

Vermont Housing and Conservation Board  
**OPTION TO PURCHASE AT AGRICULTURAL  
VALUE ACQUISITION PROGRAM POLICY**

The Vermont Housing and Conservation Board (“VHCB”) makes grants to nonprofit conservation organizations, municipalities and certain state agencies for the purpose of conserving important agricultural lands, historic properties, outdoor recreation opportunities and natural areas. A goal of VHCB’s agricultural land conservation program is to “make reasonable efforts to assure that conserved farmland is accessible and affordable to future generations of farmers.” This goal is most often met by acquiring the Option to Purchase at Agricultural Value (“OPAV”) on important farmland during the initial acquisition and configuration of development rights. However, VHCB conserved more than 300 farms before the OPAV emerged as a common conservation tool. This policy provides VHCB with the opportunity to purchase, through a designated state agency or nonprofit partner, an OPAV on previously conserved farms to ensure their future affordability.

Due to the limited funding available for this program, this policy focuses public resources on farms in transition, with the goal of keeping good farmland in the hands of commercial farmers. By purchasing OPAV’s on transitioning farms, VHCB achieves the dual outcomes of acquiring perpetual affordability controls on already conserved farms and of assisting farmers with access to high quality farmland at an affordable price - facilitating affordable conveyances of conserved farms to the next generation of farmers now and in the future.

**I. Minimum Eligibility Criteria:**

1. **Conserved Farm** – the farmland in question shall be subject to a perpetual conservation easement acceptable to VHCB.
2. **Facilitates a Transfer** – currently, funds are only available for the purchase of an OPAV, which facilitates the transfer of a conserved farm to a farmer with a minimum of 3 years experience managing or working on a farm and a reasonable plan for the operation and profitability of the farm being purchased.

This goal is most immediately met by funding contemporaneous transfers of conserved farms to farmer-buyers (including transfers completed no more than 12 months prior to the submission of an application for funding). Since the opportunity to purchase a farm may arise unexpectedly and require immediate action, requests for funding that facilitate direct, contemporaneous transfers may be considered at any of the Board’s regularly scheduled meetings.

Projects that involve deferred transfers (including but not limited to lease to purchase arrangements, ownership transferring partnerships, transaction involving non-farmer interim owners, or other forms of staged sales) are typically less reactive, are process driven, and involve a period of planning and

negotiation between the parties. Therefore, requests for funding for these project types shall be considered once, annually – typically at the Board’s last meeting of the fiscal year, if funds are still available at that time.

Applicants may, however, submit an application for a deferred transfer prior to the last meeting of the fiscal year, if that project represents an unpredictable circumstance or special opportunity that requires immediate Board action. (The pre-application process for this program will help to identify projects that require this expedited approach.)

3. **Appraisal** – any farm participating in this program must have an acceptable appraisal that values both the OPAV as well as the new ‘after’ value of the farm subject to the OPAV. Farms where infrastructure is included in the OPAV/Easement must be appraised with separate values for the land and the contributory value of the structures.

## **II. Selection Criteria:**

1. **Need** – priority will be given first to (a) contemporaneous farm transfers that may not occur without the financial assistance of this program, and then to (b) deferred transfers between farmers where public funds are needed to bridge the period of transition from one owner to the next.
2. **Impact** –
  - A. Risk** - priority will be given to OPAV purchases that will preserve the affordability of high quality farms with high or imminent estate conversion potential.
  - B. Leverage** – priority will be given to OPAV purchases leveraged by non-VHCB funds, bargain sales or other donations of conservation restrictions, which increase the impact of the VHCB award by accomplishing additional conservation gain with limited funding.
3. **Quality** –
  - A. Resource** - priority will be given to projects involving one or more of the following: (a) farms with agricultural soils that meet VHCB’s priorities (prime and statewide); (b) farms located within an existing block of conserved farmland and/or located in a strong farming community; or (c) farms that are a keystone farm in their region and/or significant to their community.
  - B. Business Plan (Viability)** –priority will be given to projects in each of the following scenarios: (a) Farms transferring to managers with a proven track record of farm management and an acceptable plan for operation – especially managers who have been farming, for at least one year, the land they intend to purchase with the VHCB award. (b) Farms transferring directly to new managers with a well-documented business plan (generally developed by or to the

minimum standards of the Vermont Farm Viability Enhancement Program) that indicates positive economic growth. (c) Deferred farm transfers to new managers with a well documented business plan (generally developed by or to the minimum standards of the Vermont Farm Viability Enhancement Program) that indicates positive economic growth and an ability by the farmer to purchase the farm at the end of the deferred period.

VHCB will generally expect new managers to have some farm experience, preferably two years of relevant management experience. Special attention shall be paid to plans which focus specifically on a farm transfer. In some cases a farm plan will be required as a condition of disbursement. Business plans will be reviewed by VHCB staff and/or qualified consultants. Plans are not a priority for farmers with more than 8 years experience successfully managing a farm, that at the time of application already own the equipment and livestock (if applicable) necessary for their proposed operation.

### **III. Delivery System:**

1. **Applications** – The application process involves a pre-application phase followed by an appraisal, and then a formal request for funding:
  - a. Pre-applications for all projects may be submitted to VHCB staff at any point during the calendar year. Pre-applications should include as much detail about the transaction as is available by the date of submission, such as tentative purchase price, purchase and sales contract, lease agreement, etc.
  - b. Once VHCB staff have reviewed and approved a pre-application, VHCB will cost-share an appraisal of the OPAV. After the appraisal is complete, an applicant may submit a formal request for funding.
  - c. Requests for funding that facilitate contemporaneous transfers may be considered at any of the Board’s regularly scheduled meetings (including transfers completed no more than 12 months prior to the submission of an application for funding).
  - d. Requests for funding for deferred transfers shall be considered by the Board at their last meeting of a given fiscal year, if funds are still available at that time. (Applicants may, however, submit an application for a deferred transfer prior to the last meeting of the fiscal year, if that project represents an unpredictable circumstance or special opportunity that requires immediate Board action).
2. **Caps** – awards for OPAV purchase will be capped at \$75,000, of which up to \$70,000 shall fund the acquisition of the OPAV and up to \$5,000 shall cover Grantee’s associated costs.
3. **Grantees** – applicants may be a designated state agency, municipality or qualified nonprofit; however, all applications must include an existing VHCB stewardship partner who will co-hold and steward the OPAV.

4. **OPAV Details** – The base value for the property in the OPAV will be set by appraisal. Any other easement revisions or changes from standard OPAV language shall also be appraised. Easement and OPAV revisions shall be considered and approved at the sole discretion of VHCB.

#### **IV. Guidelines for Transactions:**

##### **1. Contemporaneous Transactions:**

- A. **Full Disclosure** - VHCB shall receive and review the complete terms of the sale and determine they are fair and consistent with the market
- B. **Purchase Price** – The purchase price to the farmer shall not exceed the appraised fair market value of the farm subject to the OPAV.
- C. **Timing of Disbursement** – If awarded, VHCB funds shall be disbursed simultaneous with the signing of an OPAV and the transfer of the farm to the farmer buyer. If the transfer of the farm has occurred prior to the award, but not greater than 12 months prior to the submission of an application for funding, disbursement shall occur simultaneous with the conveyance of the OPAV.

##### **2. Deferred Transactions:**

- A. **Full Disclosure** – VHCB shall receive and review the complete terms of the lease, partnership, transfer, etc. and determine they are fair and consistent with the market.
- B. **Purchase Price** – The purchase price to the farmer shall not exceed the appraised fair market value of the farm subject to the OPAV, but may be adjusted at a reasonable rate of interest if the conveyance will occur more than a year after the date of the award.
- C. **Impact of Award on Purchase Price** – If awarded, the VHCB grant must directly lower the purchase price of the farm by the amount of the award plus any interest on the award accrued over the term of the transaction.
- D. **Lease Payments** – For requests involving lease to own arrangements, the Board will generally expect that a reasonable portion of lease payments build equity in the farm for the buyer, thereby further lowering the purchase price at the time of transfer. The Board may seek the advice of appropriate experts in reviewing lease to own arrangements.
- E. **Option to Purchase** – Deferred transfer agreements must provide the farmer buyer the opportunity to purchase the farm, at the agreed upon price, at any point during the transition period, and provide the farmer the right to extend the lease for up to 6 additional months provided s/he has secured financing to make the purchase within the extension period.
- F. **Grantee Assumes Rights of Buyer** – If the farmer buyer withdraws or defaults prior to the purchase of the farm, but after disbursement of VHCB funds, the Grantee shall assume the rights of the buyer under the terms of the lease or other transfer agreement, and may exercise the right to purchase the farm outright at its agricultural value as set forth in the OPAV
- G. **Non-Farmer Interim Owners** – For transactions involving non-farmer interim owners, either private or non-profit, the interim owner shall recoup only his/her

initial investment and transaction costs, which may accrue reasonable interest over the term of the transaction

**H. Timing of Disbursement** – If awarded, VHCB funds shall be disbursed simultaneous with the conveyance of an OPAV.