

Watershed Agricultural Council

Agriculture ♦ Forestry ♦ Conservation Easements ♦ Economic Viability

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Watershed Agricultural Council's ("WAC") Agricultural Conservation Easement Program Applicant Selection Guideline

The intent of the Watershed Agricultural Council's ("WAC") Agricultural Conservation Easement Program Applicant Selection Guideline, defined herein, is to ensure that: 1) compelling agricultural properties that can provide water quality protection within the New York City Watershed are selected for further consideration for the development of a WAC Agricultural Conservation Easement ("CE"); 2) WAC and New York City Department of Environmental Protection ("DEP") staff resources are effectively and efficiently administered to protect the maximum number of compelling properties; and 3) landowners are treated fairly and equitably during the selection process.

The following guideline will be used to consider eligibility and selection of applicants towards the development of WAC Agricultural Conservation Easements.

A. General Requirements: In order to be considered for a WAC Agricultural CE, a landowner must meet the following eligibility requirements:

1. The Property should be considered as a whole, with only those tax lots of interest to be included. This will usually mean that all tax lots owned by the same owner are included, but allows for portions to be excluded from the prospective CE in the following situations:
 - a. They are outside the watershed;
 - b. They are small and not abutting the operating farm;
 - c. They lack significant watercourses and/or farming activity.
2. Applicant's property must have a current and active Whole Farm Plan ("WFP") that has been approved by the Agricultural Committee.
 - a. "Current" WFP means that the Best Management Practices ("BMPs") prescribed in the WFP2 document of the WFP correlate with current Agricultural Practices on the property as confirmed by the Easement Program Agricultural Conservation Planner.
 - b. "Active" means that the property has active commercial agriculture as confirmed by an Annual Status Review.
 - c. Properties that have current and active WFPs, but are in need of substantial revision, will be reviewed by the Easement Program Agricultural Planner to determine whether the revisions will be planned prior to appraisal of the property. Properties that are in need of major revisions affecting their status as "current" may be deemed ineligible by the Agricultural Conservation Planner until the revisions are approved by the Agricultural Committee.

3. Property's Producer must be farming in accordance with the WFP. Farming in Accordance with a WFP for purposes of application eligibility means that all structural BMPs identified in the WFP2 document have been planned or implemented and relevant Operations and Maintenance ("O&M") Agreements have been signed by the landowner and Producer and that the landowner and Producer are adhering to the terms and conditions of the current WFP and its O&M agreements.

4. Property must be a minimum of 50 Acres in Size except that a property less than 50 acres in size shall be considered eligible on a case by case basis by the Easement Committee ("EC") if there is a "no subdivision" clause in the eventual CE and one or more of the following apply:

- a. The property has 20% SWC Surface Water Criteria ("SWC"), as identified and defined by DEP's hydrologic data resources or as otherwise agreed to by WAC and DEP, excluding the area reasonably forecast to be inside an ADA
- b. It is located within a DEP Area of High Focus or High Priority (as defined in DEP's Long Term Land Acquisition Plan dated September 30, 2009).
- c. It consists of only one tax parcel.
- d. The ratio of potential development area to remaining CE area would not exceed standards established in the Land Planning Guidelines.
- e. The property is considered a Compelling Agricultural Resource under Exhibit B.
- f. The property meets the definition of Conservation Corridors under Exhibit A, and under common ownership with current WAC easement landowner.

5. Applicant's property is not located in a designated Hamlet where a municipality has adopted a resolution excluding acquisition of CEs.

6. Applicant or applicants must own the property (tax parcels) listed on the application.

7. The proposed property to be eased must be wholly or partially located within the jurisdictional boundaries of the New York City West of Hudson ("WoH") Watershed. If partially located in the Watershed, the proposed portion to be eased must satisfy all the eligibility requirements contained herein, and no portion of a property outside the watershed shall be eased.

8. The applicant must be in good standing with the Easement Program.

9. All Properties shall have at least seven percent (7%) Surface Water Criteria ("SWC"), as identified and defined by DEP's hydrologic data resources or as otherwise agreed to by WAC and DEP, excluding the area reasonably forecast to be inside an ADA. The EC, by means of recommendation from the working group and/or Easement Program staff, shall be allowed to consider properties without 7% SWC on a case by case basis if the property has "compelling agricultural resources" defined as follows and further detailed in Exhibit "B.": Compelling agricultural resources include but are not limited to crop lands, pasture, prime agricultural soils, agricultural infrastructure, and/or significant BMP investment. The EC may also consider socioeconomic factors such as: farm transition/succession, farm operations as economic multipliers, and "Beginning Farmer" operations.

B. Categories of Applicants:

1. Because WFPs are developed for agricultural Producers and because a significant percentage of agricultural lands in the NYC Watershed are leased, WAC recognizes two categories of landowners that may apply for a WAC CE, so long as the applicants meet the General Eligibility requirements established in Section A:

- a. *Producer/Landowner* — Agricultural Producers that have a WFP in their *name and own the land covered and identified in their WFP*.
- b. *Lessor (landowner)/Lessee (Producer)* — a Landowner that leases their owned lands to a Producer who has a WFP that covers the Lessor's lands and identifies such leased lands through BMPs on the WFP2 document of the WFP.

C. Required Documentation of WFP for Purposes of Eligibility

1. Landowners must have the following WFP documentation attached to their applications:

- a. *Producer /Landowner* - a copy of the most recent, active, current version of the WFP2 document which lists the name(s) of the Producer(s)/Landowner(s) and is signed by the Producer(s)/Landowner(s).

- 1. Names on the WFP2 should match the name(s) of the landowner(s) that appear on the title to the property in consideration.

- b. *Lessor/Lessee* - a copy of the WFP2 Supplemental created by the Easement Agricultural Planner. The supplemental lists all the BMPs in a Producer's WFP2 that are physically located on Lessor's property.

- 1. The Lessor's property may be covered by one or more Producer WFPs. In the event the property is covered by multiple WFPs, BMPs from each Producer's WFP must be identified in the Lessor's WFP2 Supplemental.

- 2. The Lessor's name and the names of all the Producers operating on the Lessor's lands must appear on the WFP2 Supplemental. Additionally, the Lessor and all Producers listed on the Supplemental must sign the WFP2 Supplemental.

- 3. Easement Program staff must schedule a meeting with the Lessor and all Producers listed on the WFP2 Supplemental to explain the requirements of the WFP on properties proposed for a WAC CE.

- 4. The Lessor(s) name on the WFP2 Supplemental should match the names appearing on title for the property in consideration.

D. All Documentation Required to Confirm Eligibility and Complete Application Prior to Scoring and Ranking¹

1. In order for an application to the Easement Program to be considered complete, the landowner's property must meet the Eligibility Requirements outlined in Section A, 1-8 and their application packet must include the following materials:

- a. Completed application
- b. Copy of WFP2 or WFP2 Supplemental as described in section 3.
- c. Maps of property (Created by Easement Program staff) identifying subject and neighboring

¹ A property's rank refers to its approximate placement on WAC's prioritization list, to be worked on in roughly descending order over time; it is not connected to whether a property is eligible or accepted into the Program.
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tax parcel boundaries, water resources, watershed boundary (where applicable), adjacent DEP fee land or easements, WAC CEs (where applicable), total acreage of property, hamlet designation areas (where applicable), and aerial photos of the property that depict the extent of land uses.

- d. If property is a Lessor/Lessee property, a map depicting the location of the Producer's BMPs (identified on the WFP2 Supplemental) on the Lessor's property is also required.
2. WAC Easement Program staff will notify applicants if their application is complete or incomplete and when they may expect a response from the EC.

E. Project Scoring and Ranking: Selection Criteria Methodology

1. In order to provide an unbiased method of selecting properties for the Easement Program, WAC will utilize the scoring system as prescribed in Exhibit "A" (Selection Criteria Worksheet) to score all eligible applicants. The scoring system, based on a series of points per category, will enable Easement Program staff to score properties based upon agricultural and water quality characteristics.
2. The contents of Exhibit "A" may be amended by the EC periodically to reflect changes in agricultural practices, land ownership, economics, or water quality priorities in the region.
3. The Selection Criteria Worksheet (Exhibit "A") will award points to properties for the following four categories:

a. Water Resources:

- 300-ft buffers to watercourses.
- 1000-ft buffers to reservoirs.
- NWI wetlands
- NYSDEC wetlands
- FEMA 100-year floodplain boundaries

* These SWC are based on the Natural Features Selection Criteria identified in the MOA Paragraph 63(b).

b. Agricultural Conservation Priorities:

WAC has established priority areas within the watershed to designate those areas most critical to the long-term sustainability of agriculture and water quality. The protection of farmland with WFPs within these priorities will aid in the long-term sustainability of agriculture and water quality. Emphasis shall be placed on farms owned by the Producer and associated with eased properties.

c. Agricultural Conservation Corridors:

Corridors of agricultural lands that are accessible within a reasonable travel distance of farmsteads allow for the future expansion of agricultural operations and support the

future viability of farming.

d. Acreage:

In an effort to protect the maximum natural resources within the watershed, emphasis shall be given to farms greater than 100 acres.

F. Selection Committee and the Applicant Selection Process

1. Once an applicant's property has been deemed eligible for scoring and the landowner's application has been verified complete by Easement Program staff, the application will be forwarded to the Application Selection Working Group ("ASWG") for scoring using the Selection Criteria Worksheet.
2. The ASWG shall consist of 3 staff members, two from WAC, appointed by the EC through a motion, and one from DEP.
3. ASWG members will utilize the Selection Criteria Worksheet (Exhibit "A") to evaluate each property. ASWG Members will score each category based on points available for each category.
4. Applicants will not be considered qualified for scoring by members of the ASWG unless they have all required documents attached to the application as described in Section D.
5. Scores for individual properties will be determined, conferred and agreed on by all ASWG members before advancing to EC.
6. Once the score is calculated for each property, the properties will be ranked from highest to lowest score. A ranked list, referred to as the "Eligible Applicants List" will be presented to the EC for review and approval. While properties will be ranked to assess interest and for the effectiveness of the Selection Criteria, each individual property will be presented and approved/denied via formal motion before qualifying for land plan development. This EC action will be a motion to confirm general eligibility and approve the application.
 - a. All properties shall be approved or denied as individual projects based on their own merits.
7. Approved applicants shall be contacted by Easement Program staff in the order of their score to determine interest of buyer and seller in proceeding with the development of a CE. Easement Program staff will work with approved applicants to develop a CE based on staffing capacity, available funding, and willingness of the landowner to pursue development of a CE.
8. Applicants who were scored and approved by the EC who do not wish to proceed shall be sent a letter confirming WAC's understanding that they do not wish to proceed with the development of a CE.

"Exhibit A"

Selection Criteria Worksheet

I. Water Resources: 35 possible points

Points for the following categories will be attributed as shown below:

- 300-ft buffers to watercourses.
- 1000-ft buffers to reservoirs.
- NWI wetlands
- NYSDEC wetlands
- FEMA 100-year floodplain boundaries

	<u>Points</u>	<u>Criteria</u>
a.	15 points	>7-10% SWC
b.	25 points	>11-20% SWC
c.	35 points	>21% SWC

II. Priority Areas in Watershed: 5 possible points

New York City has established priority areas within the watershed to designate those areas most critical to the long-term water quality of its reservoirs. The permanent protection of farmland with Whole Farm Easements within these priority areas will aid in the long-term water quality of the reservoirs. Emphasis will be placed on farms located within the top priority areas within the watershed.

NYC DEP Priority Areas:

Within a Priority I or II area or wholly or partially within an area of high focus

III. WAC Agricultural Conservation Priority: 5 possible points

WAC has established priority within the watershed to designate those areas most critical to the long-term sustainability of agriculture and water quality. The permanent protection of farmland with CEs within these priorities will aid in the long-term sustainability of agriculture and water quality. Emphasis shall be placed on farms owned by the Producer and associated to properties with Agricultural CEs:

	<u>Points</u>	<u>Criteria</u>
a.	5	Producer Home Farm
b.	5	Associated Supplemental Lands to Eased Producer Ag. Operations

IV. Conservation Corridors : 20 possible points

Corridors of agricultural lands that are accessible within a reasonable travel distance of farmsteads allow for the future expansion of agricultural operations and supports the future viability of farming. Conservation Corridors and Prospects for Continued Agricultural Use may receive up to twenty (20) points for meeting any, or a combination, of the following:

	<u>Points</u>	<u>Criteria</u>
a.	15	Adjacent to WAC protected farm
b.	5	Adjacent to DEP fee or easement
c.	10	Property located within 1.0 Travel Mile of a WAC-protected farm or DEP-protected property that has agricultural use.

Adjacent: Property lines sharing a common boundary, including properties directly separated by a public road or right of way.

Travel Mile: Distance traveled along a public road and /or passable farm road to the ADA and/or farm infrastructure.

V. Acreage: 35 possible points

In an effort to protect the maximum natural resources within the watershed, emphasis shall be given to farms greater than 100 acres. Acreage to be protected under a CE:

	<u>Points</u>	<u>Criteria</u>
a.	35 Points	200+ acres
b.	25 Points	100-199 acres
c.	15 Points	75-99 acres

Total Score X/100

Exhibit B

Compelling Agricultural Resources

Compelling agricultural resources include but are not limited to crop lands, pasture, prime agricultural soils, agricultural infrastructure, and/or significant BMP investment. The EC may also consider socioeconomic factors such as farm transition/succession, farm operations as economic multipliers, as compelling.

The ASWG and/ or WAC Staff will consider one or more of the following as Compelling Agricultural Resources:

- **Productive Agricultural Lands:** To protect water quality it is critical for farming operations to have a sufficient amount of agricultural lands available for nutrient management. An indicator in the nutrient management plan is the ratio between cropland acres and animals units on the farm.
 - Adequate amount of Productive crop/pasture land to support Ag operations.
 - Percentage of Ag land to support nutrient management.

Property Acres	Percent Ag Lands
▪ <50	▪ 30%
▪ 50-100	▪ 25%
▪ 101-200	▪ 20%
▪ 201-300	▪ 17.5%
▪ 301-400	▪ 15%
▪ 401-500	▪ 12.5%
▪ >500	▪ 10%

- Significant WAP BMP investment (\$300K plus) located on farm proposed for CE.
- Farm Succession/Transition Plan/ Beginning Farmer
 - Landowner/Producer to provide documentation regarding current engagement with organization such as NRCS, CCE, Farm Credit East, or FarmNet on the development of a farm succession/transition plan. Beginning Farmer could include anyone from a first-year farm apprentice to someone pursuing a mid-life career change to agriculture.²

² "According to the USDA's National Agricultural Statistics Service's most recent Ag Census data, the number of young people entering farming continues to decline, but the number of new farmers and ranchers over the age of 35 as well as the number of smaller farms and ranches nationwide continue to rise. Ensuring there will be a "new generation" of

- Applicant scores 50 points or greater on Selection Criteria Worksheet Exhibit A
- Farm operation serves as economic multiplier in its respective community. Examples, of such, include:
 - Proof that farm employs three (3) or more local residents;
 - Current & followed Farm Business Plan;
 - Proof of participation in local food hub, local farmers market, or direct supplier to local business (that employs members of the community);
 - Participation in local marketing campaigns, such as Pure Catskills.

beginning farmers and ranchers — regardless of age or production choice — is especially important to the continuation of agricultural production in the United States.”