, and a summary of any additional information gathered since the date of the BDR.
- Brief history of the property (land, native people, agricultural use history and ownership)

## Purpose and Goals

Describe the purpose and goals for acquiring the property interest, consistent with your OWEB grant application. Include the approach that will be used to determine and achieve the desired future conditions if any restoration or enhancement work is anticipated and will be part of the application. If the easement will utilize management zones, use clear commitments and goals for any active management for each zone specified in the easement (Agricultural, Habitat, Building, etc.). Specify the time period covered by the management plan (see Plan Term and Updates, below).

## Inventory and Analysis

The purpose of management planning inventories is to collect appropriate agricultural, natural resource, social and economic information for identification of resource concerns and facilitation of the planning process. The inventories should be used to understand management needs and develop actions.

The BDR may serve as all or a substantial part of the management planning inventories, depending on the level of detail in the BDR data and the scope of any restoration identified to achieve desired future conditions for the property. For example, if you conducted a detailed plant survey or forage inventory when preparing the BDR, there may be no need to conduct these when preparing the management plan. However, additional inventory data (e.g., vegetation, agricultural use, hydrology, fish, wildlife) must be collected if necessary to develop sound management actions. For example, if a grazing plan will be developed as part of the management plan, a range assessment is likely to be necessary in order to understand starting range conditions, develop grazing actions that will protect and enhance those conditions, and enable effective monitoring of range conditions over time.

Summarize the inventory data, describing the property’s land type(s) and its condition (forest, wetland, prairie, streams/riparian, range, cropland, etc.); infrastructure (roads, buildings, power lines, dikes, drains, etc.); invasive species; and relevant cultural, educational, and aesthetic resources. Append appropriate maps, data, and/or imagery and reference them in the plan’s text. It is acceptable to refer to the BDR where appropriate in summarizing inventory data. OWEB does not expect nor want you to copy the BDR content into this section of the management plan.

Analyze the data to identify and prioritize threats to agricultural and natural resource conservation values factoring severity, scope, and /or irreversibility.

## Desired Future Conditions

Describe the desired future conditions for the property, specifically what it is expected to look like at the end of the term of the management plan (see Implementation Plan and Schedule below). If management zones are utilized in the covenant or easement, describe the desired future conditions for each zone. Include a map showing the intended extent of preserved or enhanced land use types accompanied by a descriptive narrative of each type. If you will maintain the property's current condition as the desired future condition, outline specific threats that may impact your ability to maintain the agricultural and/or other natural resource conservation values (economic climate, trespass issues, weeds, etc.).

## Priority Management Strategies

Management strategies should be specific to the associated zone in the referenced conservation easement (if management zones are utilized) and should serve as a framework for achieving the desired future conditions for the property, including maintaining current agricultural and natural resource values as appropriate.

Identify and describe the preferred management strategies to address the property's agricultural and natural resource conservation values and reach the desired future conditions. If maintaining current agricultural and/or habitat conservation values is the desired future condition, develop strategies to minimize the threats that have been identified.

If sections of the property will undergo large-scale restoration, the management plan should state that the restoration design will be developed and reviewed with OWEB prior to implementation or addressed in the management plan if the design is complete.

Include subsections on the following topics as applicable.

## Landowner Reserved Rights and Coordination

Certain activities of the landowner must be guided by the management plan to ensure they are carried out in a manner that is consistent with protection and restoration of the property's conservation values. Any existing plans for grazing, cropping, fencing, and other applicable management activities of the landowner should be appended or incorporated by reference into the management plan, as applicable and relevant. This section should also include a summary of landowner-reserved rights that require notice to or approval from holder, a list of the rights the landowner expects to exercise during the first 5-year implementation period (see Plan Term and Updates, below), and a plan for coordination between the holder and the landowner. OWEB recommends that the management plan specify an annual meeting between the holder and the landowner, for the purpose of apprising each other of upcoming management actions and other property uses.

## Coordination with Third Parties

Some properties are subject to encumbrances (e.g., utility and access easements) that give third parties rights to use the property. In such instances, the management plan must include actions for coordinating with the third parties to ensure their activities are within their rights and obligations, and to minimize impacts to the property's conservation values.

## Water Rights

If you acquire a conservation easement with the authority to use appurtenant water rights, the use of those rights must be consistent with the management goals and strategies identified in the conservation easement, including use of water for restoration or in-stream purposes. You may be required to take specific actions necessary to comply with this expected outcome as a condition of a grant award.

## Items Pertaining to Funding Conditions

If your grant was subject to project-specific conditions pertaining to the management plan, ensure that these items are addressed in the plan.

### ***Implementation Plan and Schedule***

Prepare a schedule of operations, listing actions organized by management strategy. The schedule should include the specific resource concerns, the practices to overcome any identified challenges, the timeframe in which each action will be started and finished, who will be responsible for implementation, and funding sources. Many, but possibly not all, management activities will be appropriate for inclusion in the schedule of operations.

### ***Monitoring, Maintenance and Adaptive Management***

A good planning process is dynamic and ongoing. The implementation of management actions should be evaluated for effectiveness on a schedule determined to be appropriate for the actions. The evaluation should determine whether the current management is addressing the resource concerns, and if not, how the management needs to be adjusted. The extent and complexity of monitoring can vary, depending on the management issues facing the property, the complexity of the property's agricultural and ecological systems, and other factors. At a minimum, the management plan must include:

1. An explanation of what will be monitored and maintained, including the frequency and duration of field monitoring and photo points (photo points may include BDR photos for compliance, but BDR photos are not necessarily adequate for effectiveness monitoring)
2. The monitoring protocols that will be used, and a description of how monitoring data will be analyzed and summarized

3. Maintenance actions that will be taken
4. Partners that intend to be involved
5. Process (including consultation with OWEB) by which management activities will be adapted as needed to ensure success

### ***Plan Term and Updates***

In general, management plans should be long-term documents, containing a framework that is appropriate for approximately 10 years of work. However, because of the need for a dynamic approach to management planning, OWEB expects management plans to contain a process for review every five years. The review should take into account monitoring, maintenance, and adaptive management information. The plan should be updated when ownership changes, or conditions of the conservation values change in a manner that requires significant adjustments in the operations of the property.

## Appendices

1. Location and Access Map\*
2. Existing Agricultural Use Map\* - an aerial photo that depicts the location of current agricultural activities
3. Existing Habitat Map\* – an aerial photo that depicts priority ecological systems and plant communities
4. Future Conditions Map – an aerial photo that depicts desired future conditions
5. Monitoring Map – an aerial photo that depicts locations of photo points, in-stream monitoring reaches, vegetation transects and data points, etc.
6. Invasive Species Map - an aerial photo that depicts the spatial extent of invasive species populations, to assist in managing and monitoring changes in the populations over time
7. Infrastructure Map\* – as applicable, an aerial photo with labeled features such as roads, stream crossing, trails, structures, etc.
8. Allowed Use Map\* – as applicable, an aerial photo that depicts areas such as agricultural zones, habitat zones and building sites
9. Threats Map – actual and/or potential
10. Topographic, Geology, Soils Maps – as appropriate
11. Species Lists
12. Others as needed

**NOTE:** \*Required. Each map must be referenced to specific sections in the plan's text.