

Vermont Housing and Conservation Board  
**GUIDELINES**

**FUNDING FOR PRIVATELY OWNED WORKING FORESTLAND PROJECTS**

The following document is intended to guide the Vermont Housing and Conservation Board in making grants for the acquisition of conservation easements on privately owned working forestland. It is intended that these Guidelines will be used for projects that might not be funding priorities under the current VHCB Policies for Natural Area Projects, Public Outdoor Recreation, or Conservation of Agricultural Land.

**I. PRIVATELY OWNED WORKING FORESTLAND PROJECTS**

VHCB’s statutory mission includes the protection of Vermont’s forestland, in keeping with a goal of improving “the quality of life for Vermonters and to maintain for the benefit of future generations the essential characteristics of the Vermont countryside, and to support farm, forest, and related enterprises...” (10 VSA §304a,b).

Vermont’s working landscape includes hundreds of thousands of acres of forestland that play a key role in Vermont’s economy. Working forests provide lumber, pulp, firewood, and biomass products that add value to the economy and create jobs for Vermonters. All forests—whether managed to produce timber or managed for wildlife habitat or old growth forest—also contribute to clean air and water, ameliorate the effects of climate change, provide habitat for plants and animals, and offer recreational opportunities for people. Forests contribute to flood resilience by absorbing rainwater, and also provide the scenic backdrop for Vermont’s agricultural lands and villages, creating the rural beauty so treasured by both visitors and Vermonters. These Guidelines are intended to broaden the use of VHCB conservation funds to include more protection of privately owned working forestland.

**Background**

VHCB’s mission includes the protection of forestland for natural area protection, public recreation, and for working forest. In addition, VHCB farm projects have included a very significant acreage of working forests that have been conserved along with farmland. VHCB has also funded a number of forestland projects that are privately owned, in particular, several large tracts of working forest in Orleans and Essex Counties. At the same time, VHCB has conserved more than 200,000 acres of woodland under the Natural Area and Public Outdoor Recreation funding categories, in which the land tends to be owned by state agencies, municipalities, or private nonprofit conservation organizations.

The federal Forest Legacy Program (FLP) has been, and will continue to be, an important funding source for conservation easements on privately owned working forests in Vermont. As administrator of FLP in Vermont, the Agency of Natural Resources, Department of Forests, Parks and Recreation (FPR) must secure the required non-federal match for FLP projects and VHCB has agreed to have its state-funded conservation projects designated as FLP non-federal match, maximizing use of federal dollars.

While FLP plays an important role in the protection of private working forests, its focus will likely continue to be on more complex projects with large acreages that compete for FLP funding on a national level. These factors, plus FLP's public access requirement, which dissuades some landowners from participating, point to the need for a complementary VHCN program for protecting additional private forestland so that the fragmentation of Vermont forestland and its conversion to other uses can be slowed and climate mitigation can be enhanced.

### **Types of Projects, in General**

These Guidelines establish the criteria and priorities for the purchase of development rights on working forestland that might not be a priority for funding under the VHCN Natural Area Policy or the VHCN Public Outdoor Recreation Policy, but that nevertheless contribute to the state's goals of protecting forestland.

Under these Guidelines, VHCN will consider funding the purchase of conservation easements on working forests that will remain in the ownership of private individuals or private entities that are not state agencies, municipalities, or nonprofit conservation organizations, including land owned by private entities representing historically underserved populations, provided that (1) the applicant for VHCN funds is an eligible applicant, (2) the minimum eligibility criteria below are met, and (3) the application identifies a VHCN-approved stewardship partner that has executed a stewardship MOU with VHCN, and that has agreed to co-hold a conservation easement with VHCN.

Applicants may apply to VHCN under these Guidelines for conservation of privately owned forestland projects that are to be managed in whole or in part:

- for pulp, timber, or firewood production; and/or
- for wildlife habitat and natural community protection; and/or
- for maintenance of old growth and other ecosystem values that serve a public purpose, including carbon sequestration and storage, and climate resilience.

VHCN generally expects that land to be conserved under these Guidelines shall adhere to the standards for enrollment in Use Value Appraisal (UVA), however enrollment in UVA is not a minimum eligibility requirement for funding.

Alternatively, applicants may be able to apply under the VHCN Policy on Funding for Natural Area Projects, which has different minimum eligibility criteria and funding priorities. Applicants should check with VHCN staff for guidance.

Forestland projects that are primarily working sugarbushes should apply as farm projects under VHCN Guidelines for Sugarbush Projects.

### **Minimum Eligibility Criteria for Privately Owned Working Forestland Projects**

To be eligible for VHCN funding, a project must meet all of the following criteria:

1. The parcel must be subject to a forest management plan that is approved by the state for enrollment in UVA, or that VHCN staff determines meets the same standards as an approved UVA forest management plan.

2. The project shall be eligible for enrollment in UVA in accordance with minimum acceptable standards established by the Commissioner of Forests, Parks and Recreation.
3. The project will result in a perpetual conservation easement in a form approved by VHCB staff and co-held by VHCB and a nonprofit conservation organization or state agency that has a VHCB-approved easement stewardship program. Any tract that will be used as FLP match must include all required FLP provisions in the easement and must be accepted by FPR as an FLP match tract. (see exception to the easement requirement in Section II below.)

### **Funding Priorities for Privately Owned Working Forestland Projects**

The following are funding priorities, not mandatory criteria:

#### *Project Features*

- Public access is encouraged and may be considered as project leverage if it is donated, meaning it is not included in compensation received for the easement. The public access may be for dispersed pedestrian access for activities such as walking, wildlife viewing, hunting, and fishing. Alternatively, the public access may be along designated trails. Public access easement provisions may be fine-tuned on a case-by-case basis, especially because private landowners usually do not have the resources to adequately manage intensive public use. Therefore, some limitations on public access may be built into the easement to protect natural resource values that are described in the easement, and/or to ensure public safety, and/or to accommodate temporary private uses or forest management activities.

If the public access is to be concentrated on trails or at focal points such as swimming holes, a management entity approved by VHCB staff must be identified prior to closing. This could be the easement co-holder, another nonprofit organization, a municipality, or the state.

- Financial leverage is a high priority and strengthens the program's ability to attract public investment. Leverage can take the form of bargain sales, private fundraising, in-kind donations, non-VHCB public funding, and donation of easements or of land on connected or nearby parcels. VHCB continues to seek at least 33% leverage for locally significant conservation projects and will consider a community's capacity for fundraising as well as the multiple attributes a project provides, when assessing leverage.

#### *Physical Features*

- Parcels that are at least 80 percent forested with a predominance of tree species native to Vermont. (Christmas tree plantations, fruit orchards, and maple sugarbushes should apply as farm projects.)
- In general, preference will be given to parcels that are at least 50 acres in size, but parcels smaller than 50 acres may also be considered, at the discretion of VHCB, if they offer managed public access to a significant natural feature, such as a swimming hole, or a scenic vista, or if they are crucial to the protection of wildlife corridors, or if they are adjacent to public lands or to lands already under conservation easement.
- Parcels that are readily accessible for forest management activities.

#### *Location and Threat*

- Parcels that abut, are integral to, or that connect previously protected land, so that a larger parcel of forestland will remain perpetually unfragmented.

- Parcels that are part of a planned aggregation of protected lands, including parcels that abut publicly owned lands or already-protected natural areas, or that are within an area that has been designated by a public entity for protection.
- Parcels that provide connectivity for wildlife, such as those identified in the Staying Connected Initiative.
- Parcels that are identified as significant according to Vermont Conservation Design.
- Parcels located in flood hazard areas or that have forested riparian areas or provide upland watershed protection.
- Parcels that buffer or include important recreational resources, such as statewide trail systems.
- Parcels that are threatened with parcelization, fragmentation, and/or conversion to uses other than managed forest, as demonstrated by the parcels' appeal for subdivision and conversion and market trends in the immediate area.

#### *Management*

- Parcels that have a healthy, mature or growing forest in any stage of succession, or that have been harvested in strict accordance with a professional forest management plan, and in accordance with Vermont's Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont a Vermont Department of Forests, Parks and Recreation publication dated August 15, 1987, revised effective August 11, 2018, and as may be amended from time to time (hereafter "AMPs").
- Parcels that show evidence of exceeding minimum acceptable standards for sustainable forest management.
- Prior to closing, the forest management plan shall be reviewed to ensure concordance with the conservation easement. In the case of conflicts between the two documents, VHCB reserves the right to require amendments to an existing forest management plan, provided those amendments do not disqualify a property from enrollment in UVA.

#### *Other values*

- Parcels that, in addition to public access for outdoor recreation, offer community benefit, such as watershed protection, or scenic backdrop protection.
- Parcels that increase land ownership opportunities or public access opportunities for underserved populations.
- Parcels held by landowners who are enrolled in or have completed a landowner succession planning program sponsored by VHCB's Farm and Forest Viability Program or similar program.
- Properties that are funded by the federal Forest Legacy Program or will serve as a non-federal match to Forest Legacy funds. To be included in the FLP as match, the project must be approved by FPR and the USDA Forest Service.

#### **Per Acre Funding Cap:**

The Board will not contribute more than \$1,400/acre to private forestland conservation projects, not including project costs. Consideration will be given to the amount of leverage an application proposes to achieve, as a competitive factor. As required by VHCB's enabling statute, the Board continues to expect applicant organizations to negotiate for bargain sales whenever it is evident

that a landowner is in a financial position to receive less than appraised value for the development rights.

### **Application Process**

- A detailed description of the application process is contained in a VHCB document titled “Process Guidelines for Privately Owned Working Forestland Projects,” which will be made available to potential grantees.
- Applicants must first submit an Application of Interest (preapplication) on a form prescribed by VHCB. Projects under these Guidelines are not eligible for VHCB cost share for appraisal until VHCB staff has notified the applicant that the Application of Interest has been approved. The Application of Interest gives VHCB staff the opportunity to discuss with the applicant the quality of the resource, anticipated public access and/or financial leverage, the availability of VHCB funding, and the known pipeline of forest conservation projects.
- Applicants are encouraged to contact VHCB conservation staff very early on in the project development process, even before submitting an Application of Interest. Conservation staff can advise on eligibility, appraisal process, the use of project feasibility funds, and funding timelines.
- Full applications must be submitted on the VHCB application form for Privately Owned Working Forestland with sources and uses budgets and supporting materials such as maps. Applicants are asked to contact VHCB conservation staff for application forms and for guidance on allowable associated costs.
- The application must include identification of the entity that has agreed to co-hold the easement and assume stewardship responsibility. This entity must have a stewardship program approved by VHCB.

## **II. ASSOCIATED AND STEWARDSHIP COSTS ON DONATED EASEMENTS**

VHCB will also accept applications (on the Privately Owned Working Forestland application form) that ask VHCB to cover all or a portion of approved associated and stewardship costs to conserve private forestland for which easements are to be donated to eligible applicants, provided that the donated easement contains protections comparable to VHCB co-held easements under these guidelines, and further, that VHCB obtains a legal interest—easement co-holder status or executory interest—that at minimum gives VHCB a role in enforcing serious easement violations and/or allows VHCB to assume stewardship authority upon the dissolution of a primary steward. First priority will be given to parcels owned by landowners who are enrolled or have completed a forest landowner succession plan prepared with the assistance of the Vermont Farm and Forest Viability Program, or a similar program.

Applicants should consult with VHCB staff or refer to VHCB’s Guidelines on Associated Costs to determine allowable expenses for VHCB funding.

On a case by case basis, VHCB may consider funding a portion of associated costs and stewardship on those Forest Legacy projects that are retained in private ownership, provided that VHCB obtains a legal interest—easement co-holder status or executory interest—that at minimum gives VHCB a role in enforcing serious easement violations and/or allows VHCB to assume stewardship

authority upon the dissolution of a primary steward. First priority will be given to parcels owned by landowners who are enrolled or have completed a forest landowner succession plan prepared with the assistance of the Vermont Farm and Forest Viability Program, or a similar program.

Funding for this program may be limited; applicants are encouraged to check with VHCB staff before applying.

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## VERMONT HOUSING AND CONSERVATION BOARD

### Process Guidelines for Privately Owned Working Forestland Projects

#### **Application of Interest**

The first step is to submit an Application of Interest. VHC B's form titled "Application of Interest for Conservation of Privately Owned Working Forestland" is available on request from VHC B conservation staff. Please fill out the form completely and provide attachments at your discretion. The completed form should be sent to the attention of the VHC B Conservation Director. VHC B will accept Applications of Interest at any time. There are no submission deadlines.

#### **Minimum Eligibility and Priority Determination**

Shortly after receiving an Application of Interest, VHC B staff will determine whether the project meets the minimum eligibility requirements and the staff will also assess the project's likelihood of being funded given the competition for available funds in the immediate future. If more information is needed, VHC B staff will contact the applicant organization. After the minimum eligibility determination is made, VHC B will notify the applicant organization and discuss funding prospects with the applicant.

Any project that VHC B staff has determined to be eligible may proceed to a full application. However, applicants are cautioned that funding is limited and competition may be stiff. In particular, VHC B will look to prioritize projects that offer public access and financial leverage.

#### **Appraisal Process without VHC B Cost Share**

A project that meets the minimum eligibility requirements may proceed without VHC B cost share on an appraisal, but it is necessary to use the following guidance: (1) appraisals must be ordered by applicant organizations (not the landowner) and the applicant organization should be identified as the client in the appraisal report, (2) appraisers must be Vermont licensed and certified in general real estate, (3) VHC B Specifications for Fee Simple Appraisals of Conservation Projects must generally be adhered to, using a Before and After easement scenario, (4) if excluded land is contiguous to the easement area, the appraiser should be asked to consider enhancement, and (5) it is strongly recommended to engage appraisers who have training or experience in appraising conservation easements.

When a full application is submitted for a project that VHC B has not cost shared an appraisal for, the application's total grant request may include a portion of appraisal costs listed in the project budget under associated costs.

VHC B may withhold funding for any project in which the staff determines that the appraisal is deficient.

### **Appraisal Process with VHCB Cost Share**

VHCB is willing to cost share an appraisal if VHCB staff has determined that the project meets the minimum eligibility requirements, and the project offers one or more of the following: (1) meaningful public access, (2) financial leverage of at least 15% of total project costs, (3) unusually significant natural resource values, (4) the landowner has completed, or is in the process of developing a succession plan through enrollment in VHCB's landowner succession planning program.

After VHCB notifies an applicant that a project meets the requirements for appraisal cost share, the applicant may submit a copy of an appraisal bid to VHCB staff. The staff may ask for further documentation as necessary to confirm easement configuration and the instructions to be given to the appraiser. VHCB staff will then inform the applicant that VHCB is willing to cost share the appraisal, usually up to half the quoted cost. The appraiser should be instructed to invoice the VHCB share directly to VHCB, in care of the VHCB Conservation Director.

### **Submission of a Full Application**

Applicants should check the VHCB website to ascertain Board meeting dates and submission deadlines for conservation applications. It is also recommended that applicants call or email VHCB conservation staff prior to submission for further guidance. Full applications must be made on VHCB conservation project application forms, with all required attachments (maps, photos, etc.) included. The appraisal report must also be submitted, along with a copy of a signed