The Vermont Housing and Conservation Board supports a vital and sustainable agriculture in Vermont. Vermont's agriculture contributes more than $500 million in farm receipts a year to the state's economy, and ranks third behind manufacturing and tourism. The importance of agriculture to the State of Vermont goes far beyond the dollars brought into the state from the sale of agricultural products. These dollars further stimulate the economy through the secondary businesses such as feed and equipment dealers and veterinarians which are supported through agriculture. Many of Vermont's rural areas are based on an agricultural economy and therefore the economic and social health of those communities are dependent on a strong agricultural economy.

In addition to the direct economic benefits of Vermont's agriculture there are a variety of secondary economic benefits related to Vermont's agricultural land base. The tourist industry in Vermont provides more than 32,200 jobs and annually brings $1.3 billion into the state. The scenic beauty of Vermont's landscape, which plays a large role in attracting tourists, is in a large part due to the agricultural use of the land.

Vermont's rural landscape is important to the quality of life of the state, as well as its economic vitality. Maintaining the essential characteristics of the Vermont countryside is in the best interests of all its citizens, both today and for future generations.

Vermont agriculture relies on a land resource base that is limited and finite. In order for agriculture to be economically viable the land resource must be preserved to secure a stable position for agriculture in Vermont's future. In carrying out the Board's legislative mandate to "conserve and protect Vermont's agricultural land," the Board has adopted the following policy to guide it:

**VHCB FARMLAND CONSERVATION ACTIVITIES**

The Vermont Housing and Conservation Board preserves farmland by:

1. Awarding grants to eligible applicants (non-profit conservation organizations, municipalities, and qualified state agencies) for the purchase of development rights;

2. Building the capacity of eligible applicants to do farmland conservation projects through capacity grants, feasibility funds, and payment of costs associated with projects;

3. Exercising the Board's right of first refusal to buy farms enrolled in the Working Farm Tax Abatement Program to prevent conversion to non-agricultural use;
4. Providing loans to eligible applicants for farmland acquisition or protection.

The Board will fund a variety of preservation methods including, but not limited to, conservation easements, purchases, direct non-profit ownership with a lease, or resale, to the farmers, and land swaps, as long as the result is the perpetual conservation and protection of agricultural land.

The primary farmland preservation activity of the Board is funding the purchase of development rights and placement of conservation restrictions on farmland. The conservation easement ensures that the land will not be developed, while providing for uses compatible with farming.

**SUMMARY OF APPLICATION PROCEDURES**

The VHCB's Purchase of Development Rights on Farmland program involves a two-step application process: a pre-application and a full application. The Board accepts pre-applications and full applications twice a year, according to a schedule established each spring. Application deadline dates may be obtained by contacting VHCB staff.

Pre-application forms are to be completed primarily by the landowner, with assistance from an "eligible applicant" (see below). The pre-application assesses the farm resource, farm community and threat of development. It also asks for preliminary information on the other goals of the Board such as natural habitat protection, public outdoor recreation, historic preservation and affordable housing.

The eligible applicant should also submit a cover letter with the pre-application that highlights notable facts about the property or further details other VHCB goals which may be included in the project. Since the Board will seek to maximize the use of its limited funds by leveraging other resources for a project, preliminary information on leveraging, if available, may also be included in the letter.

Pre-Applications must be sponsored and submitted to the VHCB by an eligible applicant. An eligible applicant is a municipality, qualified department of state government, or non-profit conservation organization with a I.R.S 501(c)(3) status. Eligible applicants for farm projects include the Vermont Agency of Agriculture (828-2500), the Vermont Land Trust (1-800-639-1709), a statewide non-profit land conservation organization, and towns. Other eligible applicants include local or regional land trusts, such as the Addison County Community Land Trust, the Hinesburg Land Trust, the Middlebury Area Land Trust, and the Upper Valley Land Trust.

Eligible applicants may submit to the VHCB all pre-applications that meet the Board's Minimum Criteria and that are consistent with the Board’s Farmland Conservation Priorities.

The VHCB has established an Agricultural Advisory Committee (the "Advisory Committee") to assist the Board in choosing farms for conservation at the pre-application stage. The Advisory Committee consists of two farmers, one of whom has sold development rights, and one representative each from the UVM Extension Service, Natural Resources Conservation Service, Farm Service Agency, and one representative of a farm lending organization. Advisory Committee
members are appointed by the Commissioner of Agriculture with VHCB approval and subject to term limits set by the Board.

The Advisory Committee makes recommendations to the VHCB Agricultural Committee (the "Board Committee"), prioritizing the farm pre-applications for funding. The Board Committee decides which projects advance to full applications and which do not. Projects which receive an affirmative vote of the Board Committee are also eligible for a VHCB grant of 50% of the cost of an appraisal of a conservation easement on the property. Applicants will utilize an appraiser whose work conforms to the Board's adopted appraisal standards to determine the fair market value of the development rights. Applicants will negotiate a price acceptable to the landowner, and the Board's contribution will not exceed the appraised value or the Board cap (see last section, below).

Applicants will also work with landowners to explore the other goals of the Board that may exist on the farm, and the potential for leverage.

Farm pre-applications that are not approved by the Board Committee are eligible to return as pre-applications and may be considered by the Advisory Committee in the next pre-application round. However, a pre-application that returns in this manner and is not approved a second time is not eligible to return again in the next pre-application round. A pre-application in this category may return after waiting out one round of the Advisory Committee.

To be considered by the full Board, approved pre-applications must be submitted as full applications by the date set by VHCB staff. If an approved pre-application is not submitted as a full application within two years of being approved as a pre-application, the project must return to the pre-application process and be reviewed by the Advisory Committee. If staff determines that extenuating circumstances prevented the timely submission of a full application, VHCB staff may grant an exception to this procedure. To receive such an extension, the applicant organization must have received written approval from VHCB staff prior to the last application deadline for which the project would have been submitted if an extension had not been granted.

Full applications will be reviewed by the full Board with a final decision made based upon the recommendations of the Board Committee, price/acre, leverage and the multiple benefits of the project.

A full application that the Board has voted not to fund is eligible to return as a full application at the next farm Board meeting. If the application is not submitted in time for consideration at that meeting or if the Board again votes not to fund the full application, the project must return to the normal pre-application process.

The VHCB staff may waive these procedures if the applicant and landowner demonstrate extenuating circumstances in support of a waiver.
MINIMUM ELIGIBILITY CRITERIA

In order to qualify for VHCB agricultural funds, the land to be conserved must meet the following criteria:

1. The farm or farmland must be actively farmed for income-producing purposes, or have a sound plan for getting into operation. The property must be a viable farm unit, or must make an important long term contribution to the viability of a conserved farm which adjoins, or is in close proximity to, the property, or must be of such high quality in terms of soil resource, location, and management as to indicate long-term, continued, active agricultural use.

2. The project must conform to adopted regional and/or municipal plans.

3. The sale price of the development rights must not exceed the value as determined by an appraisal acceptable to VHCB staff.

4. The request to the Board shall not exceed One Thousand Four Hundred Dollars ($1400) per acre for the development rights value on farmland unless there is substantial leverage and Three Hundred Fifty Thousand Dollars ($350,000) per project unless the farm is an Outstanding Statewide Agricultural Resource as defined below. The VHCB limits are not project caps.

Projects meeting these minimum criteria will be reviewed by a Board Committee advised by an Agricultural Advisory Committee based on the priorities listed below.

OUTSTANDING STATEWIDE AGRICULTURAL RESOURCE

To be eligible for consideration as an “Outstanding Statewide Agricultural Resource”, a farm must fulfill the following requirements:

1. As compared to other farms in the same funding round and farms previously conserved by VHCB, the farm ranks high under the “Land Resource”, “Farm Infrastructure” and “Management” criteria of the Farmland Conservation Priorities.

2. Conservation of the farm would make a significant contribution to the local and/or regional farm community.

3. Conservation of the farm would serve multiple goals because the project includes one or more substantial enhancements within the following categories:
   a. an outstanding historical or archeological resource
   b. public access meaningful to the community
   c. significant natural habitats or ecological resources
   d. donation of conservation easements or lands into public ownership with significant non-agricultural natural resource, public recreation, or historic values
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The farm adjoins and/or would significantly enhance an existing public investment in other non-agricultural natural resource lands owned or conserved by a public or non-profit entity.

A buffer provision that complies with VHCB Buffer Policy in the easement would conserve the quality of significant state surface waters.

Inter-generational transfer of the farm.

VHCB staff and Board may use the above criteria to determine if a farm is eligible for funding moderately beyond the stated cap. However, large projects which exceed the cap substantially will continue to need to be conceived of and funded in stages.

FARMLAND CONSERVATION PRIORITIES (listed in order of relative importance)

1. **Land Resource** - The program will focus on the farms which have a greater amount of prime land and land of statewide significance, in a configuration that facilitates the use of the resource. The quality of the soils will be assessed by using the USDA Soil Conservation Service Agricultural Value Groups for Vermont Soils.

   Land that has the potential for diversified agricultural use will be a priority. The potential for diversification to alternative agricultural uses will be evaluated by the quality of soil to sustain a variety of agricultural uses, presence of a plentiful water supply, growing season above average in length, good natural drainage or corrective measures in place, the accessibility of the farm relative to direct marketing and transportation of products, and evidence of existing diversified uses, such as a sugarbush located on a dairy farm.

2. **Location** - Priority farms are those which are located in a farming community. Farming communities are areas of actively farmed land where the likelihood of continued farming is high. Among the factors used in evaluating a farm community are the number of working farms, the number and proximity of other conserved farms, the availability of agricultural support services and the extent to which local planning or other municipal programs such as tax stabilization or local land conservation funds support the continuation of farming.

   Those farms located in farming communities with the greatest degree of threat of conversion to non-farm use will rank higher. The potential of conversion will be evaluated primarily by development pressure, as evidenced by the physical characteristics of the farm and its environs, and by current market conditions. The primary physical characteristics used as indicators for evaluating threat of conversion will be road frontage and access, soil drainage, topography, and flood hazard. In addition, physical characteristics of the environs which make the area desirable for development will be considered, such as views, and bodies of water, and proximity to schools, services, utilities, and municipal sewer and water. Current market conditions will be evaluated by examining local subdivision and building trends.

   Also ranking higher are those farms which, if protected, would significantly benefit other farms or protected properties in the area. Farms in this category include:
a) a large farm surrounded by several smaller farms;

b) a farm which helps define the boundary of an agricultural community;

c) a farm which is a major user of local farm support services;

d) a viable farm unit that also rents much farmland in the community;

e) a farm that because of its proximity to other protected areas significantly enhances the already established conservation goals of those areas.

3. **Farm Infrastructure** - An emphasis will be placed on farms with buildings and equipment that are in good condition and suitable to the type of operation on, or proposed for the land, and for which public investments in soil and water conservation systems have been made. The condition and suitability of farm buildings and equipment for the type of farm is an important factor contributing to the viability of a farm. While the farm infrastructure is not a permanent condition of a farm, farm buildings are a long lasting feature, and the condition and location of the buildings play an important role in the viability of the farm operation.

4. **Management** - Those farms which are subject to sound resource management practices appropriate to the type of operation will be of higher relative importance. Sound resource management practices are those activities which maximize the long term productivity of the soil, water, and related plant and animal resources. Practices evaluated under this criteria will include drainage, erosion control, manure handling, crop rotation, stream bank improvement including the use of buffer areas to provide habitat and to reduce agricultural runoff, wetlands protection and woodland management.

The main focus of the program will be to conserve viable farm units. All other factors being equal, a secondary focus will be to conserve additions to previously conserved, viable farm units and agricultural land segments that are not part of conserved viable units (“bareland”)

**CRITERIA FOR BARELAND PROJECTS**

Bareland projects (i.e., farmland without housing), must have exceptional soil resources (generally at least 75% prime and/or statewide soils), and be located in a strong farming community where the long-term use of the land by farmers appears certain. Bareland projects may or may not include farm buildings. Bareland projects do not include housing, (i.e., neither existing, nor future housing rights.)

When, in rare cases, a farmstead complex with good, working buildings is excluded from the easement, VHCB may require a Right-of-First-Refusal on the excluded farmstead, to be assigned to the Holder of the Protected Property, in the event that ownership of the farmland and the infrastructure becomes divided.
VHCB may require housing and/or lots excluded from both bareland and whole farm projects to include a “Right to Farm” covenant, to protect future farmers from “nuisance suits” from neighbors.

HOUSING ON FARMLAND CONSERVATION PROJECTS

1. **Overall policy goal** - It is the policy of the Board to minimize the number of housing units on farm projects, especially where such housing would conflict with the primary goal of ensuring economically viable, future agricultural production capability, and also where such housing would conflict with the secondary goals of conserving important natural, historic, and scenic resource values.

2. **Applicant procedure** - Because existing and future housing on farmland conservation projects affects easement value, it is the applicant's responsibility to obtain approval from VHCB staff for all exclusions, reserved house sites, and farm labor housing prior to the time that an appraiser is engaged. The size and location of all proposed excluded and reserved subdividable parcels and the location of all proposed farm labor house sites shall be clearly marked on an ortho-based 1:5000 scale map that is subject to VHCB staff review and approval prior to contracting with an appraiser. Once an appraisal map has been approved, no change of configuration shall be permitted without the consent of VHCB staff.

   The applicant shall furnish a copy of the approved map to the appraiser, who shall include it in the appraisal report. The applicant shall also attach a copy of the map to the application form, and if the project is funded by the Board, the map shall become the basis of the farm plan approved by VHCB staff prior to disbursement of VHCB funds. Approval of an appraisal map by the staff should not be regarded by the applicant as pre-approval by the Board of any specific project configuration. If the Board asks for a reconfiguration as a condition of funding, additional appraisal work may be necessary.

3. **Exclusions preferable to reserved lots** - Except in rare circumstances, it is the policy of the Board to require the Grantee to exclude from the easement area land on which the right to develop subdividable housing is retained. This requirement is intended to ease stewardship burdens and to simplify the appraisal process.

**Easement Exclusions**

1. **In general** - The Board may decide not to purchase conservation easements on an entire farm because of resource considerations or funding limitations. The Board may fund a portion of a farm property provided that:

   a. the parcel to be conserved is an economically viable farm unit, an addition to an economically viable farm unit, or a bareland project that meets VHCB criteria state above and

   b. the potential development of housing units on land excluded from the easement will have little or no negative impact on the conserved farming operation and on the
agricultural potential, historic significance, and scenic beauty of the conserved farm; and

c. the excluded portion is clearly depicted on the farm plan reviewed and approved by staff.

2. **Size of exclusions** - When a parcel is excluded primarily for the purpose of siting a home, the exclusion shall be no larger than two acres (if no zoning ordinance exists) or the minimum size allowed by zoning. The Board also encourages the use of Planned Residential Developments (PRDs) which allow lots smaller than otherwise required by a zoning ordinance. VHCB makes no assurance to applicants that exclusions allowed under this policy are subdividable under state and local regulations.

3. **Exceptions to size requirement** - The Board may approve a house lot exclusion that is larger than the above limits provided that the exclusion does not contain significant agricultural, historic, natural, recreational, or scenic resource values. If the proposed exclusion contains any of these significant values, but no other sites on the property are practical or appropriate under this policy, the exclusion may be allowed as a reserved subdividable lot that is encumbered by both the conservation easement, and a use easement that makes significant agricultural or forestry resources permanently available to the conserved farm.

4. **Location of exclusions** - Exclusions shall be located:

   a. to maximize the agricultural potential and scenic or historic beauty of the protected property and adjacent property; and

   b. to avoid interruption of farm fields, particularly those consisting of prime or statewide significant agricultural soils, and to avoid interruption of agricultural operations on the protected property; and

   c. in a cluster, rather than in a linear pattern along a roadway or an important viewshed; and

   d. close to existing drives, services, and utilities.
Reserved Subdividable Lots

1. **In general** - In the process of approving a pre-appraisal map, VHCB staff may on rare occasions determine that a project's conservation goals are better achieved if lots that are intended to be subdivided are encumbered by the easement. These parcels are referred to as reserved subdividable lots. By encumbering subdividable lots, important resource values may be protected, and the number or location of future houses may be limited. Appraisals must consider whether subdividable parcels are to be excluded from the easement or encumbered by it.

2. **Requirements** - The requirements listed above in paragraphs 1, 2, 3, and 4 under EASEMENT EXCLUSIONS also apply to reserved subdividable lots.

3. **Alternative location** - Farm easements may include language giving the owner of the conserved farm the option of requesting an alternative location for the reserved subdividable site identified on the farm plan. Such easement language would require the holders of the easement to find that the alternative site causes no greater impact on the conservation values of the protected property than the original site. Prior to making such a finding, VHCB staff shall conduct a site visit. The alternative site must also be located so as to meet the requirements listed above for location of exclusions.

Farm Labor Housing

1. **Number of units** - The Board recognizes the importance of adequate farm labor housing on conserved farms. As a general rule, the Board will permit one unit of farm labor housing to remain with the conserved farm. The Board may permit more than one farm labor unit where the applicant demonstrates that additional labor housing is required to support or enhance the economic viability of the farm operation and the units do not significantly impair the agricultural potential, historic significance, scenic beauty, or economic viability of the conserved property as an agricultural unit.

2. **Location** - Farm labor housing shall be located:
   
a. within existing farm buildings or sites; or,

b. within or near the farmstead complex; or,

c. in an area located to maximize the agricultural potential and scenic or historic beauty of the protected property and adjacent property; or,

d. in a cluster, rather than in a linear pattern along a roadway or an important viewshed; and in addition, farm labor housing shall be located:

e. to protect the economic viability of the conserved property as an agricultural unit; and,
f. to avoid interruption of farm fields, particularly those consisting of prime or statewide significant soils; and,

g. in close proximity to existing drives, services, and utilities, if possible; and,

h. in a manner which considers the quality of life of farm workers.

3. **Alternative location** - Farm easements may include language giving the owner of the conserved farm the option of requesting an alternative location for the farm labor housing site identified on the farm plan. Such easement language would require the holders of the easement to find that the alternative site causes no greater impact on the conservation values of the protected property than the original site. Prior to making such a finding, VHCB staff shall conduct a site visit. The alternative site must also be located so as to meet the requirements listed above for farm labor housing.

**FUNDING PRIORITY**

The best projects recommended will be eligible for full review by the Board based on the above mentioned priorities.

In addition, because the Board is charged with achieving the dual goals of creating affordable housing and preserving the state's agricultural land, funding priority will be given to projects that combine the conservation of farmland with the development of affordable housing. These dual goals do not necessarily have to be on the same site. Also, farmland conservation projects which achieve the VHCB's other goals of preserving natural areas and historic sites and providing or maintaining recreational opportunities may attain a higher relative ranking for funding.

**LEVERAGE FOR FARMLAND CONSERVATION PROJECTS**

The Board will seek to maximize the use of its limited funds by leveraging other resources for a project. The Board recommends that applicants attempt to secure leverage with all VHCB farm projects. Once a farm project has been analyzed and ranked under the four Farmland Conservation Priorities (Land Resource, Location, Farm Infrastructure, Management) as determined by the Agricultural Advisory Committee and the Board Agricultural Committee, the amount and type of leverage may affect the relative ranking of the project. However, the Board may consider quality farm applications which were ranked highly by the Agricultural Advisory Committee but do not contain leverage.

The Board will evaluate leverage based on the following list, and may consider other forms of leverage not on the list at its discretion. A project must meet at least one criteria in a category to be eligible for the designated category.

**High**

- Matching funds of more than 15% of the total project costs contributed by a town
- Matching funds of more than 20% of the total project costs contributed by a state or federal programs or private fundraising

- More than 20% of the total project costs matched with the donation of land or conservation easements on adjoining or nearby lands that would enhance the purpose of the project

- The donation of land on an appropriate site in the town for affordable housing where the need has been identified and an appropriate eligible applicant has expressed an interest in developing the site sometime in the future

- A bargain sale by the landowner of more than 20% of the value of the conservation easement by an appraisal or the value set by the Farmland Investment Program

- Project meets at least two of the medium criteria

**Medium**

- Matching funds of 8%-15% of the total project costs contributed by a town

- Matching funds of 10%-20% of the total project costs contributed by a state or federal programs or private fundraising

- 10%-20% of the total project costs matched with the donation of land or conservation easements on adjoining or nearby lands that would enhance the purpose of the project

- A bargain sale by the landowner of 10%-20% of the value of the conservation easement

- The donation of an easement for public recreational access to water (if not compensated for in the conservation easement value)

- A 50% bargain sale of an appropriate site in the town for affordable housing where the need has been identified and an appropriate eligible applicant has expressed an interest in developing the site sometime in the future

- The donation of appropriate land in town for a natural area protection, public recreation or historic preservation purposes

- The donation of a public access trail easement (if not compensated for in the conservation easement value) if it is part of a community/regional trail network

- Project meets at least three of the low criteria

**Low**

- 3%-8% of the total project costs contributed by the town
- 5%-10% of the total project costs contributed by the town, other state or federal programs or private contributions

- 5%-10% of the total project costs matched with the donation of land or conservation easements on adjoining or nearby lands that would enhance the purpose of the project

- A bargain sale by the landowner of 5%-10% of the value of the conservation easement

- The substantial donation of in-kind professional services

- The donation of a public access trail easement (if not compensated for in the conservation easement value)

- The donation of an historic preservation covenant (Outstanding Historic Resources Clause) requiring landowner notification prior to demolishing or altering an outstanding historic resource or an historic resource on or eligible for the National Register of Historic Place.

[In some farmland conservation projects that contain a building on or eligible for the National Register of Historic Places or is considered an outstanding historic resource, the Board may require that an historic preservation notification provision be incorporated into the conservation easement. Such a provision will require that the landowner notify the Grantees 30 days prior to destroying or altering the exterior of the building. In determining whether a building is an outstanding resource, the Board shall give serious consideration to the recommendation of the Division for Historic Preservation.]

**VHCB PER ACRE CAP FOR FARM PROJECTS**

The Board will not pay more than $1400/acre for development rights on farmland unless there is substantial leverage, in which case the Board may at its discretion pay more than $1400/acre. Substantial leverage is defined as follows:

- Meets at least two of the criteria in the "High" category

- More than 40% of the total project costs contributed by a town, other state or federal programs, private fundraising or bargain sale

- Meets one criteria in the "High" category and two criteria in the "Medium" category

- Leverage in the "Low" category will not be considered eligible for meeting the substantial category