

LIST OF APPENDICES

- A. Summary of Public Input
 - a. SWOT Analysis – Public Meeting July 2013
 - b. Farmland Owner Survey Report
- B. NYS Agricultural District Law (Circular 1150)
- C. Cost of Community Services American Farmland Trust Fact Sheet
- D. Zoning Audit
- E. Parcel Rating List and Map
- F. NYS Farmland Protection Implementation Grants information (Purchase of Development Rights)
- G. Agricultural and farmland protection techniques
- H. Sample resolution to establish agricultural advisory committee

APPENDIX A – SUMMARY OF PUBLIC INPUT

- SWOT Analysis
- Farmer/ Landowner Survey Report

**Input from Joint Public Meeting
July 31, 2013**

At the public workshop held in July 2013, farmers, farmland owners and residents identified the Strengths, Weaknesses, Opportunities and Threats (SWOT) relating to farmland and agriculture in the two Towns. The exercise was facilitated by the Town's planning consultant and helped to guide the planning process.

"Strengths" and "weaknesses" are generally intrinsic to the community; "opportunities" and "threats" come from outside the community and are defined as follows:

- **Strength** - An asset or policy that can be leveraged to help achieve our goals
- **Weakness** - A liability, hindering us in achieving our goals, that can be corrected or mitigated
- **Opportunity** - A situation or an element that can be seized or capitalized on to support our goals
- **Threat** - An element or force that must be countered because it threatens achievement of our goals

The table on the following page summarizes the input from participants.

**Input from Joint Public Meeting
July 31, 2013**

Strengths, Weaknesses, Opportunities and Threats (SWOT)

Summary of Input from participants at the joint Chili/Wheatland public meeting July 2013

<p style="text-align: center;"><u>Strengths</u></p> <ul style="list-style-type: none"> • High quality agricultural soils • Farm families – Strong heritage of farming • Historic barns – contribute to visibility of farming • Close to population/ markets • Buy local movement/ Grow Monroe program • Good relationship with Town of Chili; Town highway department 	<p style="text-align: center;"><u>Weaknesses</u></p> <ul style="list-style-type: none"> • Lack of available capital to start/ expand farms • Older farmers need to mentor younger ones
<p style="text-align: center;"><u>Opportunities</u></p> <ul style="list-style-type: none"> • Agri-tourism – support with Town map • Jobs for local residents • Improved communications between farm community and town officials • Publicize importance of agriculture to the Town (consider Farm Tour; address in Town newsletter; programs in schools) 	<p style="text-align: center;"><u>Threats</u></p> <ul style="list-style-type: none"> • Development • Conflicts with non-farming neighbors – slow vehicles, smell of manure, erecting agricultural buildings • Impacts on natural resources (e.g. Black Creek watershed) • Higher taxes – esp. County • Aging population • Consolidation of farms – larger farms may be threat to smaller farms; concern among public about large-scale agriculture • Lack of interest in farming among young people/ next generation • Environmental changes and resource extraction • Global warming/ climate change/ severe weather • Hard to find qualified workers – need to be willing to work hard/ commit to showing up when needed/ seasonal • Difference between farmers and non-farmers in time frame for planning for the future of the land– several generations (farmers) vs 10 years ahead (non-farmers)

Town of Chili Agricultural & Farmland Protection Plan

Farmland Owner Survey – Summary of Responses

Survey Methodology

Surveys were sent by mail to all farmland owners in the Towns of Chili and Wheatland. The list was derived from real property tax records of owners of at least five acres farmland based on GIS map of active farmland. A postcard sent a week following the survey reminded landowners to return the surveys.

Who responded to the survey?

Respondents to the survey included full-time and part-time farmers as well as landowners who rent or lease land to farmers.¹

- 11 Full-time farmers.** Of these five own land in Wheatland only and six own land in both Chili and Wheatland
- 9 Part-time farmers.** Of these, eight own land in Chili only and one in both Chili and Wheatland
- 29 Landowners who rent or lease land to a farmer.** 26 of these own land in Chili only and three own land in both Chili and Wheatland

Landowners who rent, lease or allow farmers to work their land identified the following farmers who works their land²:

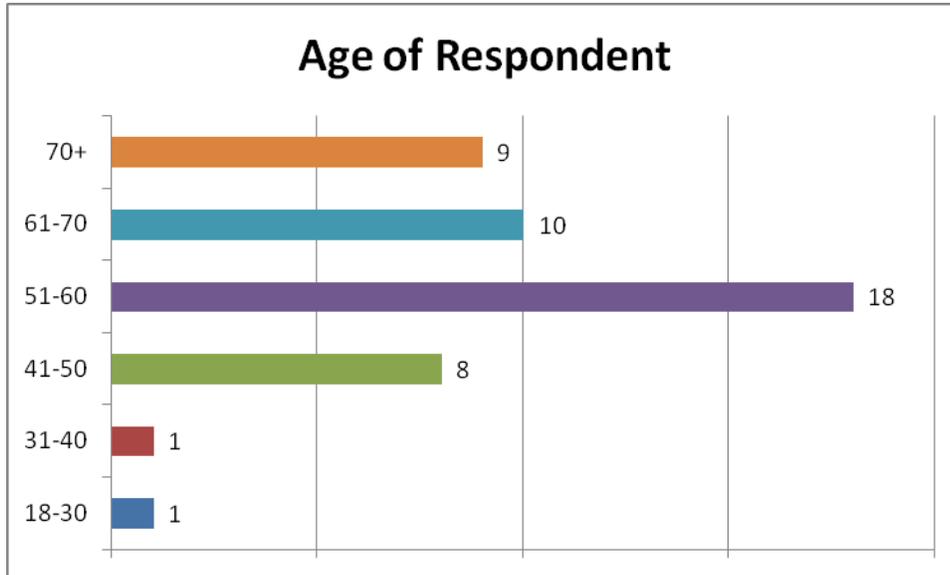
- Krenzer/ David Krenzer (5)
- Paul Stein (2)
- Peter Burns (2)
- Paul Stein (2)
- Bill Steimer (1)
- Stokoe (1)
- Volkman Farms (1)
- George Hauslauer (1)
- Don Vogl (1)
- Skyloft Morgans (1)
- Jennifer Hartwell (1)
- Mike Kohlman (1)

A majority (79%) of the respondents are age 51 or older. Only two are 40 or younger and eight between 41 and 50.

¹ Respondents who reported that they kept horses were classified as part-time farmers. Respondents who let farmers use their land for crops for no charge were classified as non-farming landowners. Responses from people who do not use their land for farming were not included in this tabulation.

² Includes landowners who own land in Chili only as well as those who own land in both Chili and Wheatland

**Town of Chili – Agricultural and Farmland Protection Plan 2014
Farmland Owner Survey**



Future plans for farmland

Based on the response to the question, “Please indicate your long-term plans for the farmland you own in Wheatland or Chili,” farmers and farmland owners in Wheatland intend to keep their land in farming use for the foreseeable future.

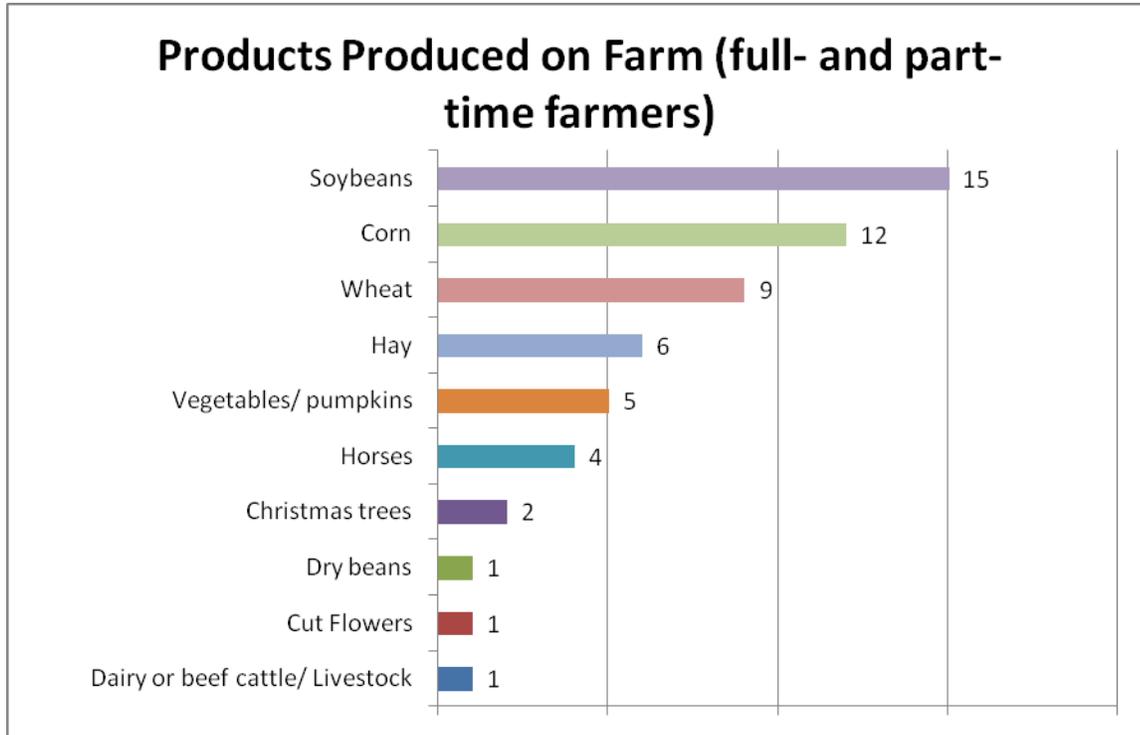
- 38 Plan to continue to use land for farming
- 1 Plans to sell a portion of their farmland within 10 years for development
- 1 Plan to sell entire farm within 10 years for development
- 5 Plan to sell/ transfer to another farmer (including family member)
- 2 Plan to acquire more land to farm within Chili, Wheatland or neighboring town

How is farmland in Wheatland used?

Farm Products

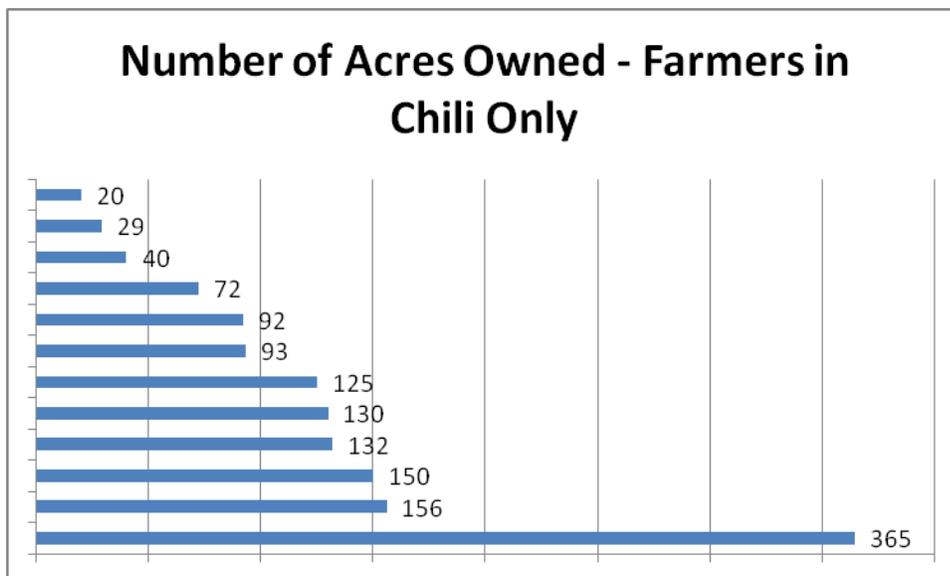
Respondents (full- and part-time farmers only) reported the following primary and secondary products produced on the land:

**Town of Chili – Agricultural and Farmland Protection Plan 2014
Farmland Owner Survey**

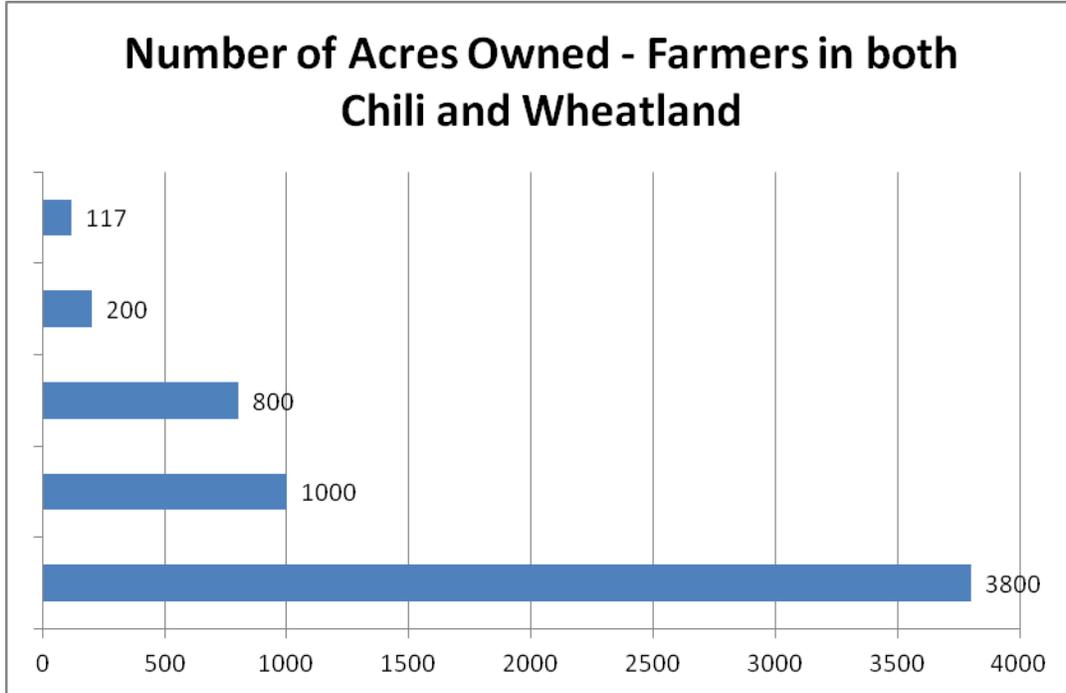


Size of farm operation

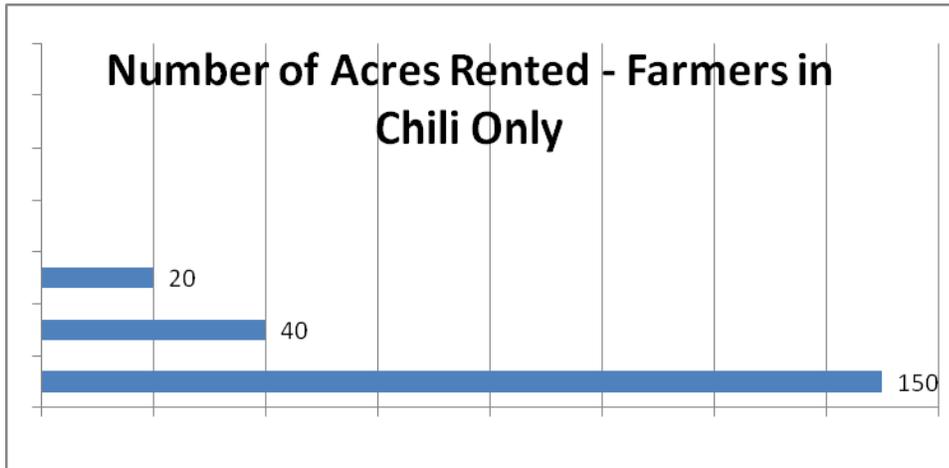
Among respondents who own land in both Chili and Wheatland (4 of 5 are full-time farmers), total number of acres owned ranges from 117 to 1000+ acres. Among full-time farmers who own land in Chili only, the average holding is 117 acres and the range is 20 to 365 acres.



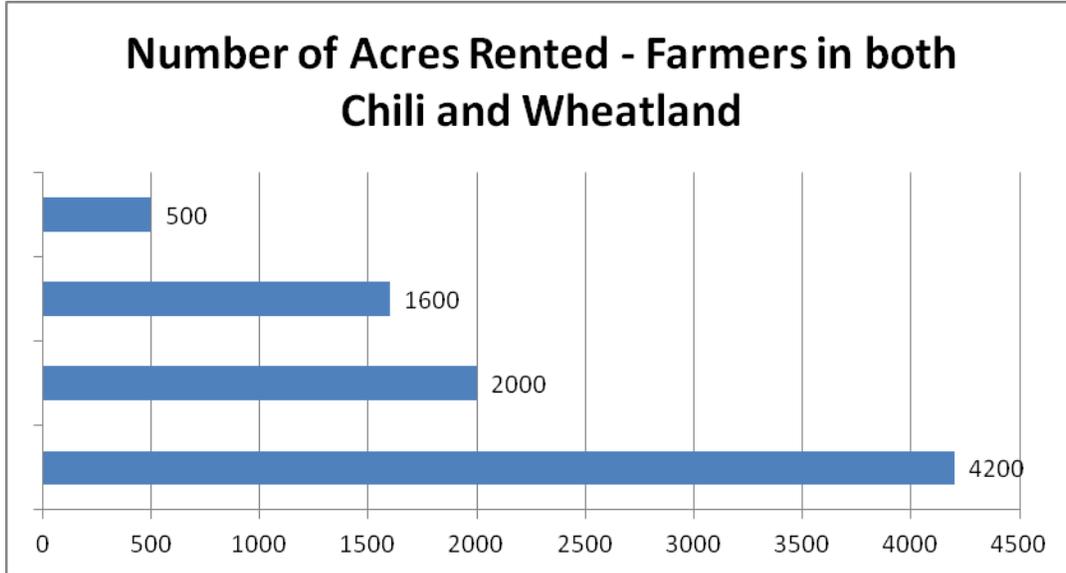
**Town of Chili – Agricultural and Farmland Protection Plan 2014
Farmland Owner Survey**



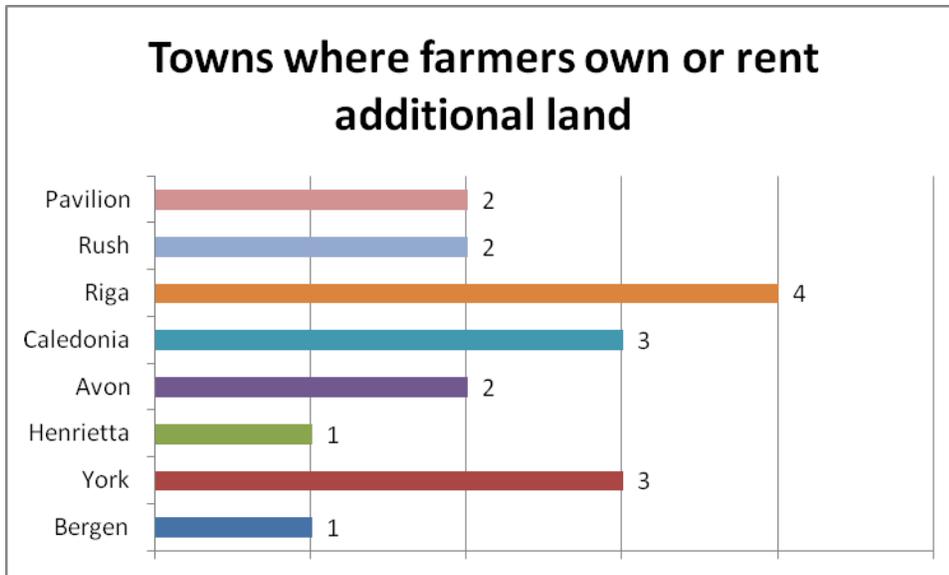
Among the full-time farmers who own land in both Chili and Wheatland, all four respondents rely on rented land; the number of acres rented ranges from 500 to more than 4000. Among farmers with land in Chili only, three of eight respondents rely on rented land; the number of acres rented ranges from 20 to 150.



**Town of Chili – Agricultural and Farmland Protection Plan 2014
Farmland Owner Survey**



Farmers who utilize land in Chili and Wheatland also farm land they own or rent in the following towns:

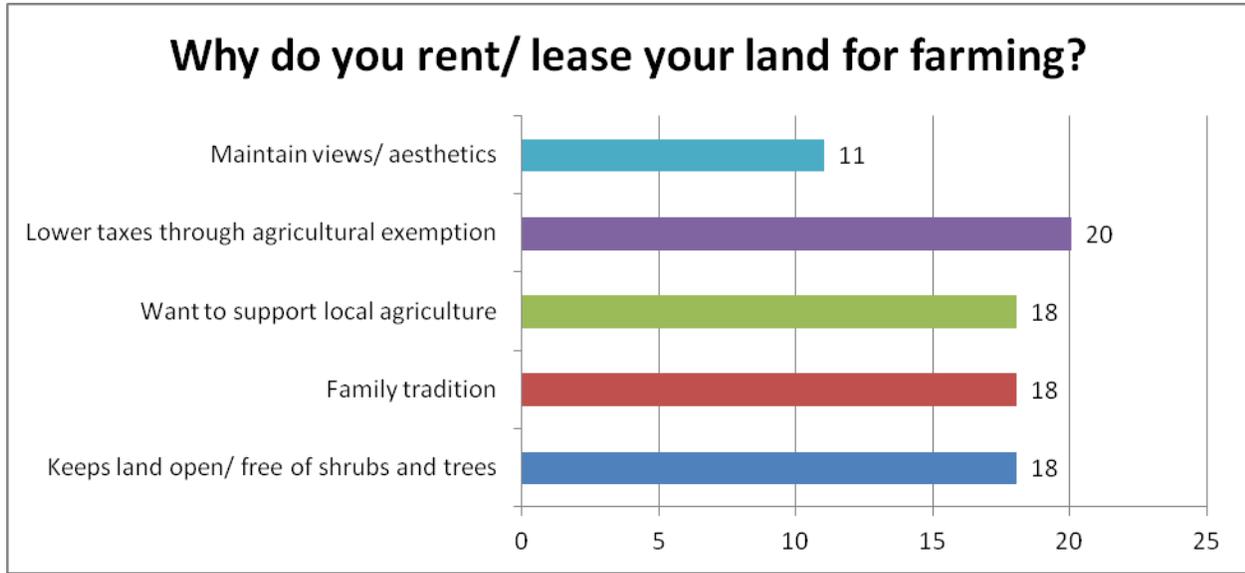


Contributions of Rented Land

Rented land is critical to the operation of most full-time farmers. Among respondents, six foresaw a “serious impact” if rented land were no longer available and one indicated a “moderate impact.” None reported “slight or no impact.” Part-time farmers are less dependent on rented land, with one of respondents indicating a “moderate impact” and two “slight or no impact.”

The survey asked owners of farmland about why they rent to farmers and how they chose a farmer to rent to.

**Town of Chili – Agricultural and Farmland Protection Plan 2014
Farmland Owner Survey**

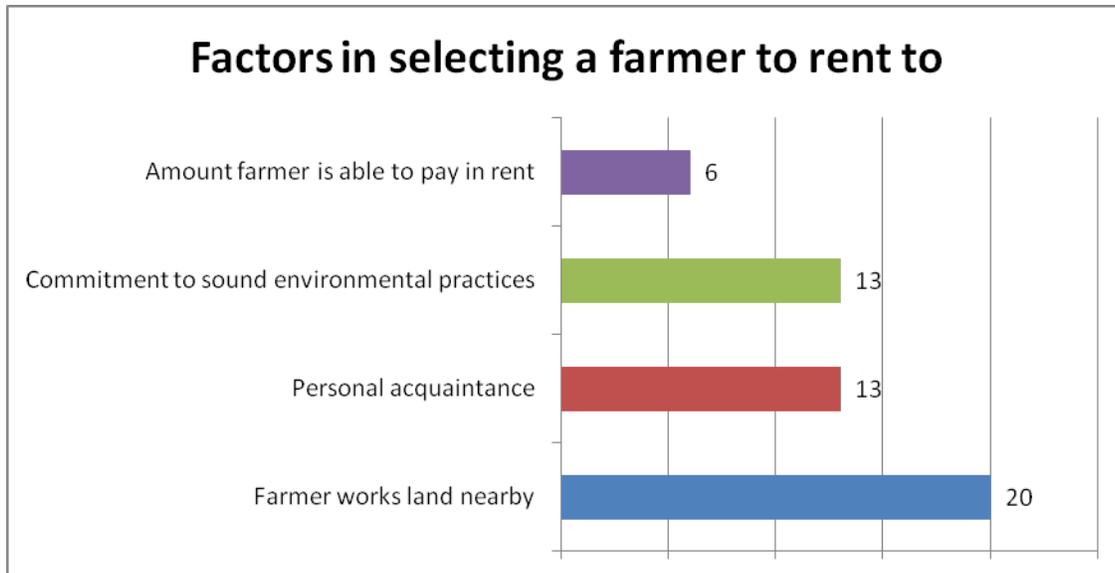


Other responses include:

- “To see GODs work”
- “rather see it farmed than just sitting there”
- Want to in the future go back to farming myself”
- Income to pay taxes

Several landowners who received the survey indicated that their land is not currently used for farming. Many of these landowners prefer to see the land as habitat for deer or other wildlife.

Landowners identified several factors in selecting a farmer to work their land. The amount of rent paid was least likely to be a factor.



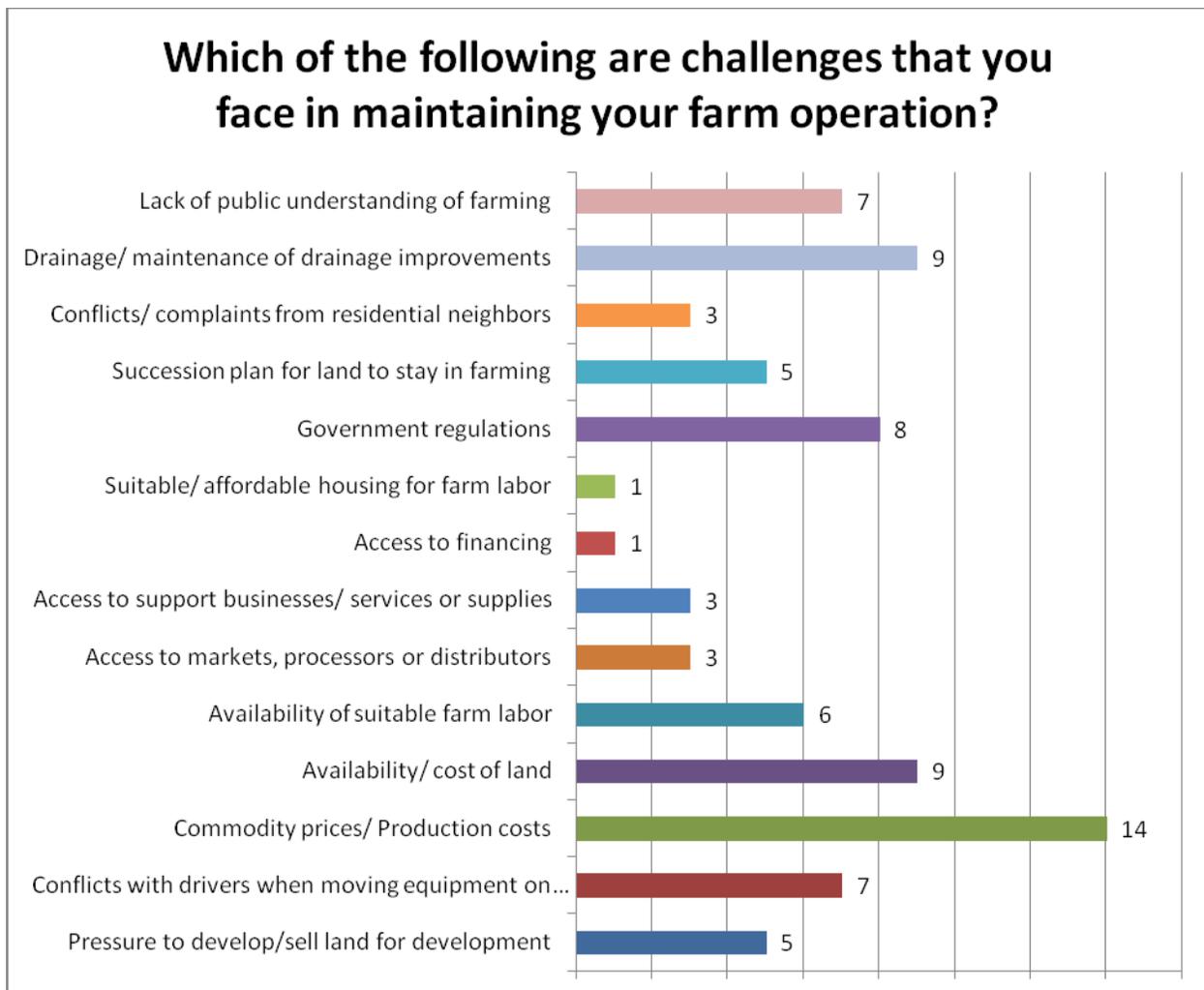
Town of Chili – Agricultural and Farmland Protection Plan 2014 Farmland Owner Survey

Among landowners who rent or lease their land to farmers, 13 have a written agreement and 12 do not.

Challenges to farm operations

Farmers face a variety of challenges in maintaining their farm operations. Among full- and part-time farmers, the issues mentioned most often were:

- Commodity prices/ Production costs
- Drainage
- Availability/ Cost of land
- Government regulations
- Lack of public understanding
- Conflicts with drivers when moving equipment on roads



Town of Chili – Agricultural and Farmland Protection Plan 2014
Farmland Owner Survey

Support for potential initiatives

A majority of respondents support the potential actions identified in the survey. However, the extent of support varied.

The actions that received the highest levels of support³ were:

- Inform landowners about available tax exemptions on agricultural land and buildings approaches (96 of 100)
- Educate the public about the value of agriculture (87 of 100).
- Improve communication/ coordination between landowners and Town highway staff during road/ drainage improvement projects (82 of 100)
- Promote farm stands, farm market and related businesses (82 of 100).

The following actions received moderate support:

- Encourage farmers to apply for technical and financial assistance to manage stormwater runoff from farms (67 of 100)
- Require developers to include buffers between new residential development and farmland (65 of 100).
- Apply for State or federal grants to permanently protect farmland when landowners voluntarily participate (57 of 100).
- Discourage or limit creating large (5+ acre) residential lots that take farmland out of production (50 of 100)
- Revise zoning to allow additional businesses on farms (54 of 100).
- Create a local committee to mediate conflicts between farmers and neighbors (53 of 100).
- Require developers that convert high quality farmland to fund protection of farmland elsewhere in the town (51 of 100)

The actions that received the least support were:

- Encourage landowners to work with land trusts to place permanent conservation easements on their farmland (46 of 100).
- Avoid extending sewers into agricultural areas (30 of 100).

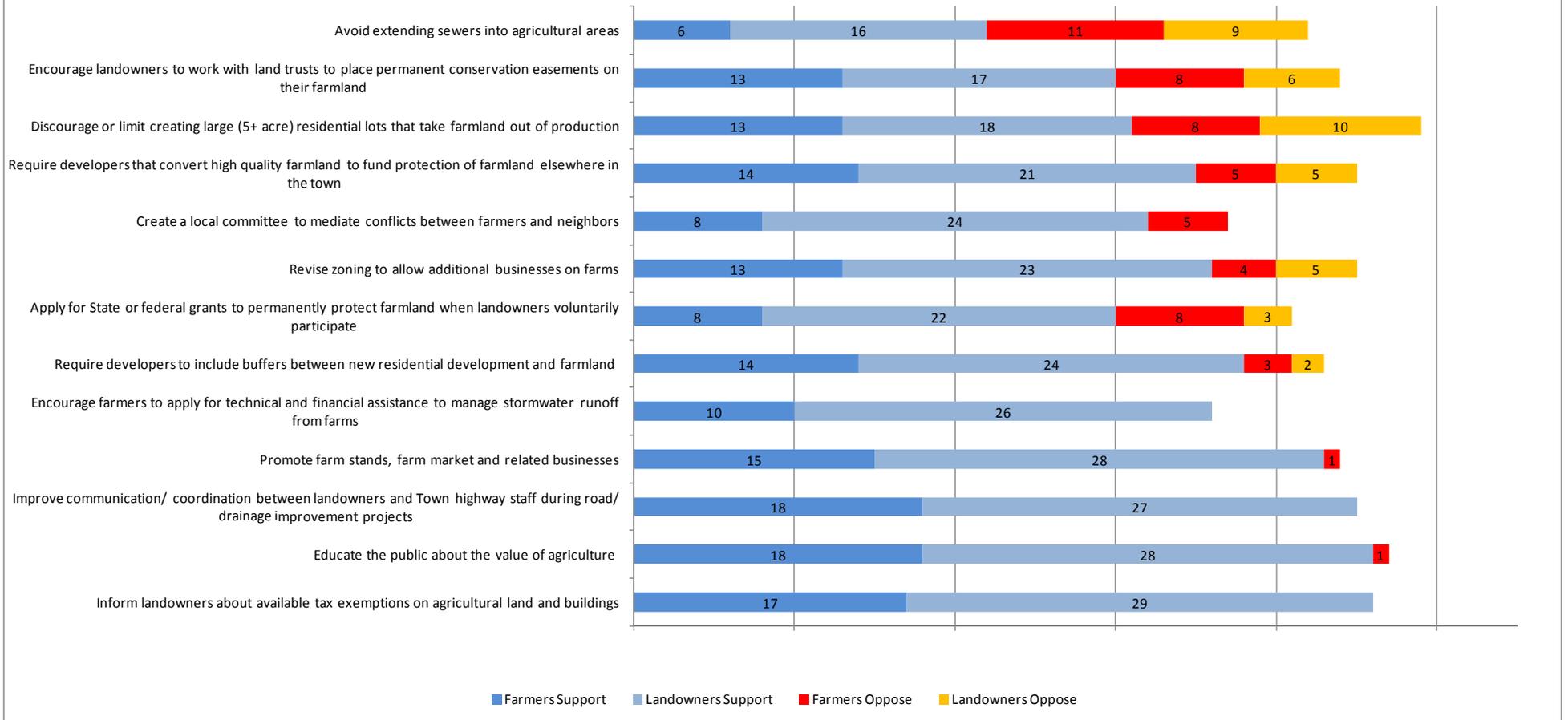
³ Each response was assigned 100 points for “strongly support,” 50 points for “somewhat support,” -50 points for “somewhat oppose” and -100 points for “strongly oppose.” The sum of the points assigned for each action was divided by the total number of responses. Responses of “don’t know/ need more information” were not assigned any points.

Town of Chili – Agricultural and Farmland Protection Plan 2014
Farmland Owner Survey

While all of the potential actions received more support than opposition, several respondents expressed opposition to several of the proposed initiatives. A significant minority of farmers, in particular, oppose policies to limit sewer extensions, place permanent easements on farmland, purchase development rights to farmland and allow additional businesses on farms.

Town of Chili Agricultural & Farmland Protection Plan Farmland Owner Survey – Summary of Responses

Support for potential farmland protection approaches



APPENDIX B – NYS AGRICULTURAL DISTRICT LAW (CIRCULAR 1150)

~~~~~  
**New York State**

**Department of Agriculture and Markets**

**10B Airline Drive**

**Albany, New York 12235**  
~~~~~

CIRCULAR 1150

ARTICLE 25AA -- AGRICULTURAL DISTRICTS

AGRICULTURE AND MARKETS LAW

(AS AMENDED THROUGH January 1, 2015)

AGRICULTURAL DISTRICTS LAW

Summary of **1994 Amendments** to the Agricultural Districts Law

Section Amended: §301

Description: Defines commercial horse boarding operations with at least 10 acres, having at all times at least 10 horses and grossing an average of \$10,000 as agricultural enterprises eligible for agricultural assessment.

Effective Date: July 1, 1994 and shall apply to city and town assessment rolls completed subsequent to March 1, 1995 and to village assessment rolls completed subsequent to January 1, 1996.

Section Amended: §301(4)

Description: Permits land under 10 acres with gross sales of \$50,000 or more of agricultural products to qualify as "land used in agricultural production" for purposes of agricultural assessment.

Effective Date: July 26, 1994

Sections Amended: §§304-a, 305, 306, 307, 309, 310

Description: Changes name of Board of Equalization and Assessment to Board of Real Property Services and Division of Equalization and Assessment to the Office of Real Property Services.

Effective Date: January 1, 1995

Sections Amended: §§305(6), 306(5)

Description: Makes technical corrections to Agriculture and Markets Law provisions relating to special benefits assessments; improves real property tax administration.

Effective Date: July 26, 1994, except that certain provisions relating to villages take effect on January 1, 1995.

Section Amended: §306

Description: Exempts owners of land restricted by a conservation easement from filing an individual commitment form in order to receive agricultural assessment.

Effective Date: July 20, 1994

Sections Amended: §§306, 308

Description: Eliminates filing of individual commitment form as condition for receiving agricultural assessment outside of agricultural districts.

Effective Date: August 2, 1994, shall apply to assessment rolls prepared on the basis of taxable status dates commencing on or after March 1, 1995.

Summary of **1995 Amendments** to the Agricultural Districts Law

Section Amended: §§301(11)

Description: Amends to include farming practices in the definition of "farm operation."

Effective Date: October 24, 1995

Section Amended: §301(13)

Description: Amends to clarify the definition of a "commercial horse boarding operation" to consist of at least ten acres and boarding at least ten horses, regardless of ownership, and exclude from eligibility for an agricultural assessment operations where the primary on-site function is horse racing.

Effective Date: August 2, 1995

Section Amended: §302(1)

Description: Amends to require a county Agriculture and Farmland Protection Board to notify the Commissioner of Agriculture and Markets and the Commissioner of the Department of Environmental Conservation of any attempts to propose the siting of solid waste management facilities upon farmland within an agricultural district.

Effective Date: January 1, 1998

Section Amended: §302(1) (a)

Description: Amends to correct a technical error to provide that six, rather than five members of a County Agricultural and Farmland Protection Board shall reside within the county which the respective board serves.

Effective Date: October 24, 1995

Section Amended: §303(7)(c)

Description: Amends to correct the reference to those subdivisions of Section 303 pursuant to which the county legislative body may modify an agricultural district.

Effective Date: October 24, 1995

Sections Amended: §305(4)

Description: Amends to include the actual construction of dwellings, commercial or industrial facilities, or water or sewer facilities to serve non-farm structures within the scope of actions which trigger the Notice of Intent filing requirements.

Effective Date: October 24, 1995

Section Amended: §305(4)(h-1)

Description: Adds a new paragraph to prohibit the siting of solid waste management facilities through the process of eminent domain on land receiving an agricultural assessment or upon land in agricultural production and located within an agricultural district.

Effective Date: January 1, 1998, but will not apply to solid waste management facility applications deemed complete by the Department of Environmental Conservation on or before the effective date.

Section Amended: §305(5)

Description: Amendments made to this section to clarify the original intent of the Law. The amendments state that benefit assessments, special ad valorem levies and other rates or fees charged for municipal improvements can not be levied on any basis upon land used primarily for agricultural production within an agricultural district.

Effective Date: August 2, 1995.

Section Amended: §305(7)

Description: Provides for a four-year moratorium on real property taxation on immature orchards/vineyards for four years after replanting or expansion of orchards and/or vineyards.

Effective Date: July 28, 1995 and shall apply to assessment rolls prepared after January 1, 1997.

Section Amended: §307

Description: Amends to make a technical correction to the reference to subdivision 8 of Section 303 in the first sentence of the section.

Effective Date: October 24, 1995

Section Amended: §308(1) (b)

Description: Amends to change the name of the U.S.D.A. Soil Conservation Service to the Natural Resources Conservation Service and to authorize, rather than require, that the Commissioner consult with the New York State College of Agriculture and Life Sciences and the U.S.D.A. Natural Resources Conservation Service on every sound agricultural practices opinions.

Effective Date: October 24, 1995

Section Amended: §308(2)

Description: Amends to make a technical correction to the reference to Section 305 in the first sentence of the subdivision

Effective Date: October 24, 1995

Section Added: §308-a

Description: Adds a new section to provide for the award of fees and expenses to a prevailing party in certain private nuisance actions, where the nuisance is alleged to be due to an agricultural practice on land in an agricultural district or subject to agricultural assessment, and provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued by the Commissioner.

Effective Date: October 24, 1995

Summary of **1996 Amendments** to the Agricultural Districts Law

Section Amended: §301(2)

Description: Adds a new paragraph i to include woody biomass within the definition of crops, livestock and livestock products for agricultural assessment purposes.

Effective Date: 8/29/96

Section Amended: §301(4)

Description: Adds a new paragraph g to include land under a structure in which crops, livestock or livestock products are produced within the definition of land used in agricultural production.

Effective Date: 8/29/96

Section Amended: §306(1), (1-a), (4), and (5)

Description: Improves real property tax administration; eliminates superfluous references to individual commitments of agricultural land for beneficial tax treatment; and reconciles two chapters of Laws of 1994.

Effective Date: 8/8/96

Section Amended: §308(1)

Description: Specifies that the Commissioner is authorized to issue Sound Agricultural Practice Opinions on the direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm.

Effective Date: 6/18/96

Summary of **1997 Amendments** to the Agricultural Districts Law

Section Amended: §301(2) (e)

Description: Expands the definition of "livestock and livestock products" to include ratites, such as ostriches, emus, rheas and kiwis.

Effective Date: 5/20/97

Section Amended: §301(4) (b)

Description: Deletes the term "qualifies" and adds the term "eligible" to clarify that land is only required to be eligible for

an agricultural assessment, not actually receiving an agricultural assessment.

Effective Date: 11/3/97

Section Amended: §301(11)

Description: Amends definition to delete the term "land used in agricultural production" and include "buildings, equipment and practices which contribute to the on-farm production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise" within the definition of "farm operation."

Effective Date: 11/3/97

Section Amended: §303(1)

Description: Clarifies that maps submitted in the agricultural district creation process should delineate the exterior boundaries of a district and that the exterior boundaries should conform to tax parcel boundaries.

Effective Date: 11/3/97

Section Repealed: §303(7)

Section Added: §303-a

Description: Repeals §303(7) and adds a new §303-a that clarifies the agricultural district review process.

Effective Date: 11/3/97

Section Amended: §303(8)

Description: Clarifies that the agricultural district map filed by the county must delineate the exterior boundaries of the district; and for good cause shown, and upon petition by the county, the Commissioner may approve the correction of errors in materials filed pursuant to the district creation process.

Effective Date: 11/3/97

Section Amended: §304-b(1) and (2)

Description: Deletes references to "individual commitments" which were removed in all other sections of this Article by Chapter 690 of the Laws of 1994.

Effective Date: 11/3/97

Section Amended: §305(1) (a)

Description: Amends to specify that applicants for agricultural assessments shall furnish the assessor with information regarding the eligibility for agricultural assessment of any land used in conjunction with rented land and changes the deadline for filing an application for an agricultural assessment in a year of revaluation or update from the taxable status date to thirty days prior to the date set by law for the filing of the tentative assessment roll.

Effective Date: 8/5/97

Section Amended: §305(1) (d) and §306(2)

Description: Amends to specify that the purchase of land by New York City for watershed protection purposes or the conveyance of a conservation easement by the City to the NYS DEC, does not constitute a conversion and no such payment is due when land is taken out of agricultural production.

Effective Date: 9/10/97

Section Repealed: §305(2)

Description: repealed

Effective Date: 11/3/97

Section Amended: §305(4) (g)

Description: Clarifies that certifications are only required at least ten days before commencing an action rather than ten days before commencing or approving an action.

Effective Date: 11/3/97

Section Amended: §305(4) (j)

Description: Adds a new paragraph to authorize the Commissioner to bring an action to enforce any mitigation measures proposed by a project sponsor and accepted by the Commissioner pursuant to a Notice of Intent filing which are designed to minimize or avoid adverse agricultural impacts revealed in the Notice process.

Effective Date: 11/3/97

Section Added: §305-a

Description: Incorporates the language of Paragraph (b) of Section 305(2) to authorize the Commissioner to bring an action to

enforce the provisions of Section 305-a(1) and expands the scope of the Section to apply to all local laws, ordinances, rules or regulations.

Effective Date: 11/3/97

Section Amended: §308

Description: Adds a formal notification process whereby affected parties are provided an opportunity to challenge a sound agricultural practice opinion through an Article 78 proceeding.

Effective Date: 11/3/97

Summary of **1998 Amendments** to the Agricultural Districts Law

Sections Amended: §303, 304

Description: Deletes reference to, and the responsibility of, the Secretary of State to approve agricultural district creation, modification or renewal.

Effective Date: 6/9/98

Section Amended: §304-a

Description: Changes the methodology for calculating agricultural assessment values for organic soils (muck).

Effective Date: 7/14/98

Section Amended: §305

Description: Deletes reference to, and the responsibility of, the Secretary of State to review Notices of Intent filed with the Department of Agriculture and Markets.

Effective Date: 6/9/98

Section Added: §308(3)

Description: Requires the Commissioner of Agriculture and Markets, in consultation with the State Advisory Council on Agriculture, to issue upon request opinions within 30 days as to whether particular land uses are agricultural in nature.

Effective Date: 7/14/98

Section Amended: §309

Description: Requires the State Advisory Council on Agriculture to review Section 308(3) requests and advise the Commissioner as to whether particular land uses are agricultural in nature.

Effective Date: 7/14/98

Section Amended: §310

Description: Strengthens the notification requirements concerning the purchase of property within agricultural districts by requiring the seller to provide a disclosure notice for signature to the buyer when a purchase and/or sales contract is presented.

Effective Date: 7/1/99

Summary of **1999 Amendments** to the Agricultural Districts Law

Section Amended: §301(4) (e) and §301(9) (e)

Description: Provides that land set aside through participation in a federal conservation program, regardless of the income derived from the land, shall be eligible for an agricultural assessment.

Effective Date: 9/7/99

Section Amended: §301(9) (e)

Description: Adds a new paragraph (e) to allow payments received for land set aside under a federal conservation reserve program to be included in calculating the average gross sales value of products produced in determining whether land used as a single farm operation qualifies as "land used in agricultural production."

Effective Date: 9/7/99

Section Amended: §303-a(4)

Description: Renumbers subdivision (4) to subdivision (5)

Effective Date: 7/20/99

Section Amended: §303-a(4)

Description: Adds a new subdivision (4) that states that if the county legislative body does not review a district upon its anniversary date, the agricultural district remains as originally constituted or until such time that the agricultural district is modified or terminated.

Effective Date: 7/20/99

Section Amended: §305(7)

Description: Provides that the real property tax exemption for agricultural land which is used solely for the purpose of replanting or crop expansion as part of an orchard or vineyard may be greater than 20% of the total acreage of such orchard or vineyard when such orchard or vineyard is located within an area declared by the Governor to be a disaster emergency.

Effective Date: 9/7/99 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after 9/7/99.

Section Amended: §308(3)

Description: Renumbers subdivision (3), which was added by Chapter 362 of the Laws of 1998, to subdivision (4)

Effective Date: 4/6/99

Section Repealed: §309(8) & (9)

Description: Repeals the two subdivisions

Effective Date: 7/20/99

Section Amended: §309(10)

Description: Renumbers subdivision (10) to subdivision (8)

Effective Date: 7/20/99

Section Amended §310(1)

Description: Adds language to the agricultural district disclosure statement to notify a prospective buyer of land within an agricultural district that under certain circumstances, the availability of water and sewer services may be limited.

Effective Date: 7/1/00

Section Amended: §305(1)(d)(v) and §306(2)(b)(iii)

Description: Revises reporting requirement of assessors to the State Board of Real Property Services when land receiving an agricultural assessment is converted to non-agricultural uses.

Effective Date: 7/11/00

Section Amended: §308(1)(b)

Description: Requires the Commissioner to give consideration to a practice conducted under the Agricultural Environmental Management (AEM) Program when making a sound agricultural practice determination.

Effective Date: 11/8/00

Summary of **2001 Amendments** to the Agricultural Districts Law

Section Amended: §301(11)

Description: Includes manure processing and handling facilities as part of a "farm operation" for purposes of administering the Agricultural Districts Law.

Effective Date: 10/23/01

Section Amended: §301(11)

Description: Includes "commercial horse boarding operations" as part of a "farm operation" for purposes of administering the Agricultural Districts Law.

Effective Date: 10/31/01

Summary of **2002 Amendments** to the Agricultural Districts Law

Section Amended: §301(4)

Description: Eliminates county legislative body approval for the designation of eligible horse boarding operations as land used in agricultural production.

Effective Date: 1/30/03

Sections Amended: §301(4), §301(4)(b), and §301(4)(f)

Description: Reduces the number of acres needed to qualify for agricultural real property assessment from ten acres to 7 or more acres as long as the value of crops produced exceeds \$10,000 on average in the preceding two years. The size of rented land eligible for an agricultural assessment is reduced from 10 acres to 7 acres as long as the smaller parcel yields at least \$10,000 in average annual gross sales independently or in conjunction with land owned by the farmer renting the parcel. The amendment also reduces the number of acres needed to qualify as land used in agricultural production from not less than ten acres to seven or more acres and average gross sales of \$10,000 or more in the preceding two years or less than seven acres and average gross sales \$50,000 or more in the preceding two years.

Effective Date: 1/1/03

Section Added: §301(9)(f)

Description: Allows payments received by thoroughbred breeders pursuant to Section 247 of the racing pari-mutuel wagering and breeding law to be included in the definition of "gross sales value" for agricultural assessment purposes.

Effective Date: 9/17/02

Section Amended: §301(11)

Description: Amends the definition of farm operation to indicate that such operation may consist of one or more parcels of owned or rented land and such parcels may or may not be contiguous to each other.

Effective Date: 1/1/03

Section Amended: §301(13)

Description: Reduces the minimum acreage required for a commercial horse boarding operation from ten to seven acres.

Effective Date: 1/1/03

Sections Amended: §303(2)(a)(1), §303(4), §303(5)(a) and (b), §303(6)(a) and (b), §303(7) and §303(8)

Description: Amends various sections of the law to allow a landowner to include viable agricultural land within a certified agricultural district prior to its eight, twelve or twenty year review period.

Effective Date: 12/20/02

Summary of **2003 Amendments** to the Agricultural Districts Law

Section Added: §301(4) (h)

Description: Adds a new paragraph (h) to allow first year farmers to receive an agricultural assessment if they meet the gross sales value requirements during their first year of operation.

Effective Date: 9/9/03

Sections Amended: §301(5), §305(1) (d) (iv), and §306(2) (c)

Description: Amends various sections of the law so that conversion penalties are not assessed on farmland that is being used in agricultural production and receives an agricultural assessment when such land is converted to wind energy generation facilities.

Effective Date: 9/22/03

Sections Amended: §303-b, §303(2) (a) (1) and §303(4)

Description: Adds a new section 303-b to establish an annual 30-day period during which a farmer can submit proposals to include viable land within a certified agricultural district.

Effective Date: 9/17/03

Sections Amended: §303(5) (b), §303(6) (b) and §303(8)

Description: Repeals various sections of the law to conform with the provisions of a new section 303-b.

Effective Date: 9/17/03

Summary of **2004 Amendment** to the Agricultural Districts Law

Section Amended: §301(4) (h)

Description: Amends paragraph (h) to allow a farm operation to receive an agricultural assessment if it meets the acreage and gross sales value requirements during its first or second year of agricultural production.

Effective Date: 2/24/04

Section Amended: §301(4) (i)

Description: Adds a new paragraph (i) to allow start-up farm operations that plant orchard or vineyard crops to immediately become eligible to receive an agricultural assessment in its first, second, third or fourth year of production.

Effective Date: 1/1/05

Summary of **2005 Amendments** to the Agricultural Districts Law

Section Amended: §301(2) (e)

Description: Amends paragraph (e) by adding wool bearing animals, such as alpacas and llamas, to the definition of "livestock and livestock products."

Effective Date: 7/12/05

Section Amended: §301(4) (h) and §301(13)

Description: Amends paragraph (h) to allow a "commercial horse boarding operation" to receive an agricultural assessment if it meets the acreage and gross sales value requirements during its first or second year of agricultural production. The definition of "commercial horse boarding operation" is amended by stating that such operations may qualify as a "farm operation" in its first or second year of operation if it meets the acreage and number of horse requirements.

Effective Date: 8/23/05

Section Amended: §301(11) and §301(14)

Description: Includes "timber processing" as part of a "farm operation" for purposes of administering the Agricultural Districts Law and adds a new section by defining the term "timber processing."

Effective Date: 8/23/05

Section Amended: §305-b

Description: Adds a new section that authorizes the Commissioner to review and comment upon the proposed rules and regulations of other State agencies which may have an adverse impact on agriculture and farming operations in the State.

Effective Date: 10/4/05 (Shall apply to proposed rules and regulations publicly noticed 60 or more days following the effective date.)

Summary of **2006 Amendments** to the Agricultural Districts Law

Section Amended: §301(4)

Description: Adds a new section (j) to allow newly planted Christmas tree farms to be eligible for agricultural assessment in their first through fifth years of agricultural production.

Effective Date: 1/1/07 and applies to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

Section Amended: §§301 and 308(1)

Description: Adds a new subdivision (15) to §301 to define "agricultural tourism" and amends §308(1) to add "agricultural tourism" to the list of examples of activities which entail practices the Commissioner may consider for sound agricultural practice opinions.

Effective Date: 8/16/06

Section Amended: §305(1) (a)

Description: Amends paragraph (1)(a) to allow filing of an application after taxable status date where failure to timely file resulted from a death of applicant's spouse, child, parent, brother or sister or illness of the applicant or applicant's spouse, child, parent, brother or sister which prevents timely filing, as certified by a licensed physician.

Effective Date: 9/13/06 and applies to assessment rolls prepared on the basis of a taxable status date occurring on or after such date.

Section Amended: §305(7)

Description: Amends paragraph (7) to extend the 100% exemption for newly planted orchards and vineyards from 4 to 6 years.

Effective Date: 9/13/06 and applies to assessment rolls prepared on the basis of a taxable status date occurring on or after 1/1/06.

Section Amended: §310(1), §308(5)

Description: Amends AML §§310(1), 308(5) and RPL §333-c(1) relative to the disclosure notice required for prospective purchasers of property within an agricultural district.

Effective Date: 7/26/06

Summary of **2007 Amendments** to the Agricultural Districts Law

Section Amended: §§303, 303-a & 304-b, repeals §303-a(2)(b) and (c)

Description: Amends AML §§303, 303-a and 304-b concerning the review of agricultural districts and the reporting of agricultural district data and repeals certain provisions of such law relating thereto.

Effective Date: 7/3/07

Section Amended: §304-a

Description: Amends AML §304-a to limit an increase in the base agricultural assessment values for any given year to 10 percent or less of the assessment value of the preceding year.

Effective Date: 6/4/07

Section Amended: §305(1)(a)

Description: Amends AML §305(1)(a) in relation to authorizing the filing of an application for an agricultural assessment after the taxable status date in the event of a natural disaster or destruction of farm structures.

Effective Date: 8/15/07

Summary of **2008 Amendments** to the Agricultural Districts Law

Section Amended: §§301(2)(j), 301(4)(k) and 301(16)

Description: Adds a new paragraph (j) to §301(2) to add "apiary products" to the definition of "crops, livestock and livestock products," adds a new paragraph (k) to §301(4) to independently qualify apiaries for an agricultural assessment and adds a new subdivision (16) to define "apiary products operation."

Effective Date: 7/21/08 and applies to assessment rolls prepared on the basis of a taxable status date occurring on or after 7/21/08

Section Amended: §301(4)(a-1)

Description: Adds a new paragraph (a-1) to §301(4) to allow a not-for-profit institution to qualify rented land for an

Page | 17

agricultural assessment if the property is used for agricultural research which is intended to improve the quality or quantity of crops, livestock or livestock products.

Effective Date: 9/25/08

Section Amended: §§301(11) and 308(1)(b)

Description: Amends subdivision (11) of §301 to add the "production, management and harvesting of 'farm woodland'" to the definition of "farm operation" and amends §308(1)(b) to add the "production, management and harvesting of 'farm woodland'" to the list of examples of activities which entail practices the Commissioner may consider for sound agricultural practice opinions.

Effective Date: 9/4/08

Section Amended: §§301(9), 301(11), and 301(16)

Description: Adds a new paragraph (g) to §301(9) to allow up to \$5,000 from the sale of "compost, mulch or other organic biomass crops" to help meet the eligibility requirements for an agricultural assessment; amends subdivision (11) of §301 to add "compost, mulch or other biomass crops" to the definition of "farm operation" and adds a new subdivision (16) to define "compost, mulch or other organic biomass crops."

Effective Date: 9/4/08

Summary of **2009 Amendments** to the Agricultural Districts Law

No amendments were made to the Law in 2009

Summary of **2010 Amendments** to the Agricultural Districts Law

Section Amended: §§301(11), 301(14) and 308(1)

Description: Amends subdivision (11) of §301 to substitute "timber operation" for "timber processing" and remove the reference to "farm woodland", which is a term used for agricultural assessment. In addition, amends the definition of "timber processing" [§301(14)] and renames that section "timber operation". Amends definition to remove a reference to "readily moveable, nonpermanent saw mill" and adds "production, management, harvesting,...and marketing" to

the definition. Amends §308(1) to substitute "timber operation" for "farm woodland" and removes a reference to the "production, management and harvesting of 'farm woodland.'

Effective Date: 6/15/10

Section Amended: §301(15)

Description: Amends the definition of "agricultural tourism" to add maple sap and pure maple products.

Effective Date: 5/18/10

Section Amended: §303-a(5)

Description: Amends subdivision (5) of §303-a to add "correction of any errors" to a list of procedures as described in §303(5), (6) and (7).

Effective Date: 6/15/10

Section Amended: §305(7)

Description: Amends an existing property tax exemption for reinvestment in orchards and vineyards by establishing a more streamlined process to implement the exemption.

Effective Date: 7/30/10

Summary of **2011 Amendments** to the Agricultural Districts Law

Section Amended: §301(4)(c)

Description: Amends AML §301(4)(c) to include agricultural amusements as support land to farm operations or land used in agricultural production.

Effective Date: 6/8/11

Section Amended: §§301(11), 301(17), 301(4)(1)

Description: Amends AML §301(11) to add "commercial equine operation" to the definition of farm operation, adds a new paragraph 17 to §301 to define the term "commercial equine operation," and adds a new paragraph (1) to AML §301(4) to independently qualify "commercial equine operation" for an agricultural assessment.

Effective Date: 8/3/11
Section Amended: §302(1)(a)
Description: Amends AML §302(1)(a) to allow an employee of the county soil and water conservation district, as designated by the chairperson, to become the voting member on the county AFPB.

Effective Date: 7/20/11
Section Amended: §§305-a(1)(b), 308(1)(b)
Description: Adds a new paragraph (b) to AML §305-a (1) to require the commissioner to render an opinion on whether farm operations would be unreasonably restricted or regulated by proposed changes in local laws and amends AML §308(1)(b) to require the commissioner to provide certain consultation information to the municipality where the agricultural practice was evaluated.

Effective Date: 9/23/11

Summary of **2012 Amendments** to the Agricultural Districts Law

Section Amended: §301(7)
Description: Amends the definition of "viable agricultural land" to define the term as land highly suitable for a "farm operation" as defined in the law.

Effective Date: 7/18/12
Section Amended: 305(1)(a)
Description: Amends AML §305(1)(a) to streamline the process of renewing agricultural assessments, provided there are no changes in farmland eligibility, acreage, or ownership.

Effective Date: 7/18/12
Section Amended: 301(4)
Description: Amends the opening paragraph of the definition of "land used in agricultural production" to include "commercial equine operations" as defined in this section.

Effective Date: 9/30/12

Summary of **2013 Amendments** to the Agricultural Districts Law

Section Amended: §304-a(4)(g)

Description: Decrease the allowable base percentage change in agricultural assessment value from ten percent to two percent of the preceding year.

Effective Date: 10/21/13

Summary of **2014 Amendments** to the Agricultural Districts Law

Section Amended: §301(4)(m)

Description: Adds a new section (m) to include "silvopasturing" as land used in agricultural production, AML §301(4).

Effective Date: 1/1/15

Section Amended: §303(1)

Description: Decreases the amount of land needed to create an agricultural district from five hundred acres to two hundred fifty acres.

Effective Date: 1/20/15

ARTICLE 25-AA

AGRICULTURAL DISTRICTS

- Section 300. Declaration of legislative findings and intent.
301. Definitions.
302. County agricultural and farmland protection board.
303. Agricultural districts; creation.
303-a. Agricultural districts; review.
303-b. Agricultural districts; inclusion of viable agricultural land.
304. Unique and irreplaceable agricultural lands; creation of districts.
304-a. Agricultural assessment values.
304-b. Agricultural district data reporting.
305. Agricultural districts; effects.
305-a. Coordination of local planning and land use decision-making with the agricultural districts program.
305-b. Review of proposed rules and regulations of state agencies affecting the agricultural industry.
306. Agricultural lands outside of districts; agricultural assessments.
307. Promulgation of rules and regulations.
308. Right to farm.
308-a. Fees and expenses in certain private nuisance actions.
309. Advisory council on agriculture.
310. Disclosure.

§ 300. Declaration of legislative findings and intent. It is hereby found and declared that many of the agricultural lands in New York state are in jeopardy of being lost for any agricultural purposes. When nonagricultural development extends into farm areas, competition for limited land resources results. Ordinances inhibiting farming tend to follow, farm taxes rise, and hopes for speculative gains discourage investments in farm improvements, often leading to the idling or conversion of potentially productive agricultural land.

The socio-economic vitality of agriculture in this state is essential to the economic stability and growth of many local communities and the state as a whole. It is, therefore, the declared policy of the state to conserve, protect and encourage the development and improvement of its agricultural land for production of food and other agricultural products. It is also the declared policy of the state to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air sheds, as well as for aesthetic purposes.

The constitution of the state of New York directs the legislature to provide for the protection of agricultural lands. It is the purpose of this article to provide a locally-initiated mechanism for the protection and enhancement of New York state's agricultural land as a viable segment of the local and state economies and as an economic and environmental resource of major importance.

§ 301. Definitions. When used in this article:

1. "Agricultural assessment value" means the value per acre assigned to land for assessment purposes determined pursuant to the capitalized value of production procedure prescribed by section three hundred four-a of this article.

2. "Crops, livestock and livestock products" shall include but not be limited to the following:

a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.

b. Fruits, including apples, peaches, grapes, cherries and berries.

c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.

d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.

e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs and furs.

f. Maple sap.

g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.

h. Aquaculture products, including fish, fish products, water plants and shellfish.

i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.

j. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony.

3. "Farm woodland" means land used for the production for sale of woodland products, including but not limited to logs, lumber, posts and firewood. Farm woodland shall not include land used to produce Christmas trees or land used for the processing or retail merchandising of woodland products.

4. "Land used in agricultural production" means not less than seven acres of land used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more; or, not less than seven acres of land used in the preceding two years to support a commercial horse boarding operation or a commercial equine operation with annual gross receipts of ten thousand dollars or more. Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include:

a. Rented land which otherwise satisfies the requirements for eligibility for an agricultural assessment.

a-1. Land used by a not-for-profit institution for the purposes of agricultural research that is intended to improve the quality or quantity of crops, livestock or livestock products. Such land shall qualify for an agricultural assessment upon application made pursuant to paragraph (a) of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.

b. Land of not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products,

exclusive of woodland products, which does not independently satisfy the gross sales value requirement, where such land was used in such production for the preceding two years and currently is being so used under a written rental arrangement of five or more years in conjunction with land which is eligible for an agricultural assessment.

c. Land used in support of a farm operation or land used in agricultural production, constituting a portion of a parcel, as identified on the assessment roll, which also contains land qualified for an agricultural assessment. Such land shall include land used for agricultural amusements which are produced from crops grown or produced on the farm, provided that such crops are harvested and marketed in the same manner as other crops produced on such farm. Such agricultural amusements shall include, but not be limited to, so-called "corn mazes" or "hay bale mazes."

d. Farm woodland which is part of land which is qualified for an agricultural assessment, provided, however, that such farm woodland attributable to any separately described and assessed parcel shall not exceed fifty acres.

e. Land set aside through participation in a federal conservation program pursuant to title one of the federal food security act of nineteen hundred eighty-five or any subsequent federal programs established for the purposes of replenishing highly erodible land which has been depleted by continuous tilling or reducing national surpluses of agricultural commodities and such land shall qualify for agricultural assessment upon application made pursuant to paragraph a of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.

f. Land of not less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more, or land of less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more.

g. Land under a structure within which crops, livestock or livestock products are produced, provided that the sales of such crops, livestock or livestock products meet the gross sales requirements of paragraph f of this subdivision.

h. Land that is owned or rented by a farm operation in its first or second year of agricultural production, or, in the case of a commercial horse boarding operation in its first or second year of operation, that consists of (1) not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more; or (2) less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of fifty thousand dollars or more; or (3) land situated under a structure within which crops, livestock or livestock products are produced, provided that such crops, livestock or livestock products have an annual gross sales value of (i) ten thousand dollars or more, if the farm operation uses seven or more acres in agricultural production, or (ii) fifty thousand dollars or more, if the farm operation uses less than seven acres in agricultural production; or (4) not less than seven acres used as a single operation to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more.

i. Land of not less than seven acres used as a single operation for

the production for sale of orchard or vineyard crops when such land is used solely for the purpose of planting a new orchard or vineyard and when such land is also owned or rented by a newly established farm operation in its first, second, third or fourth year of agricultural production.

j. Land of not less than seven acres used as a single operation for the production and sale of Christmas trees when such land is used solely for the purpose of planting Christmas trees that will be made available for sale, whether dug for transplanting or cut from the stump and when such land is owned or rented by a newly established farm operation in its first, second, third, fourth or fifth year of agricultural production.

k. Land used to support an apiary products operation which is owned by the operation and consists of (i) not less than seven acres nor more than ten acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more or (ii) less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more. The land used to support an apiary products operation shall include, but not be limited to, the land under a structure within which apiary products are produced, harvested and stored for sale; and a buffer area maintained by the operation between the operation and adjacent landowners. Notwithstanding any other provision of this subdivision, rented land associated with an apiary products operation is not eligible for an agricultural assessment based on this paragraph.

l. Land that is owned or rented by a farm operation in its first or second year of agricultural production or in the case of a commercial equine operation, in its first or second year of operation, that consists of not less than seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing.

m. Land used in silvopasturing shall be limited to up to ten fenced acres per large livestock, including cattle, horses and camelids, and up to five fenced acres per small livestock, such as sheep, hogs, goats and poultry. For the purposes of this subdivision, "silvopasturing" shall mean the intentional combination of trees, forages and livestock managed as a single integrated practice for the collective benefit of each, including the planting of appropriate grasses and legume forages among trees for sound grazing and livestock husbandry.

5. "Oil, gas or wind exploration, development or extraction activities" means the installation and use of fixtures and equipment which are necessary for the exploration, development or extraction of oil, natural gas or wind energy, including access roads, drilling apparatus, pumping facilities, pipelines, and wind turbines.

6. "Unique and irreplaceable agricultural land" means land which is uniquely suited for the production of high value crops, including, but not limited to fruits, vegetables and horticultural specialties.

7. "Viable agricultural land" means land highly suitable for a farm operation as defined in this section.

8. "Conversion" means an outward or affirmative act changing the use of agricultural land and shall not mean the nonuse or idling of such land.

9. "Gross sales value" means the proceeds from the sale of:

a. Crops, livestock and livestock products produced on land used in agricultural production provided, however, that whenever a crop is processed before sale, the proceeds shall be based upon the market value of such crop in its unprocessed state;

b. Woodland products from farm woodland eligible to receive an agricultural assessment, not to exceed two thousand dollars annually;

c. Honey and beeswax produced by bees in hives located on an otherwise qualified farm operation but which does not independently satisfy the gross sales requirement;

d. Maple syrup processed from maple sap produced on land used in agricultural production in conjunction with the same or an otherwise qualified farm operation;

e. Or payments received by reason of land set aside pursuant to paragraph e of subdivision four of this section;

f. Or payments received by thoroughbred breeders pursuant to section two hundred fifty-four of the racing, pari-mutuel wagering and breeding law; and

g. Compost, mulch or other organic biomass crops as defined in subdivision sixteen of this section produced on land used in agricultural production, not to exceed five thousand dollars annually.

11. "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section, a "timber operation" as defined in subdivision fourteen of this section and "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section and "commercial equine operation" as defined in subdivision seventeen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

12. "Agricultural data statement" means an identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law is proposed, as provided in section three hundred five-a of this article.

13. "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and

boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

14. "Timber operation" means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

15. "Agricultural tourism" means activities, including the production of maple sap and pure maple products made therefrom, conducted by a farmer on-farm for the enjoyment and/or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness of farming and farm life.

* 16. "Apiary products operation" means an agricultural enterprise, consisting of land owned by the operation, upon which bee hives are located and maintained for the purpose of producing, harvesting and storing apiary products for sale.

* NB There are 2 subd. 16's

* 16. "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

17. "Commercial equine operation" means an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

§ 302. County agricultural and farmland protection board. 1. (a) A county legislative body may establish a county agricultural and farmland protection board which shall consist of eleven members, at least four of whom shall be active farmers. At least one member of such board shall represent agribusiness and one member may represent an organization dedicated to agricultural land preservation. These six members of the board shall reside within the county which the respective board serves. The members of the board shall also include the chairperson of the county soil and water conservation district's board of directors or an employee of the county soil and water conservation district designated by the chairperson, a member of the county legislative body, a county cooperative extension agent, the county planning director and the county director of real property tax services. The chairperson shall be chosen by majority vote. Such board shall be established in the event no such board exists at the time of receipt by the county legislative body of a petition for the creation or review of an agricultural district pursuant to section three hundred three of this article, or at the time of receipt by the county of a notice of intent filing pursuant to subdivision four of section three hundred five of this article. The members of such board shall be appointed by the chairperson of the county legislative body, who shall solicit nominations from farm membership organizations except for the chairperson of the county soil and water conservation district's board of directors, the county planning director and director of real property tax services, who shall serve ex officio. The members shall serve without salary, but the county legislative body may entitle each such member to reimbursement for actual and necessary expenses incurred in the performance of official duties.

(b) After the board has been established, the chairperson of the county legislative body shall appoint to it two qualified persons for terms of two years each, two qualified persons for terms of three years each and two qualified persons for a term of four years. Thereafter, the appointment of each member shall be for a term of four years. Appointment of a member of the county legislative body shall be for a term coterminous with the member's term of office. Appointment of the county planning director and county director of real property tax services shall be coterminous with their tenure in such office. The appointment of the chairperson of the county soil and water conservation district's board of directors shall be for a term coterminous with his or her designation as chairperson of the county soil and water conservation district's board of directors. Any member of the board may be reappointed for a succeeding term on such board without limitations as to the number of terms the member may serve.

(c) The county agricultural and farmland protection board shall advise the county legislative body and work with the county planning board in relation to the proposed establishment, modification, continuation or termination of any agricultural district. The board shall render expert advice relating to the desirability of such action, including advice as to the nature of farming and farm resources within any proposed or established area and the relation of farming in such area to the county as a whole. The board may review notice of intent filings pursuant to subdivision four of section three hundred five of this article and make

findings and recommendations pursuant to that section as to the effect and reasonableness of proposed actions involving the advance of public funds or acquisitions of farmland in agricultural districts by governmental entities. The board shall also assess and approve county agricultural and farmland protection plans.

(d) A county agricultural and farmland protection board may request the commissioner of agriculture and markets to review any state agency rules and regulations which the board identifies as affecting the agricultural activities within an existing or proposed agricultural district. Upon receipt of any such request, the commissioner of agriculture and markets shall, if the necessary funds are available, submit in writing to the board (i) notice of changes in such rules and regulations which he or she deems necessary, (ii) a copy of correspondence with another agency if such rules and regulations are outside his or her jurisdiction, including such rules and regulations being reviewed, and his or her recommendations for modification, or (iii) his or her reasons for determining that existing rules and regulations be continued without modification.

(e) The county agricultural and farmland protection board shall notify the commissioner and the commissioner of the department of environmental conservation of any attempts to propose the siting of solid waste management facilities upon farmland within an agricultural district.

2. Upon the request of one or more owners of land used in agricultural production the board may review the land classification for such land established by the department of agriculture and markets, consulting with the district soil and water conservation office, and the county cooperative extension service office. After such review, the board may recommend revisions to the classification of specific land areas based on local soil, land and climatic conditions to the department of agriculture and markets.

§ 303. Agricultural districts; creation. 1. Any owner or owners of land may submit a proposal to the county legislative body for the creation of an agricultural district within such county, provided that such owner or owners own at least two hundred fifty acres or at least ten per cent of the land proposed to be included in the district, whichever is greater. Such proposal shall be submitted in such manner and form as may be prescribed by the commissioner, shall include a description of the proposed district, including a map delineating the exterior boundaries of the district which shall conform to tax parcel boundaries, and the tax map identification numbers for every parcel in the proposed district. The proposal may recommend an appropriate review period of either eight, twelve or twenty years.

2. Upon the receipt of such a proposal, the county legislative body:

a. shall thereupon provide notice of such proposal by publishing a notice in a newspaper having general circulation within the proposed district and by posting such notice in five conspicuous places within the proposed district. The notice shall contain the following information:

(1) a statement that a proposal for an agricultural district has been filed with the county legislative body pursuant to this article;

(2) a statement that the proposal will be on file open to public inspection in the county clerk's office;

(3) a statement that any municipality whose territory encompasses the proposed district or any landowner who owns at least ten per cent of the

land proposed to be included within the proposed modification of the proposed district may propose a modification of the proposed district in such form and manner as may be prescribed by the commissioner of agriculture and markets;

(4) a statement that the proposed modification must be filed with the county clerk and the clerk of the county legislature within thirty days after the publication of such notice;

(5) a statement that at the termination of the thirty day period, the proposal and proposed modifications will be submitted to the county planning board and county agricultural and farmland protection board and that thereafter a public hearing will be held on the proposal, proposed modifications and recommendations of the planning board and county agricultural and farmland protection board;

b. shall receive any proposals for modifications of such proposal which may be submitted by such landowners or municipalities within thirty days after the publication of such notice;

c. shall, upon the termination of such thirty day period, refer such proposal and proposed modifications to the county planning board, which shall, within forty-five days, report to the county legislative body the potential effect of such proposal and proposed modifications upon the county's planning policies and objectives;

d. shall simultaneously, upon the termination of such thirty day period, refer such proposal and proposed modifications to the county agricultural and farmland protection board, which shall, within forty-five days report to the county legislative body its recommendations concerning the proposal and proposed modifications, and;

e. shall hold a public hearing in the following manner:

(1) The hearing shall be held at a place within the proposed district or otherwise readily accessible to the proposed district;

(2) The notice shall contain the following information:

(a) a statement of the time, date and place of the public hearing;

(b) a description of the proposed district, any proposed additions and any recommendations of the county planning board or county agricultural and farmland protection board;

(c) a statement that the public hearing will be held concerning:

(i) the original proposal;

(ii) any written amendments proposed during the thirty day review period;

(iii) any recommendations proposed by the county agricultural and farmland protection board and/or the county planning board.

(3) The notice shall be published in a newspaper having a general circulation within the proposed district and shall be given in writing to those municipalities whose territory encompasses the proposed district and any proposed modifications, owners of real property within such a proposed district or any proposed modifications who are listed on the most recent assessment roll, the commissioner, the commissioner of environmental conservation and the advisory council on agriculture.

3. The following factors shall be considered by the county planning board, the county agricultural and farmland protection board, and at any public hearing:

i. the viability of active farming within the proposed district and in areas adjacent thereto;

ii. the presence of any viable farm lands within the proposed district and adjacent thereto that are not now in active farming;

iii. the nature and extent of land uses other than active farming within the proposed district and adjacent thereto;

- iv. county developmental patterns and needs; and
- v. any other matters which may be relevant.

In judging viability, any relevant agricultural viability maps prepared by the commissioner of agriculture and markets shall be considered, as well as soil, climate, topography, other natural factors, markets for farm products, the extent and nature of farm improvements, the present status of farming, anticipated trends in agricultural economic conditions and technology, and such other factors as may be relevant.

4. The county legislative body, after receiving the reports of the county planning board and the county agricultural and farmland protection board and after such public hearing, may adopt as a plan the proposal or any modification of the proposal it deems appropriate, and shall adopt as part of the plan an appropriate review period of either eight, twelve or twenty years. The plan as adopted shall, to the extent feasible, include adjacent viable farm lands, and exclude, to the extent feasible, nonviable farm land and non-farm land. The plan shall include only whole tax parcels in the proposed district. The county legislative body shall act to adopt or reject the proposal, or any modification of it, no later than one hundred eighty days from the date the proposal was submitted to this body. Upon the adoption of a plan, the county legislative body shall submit it to the commissioner. The commissioner may, upon application by the county legislative body and for good cause shown, extend the period for adoption and submission once for an additional thirty days. Where he or she does so, the county legislative body may extend the period for the report from the county planning board and/or the period for the report from the county agricultural and farmland protection board.

5. a. The commissioner shall have sixty days after receipt of the plan within which to certify to the county legislative body whether the proposal, or a modification of the proposal, is eligible for districting, whether the area to be districted consists predominantly of viable agricultural land, and whether the plan of the proposed district is feasible, and will serve the public interest by assisting in maintaining a viable agricultural industry within the district and the state. The commissioner shall submit a copy of such plan to the commissioner of environmental conservation, who shall have thirty days within which to report his or her determination to the commissioner. A copy of such plan shall also be provided to the advisory council on agriculture. The commissioner shall not certify the plan as eligible for districting unless the commissioner of environmental conservation has determined that the area to be districted is consistent with state environmental plans, policies and objectives.

6. a. Within sixty days after the certification by the commissioner that the proposed area is eligible for districting, and that districting would be consistent with state environmental plans, policies and objectives, the county legislative body may hold a public hearing on the plan, except that it shall hold a public hearing if the plan was modified by the commissioner or was modified by the county legislative body after they held the public hearing required by paragraph e of subdivision two of this section and such modification was not considered at the original hearing. Notice of any such hearing shall be in a newspaper having general circulation in the area of the proposed district and individual notice, in writing, to those municipalities whose territories encompass the proposed district modifications, the persons owning land directly affected by the proposed district

modifications, the commissioner, the commissioner of environmental conservation and the advisory council on agriculture. The proposed district, if certified without modification by the commissioner, shall become effective thirty days after the termination of such public hearing or, if there is no public hearing, ninety days after such certification unless its creation is disapproved by the county legislative body within such period. Provided, however, that if, on a date within the thirty days after the termination of such public hearing or, if there is no public hearing, within the ninety days after such certification, the county legislative body approves creation of the district, such district shall become effective on such date. Provided further, that notwithstanding any other provision of this subdivision, if the commissioner modified the proposal, the district shall not become effective unless the county legislative body approves the modified district; such approval must be given on a date within the thirty days after the termination of the public hearing; and the district, if approved, shall become effective on such date. Before approving or disapproving any proposal modified by the commissioner, the county legislative body may request reports on such modified proposal, from the county planning board and the county agricultural and farmland protection board.

7. Upon the creation of an agricultural district, the description thereof, which shall include tax map identification numbers for all parcels within the district, plus a map delineating the exterior boundaries of the district in relation to tax parcel boundaries, shall be filed by the county legislative body with the county clerk, the county director of real property tax services, and the commissioner. For all existing agricultural districts, the county clerk shall also file with the commissioner upon request the tax map identification numbers for tax parcels within those districts. The commissioner, on petition of the county legislative body, may, for good cause shown, approve the correction of any errors in materials filed pursuant to a district creation at any time subsequent to the creation of any agricultural district.

§ 303-a. Agricultural districts; review. 1. The county legislative body shall review any district created under this section eight, twelve or twenty years after the date of its creation, consistent with the review period set forth in the plan creating such district and at the end of every eight, twelve or twenty year period thereafter, whichever may apply. In counties with multiple districts with review dates in any twelve month period, the commissioner, on petition of the county legislative body, may, for good cause shown, approve an extension of up to four years for a district review. Thereafter, the extended review date shall be deemed the creation date for purposes of subsequent reviews by the county legislative body in accordance with this section. The review date of a district may not be extended more than four years. The petition of the county legislative body for an extension shall be submitted to the commissioner at least six months prior to the review date.

2. In conducting a district review the county legislative body shall:
a. provide notice of such district review by publishing a notice in a newspaper having general circulation within the district and by posting such notice in at least five conspicuous places within the district. The

notice shall identify the municipalities in which the district is found and the district's total area; indicate that a map of the district will be on file and open to public inspection in the office of the county clerk and such other places as the legislative body deems appropriate; and notify municipalities and land owners within the district that they may propose a modification of the district by filing such proposal with the county clerk of the county legislature within thirty days after the publication of such notice;

b. direct the county agricultural and farmland protection board to prepare a report concerning the following:

(1) the nature and status of farming and farm resources within such district, including the total number of acres of land and the total number of acres of land in farm operations in the district;

(2) the extent to which the district has achieved its original objectives;

(3) the extent to which county and local comprehensive plans, policies and objectives are consistent with and support the district;

(4) the degree of coordination between local laws, ordinances, rules and regulations that apply to farm operations in such district and their influence on farming; and

(5) recommendations to continue, terminate or modify such district.

c. hold a public hearing at least one hundred twenty days prior to the district review date and not more than one hundred eighty days prior to such date, in the following manner:

(1) the hearing shall be held at a place within the district or otherwise readily accessible to the proposed district;

(2) a notice of public hearing shall be published in a newspaper having a general circulation within the district and shall be given in writing to those municipalities whose territories encompass the district and any proposed modifications to the district; to persons, as listed on the most recent assessment roll, whose land is the subject of a proposed modification; and to the commissioner;

(3) the notice of hearing shall contain the following information:

(a) a statement of the time, date and place of the public hearing; and

(b) a description of the district, any proposed modifications and any recommendations of the county agricultural and farmland protection board.

3. The county legislative body, after receiving the report and recommendation of the county agricultural and farmland protection board, and after public hearing, shall make a finding whether the district should be continued, terminated or modified. If the county legislative body finds that the district should be terminated, it may do so at the end of such eight, twelve or twenty year period, whichever may be applicable, by filing a notice of termination with the county clerk and the commissioner. If the county legislative body finds that the district should be continued or modified, it shall submit a district review plan to the commissioner. The district review plan shall include a description of the district, including a map delineating the exterior boundaries of the district which shall conform to tax parcel boundaries; the tax map identification numbers for every parcel in the district; a copy of the report of the county agricultural and farmland protection board required by paragraph b of subdivision two of this section; and a copy of the testimony given at the public hearing required by subdivision two of this section or a copy of the minutes of such hearing.

4. If the county legislative body does not act, or if a modification

of a district is rejected by the county legislative body, the district shall continue as originally constituted, unless the commissioner, after consultation with the advisory council on agriculture, terminates such district, by filing a notice thereof with the county clerk, because:

a. the area in the district is no longer predominantly viable agricultural land; or

b. the commissioner of environmental conservation has determined that the continuation of the district would not be consistent with state environmental plans, policies and objectives; provided, however, that if the commissioner certifies to the county legislative body that he or she will not approve the continuance of the district unless modified, the commissioner shall grant the county an extension as provided in subdivision one of this section to allow the county to prepare a modification of the district in the manner provided in this section.

5. Plan review, certification, correction of any errors and filing shall be conducted in the same manner prescribed for district creation in subdivisions five, six and seven of section three hundred three of this article.

§ 303-b. Agricultural districts; inclusion of viable agricultural land. 1. The legislative body of any county containing a certified agricultural district shall designate an annual thirty-day period within which a land owner may submit to such body a request for inclusion of land which is predominantly viable agricultural land within a certified agricultural district prior to the county established review period. Such request shall identify the agricultural district into which the land is proposed to be included, describe such land, and include the tax map identification number and relevant portion of the tax map for each parcel of land to be included.

2. Upon the termination of such thirty-day period, if any requests are submitted, the county legislative body shall:

a. refer such request or requests to the county agricultural and farmland protection board, which shall, within thirty days report to the county legislative body its recommendations as to whether the land to be included in the agricultural district consists predominantly of "viable agricultural land" as defined in subdivision seven of section three hundred one of this article and the inclusion of such land would serve the public interest by assisting in maintaining a viable agricultural industry within the district; and

b. publish a notice of public hearing in accordance with subdivision three of this section.

3. The county legislative body shall hold a public hearing upon giving notice in the following manner:

a. The notice of public hearing shall contain a statement that one or more requests for inclusion of predominantly viable agricultural land within a certified agricultural district have been filed with the county legislative body pursuant to this section; identify the land, generally, proposed to be included; indicate the time, date and place of the public hearing, which shall occur after receipt of the report of the county agricultural and farmland protection board; and include a statement that the hearing shall be held to consider the request or requests and recommendations of the county agricultural and farmland protection board.

b. The notice shall be published in a newspaper having a general circulation within the county and shall be given in writing directly to

those municipalities whose territory encompasses the lands which are proposed to be included in an agricultural district and to the commissioner.

4. After the public hearing, the county legislative body shall adopt or reject the inclusion of the land requested to be included within an existing certified agricultural district. Such action shall be taken no later than one hundred twenty days from the termination of the thirty day period described in subdivision one of this section. Any land to be added shall consist of whole tax parcels only. Upon the adoption of a resolution to include predominantly viable agricultural land, in whole or in part, within an existing certified agricultural district, the county legislative body shall submit the resolution, together with the report of the county agricultural and farmland protection board and the tax map identification numbers and tax maps for each parcel of land to be included in an agricultural district to the commissioner.

5. Within thirty days after receipt of a resolution to include land within a district, the commissioner shall certify to the county legislative body whether the inclusion of predominantly viable agricultural land as proposed is feasible and shall serve the public interest by assisting in maintaining a viable agricultural industry within the district or districts.

6. If the commissioner certifies that the proposed inclusion of predominantly viable agricultural land within a district is feasible and in the public interest, the land shall become part of the district immediately upon such certification.

§ 304. Unique and irreplaceable agricultural lands; creation of districts. 1. The commissioner, after consulting with the advisory council on agriculture, may create agricultural districts covering any land in units of two thousand or more acres not already districted under section three hundred three of this article, if (a) the land encompassed in a proposed district is predominantly unique and irreplaceable agriculture land; (b) the commissioner of environmental conservation has determined that such district would further state environmental plans, policies and objectives; and (c) the director of the division of the budget has given approval of the establishment of such area.

2. Prior to creating an agricultural district under this section, the commissioner of agriculture and markets shall work closely, consult and cooperate with local elected officials, planning bodies, agriculture and agribusiness interests, community leaders, and other interested groups. The commissioner shall give primary consideration to local needs and desires, including local zoning and planning regulations as well as regional and local comprehensive land use plans. The commissioner shall file a map of the proposed district in the office of the clerk of any municipality in which the proposed district is to be located, and shall provide a copy thereof to the chief executive officer of any such municipality and the presiding officer of the local governing body, and, upon request, to any other person. The commissioner shall publish a notice of the filing of such proposed map and the availability of copies thereof in a newspaper of general circulation within the area of the proposed district, which notice shall also state that a public hearing will be held to consider the proposed district at a specified time and at a specified place either within the proposed district or easily accessible to the proposed district on a date not less than thirty days

after such publication. In addition, the commissioner shall give notice, in writing, of such public hearing to persons owning land within the proposed district. The commissioner shall conduct a public hearing pursuant to such notice, and, in addition, any person shall have the opportunity to present written comments on the proposed district within thirty days after the public hearing. After due consideration of such local needs and desires, including such testimony and comments, if any, the commissioner may affirm, modify or withdraw the proposed district. Provided, however, that if the commissioner modifies the proposal to include any land not included in the proposal as it read when the public hearing was held, the commissioner shall hold another public hearing, on the same type of published and written notice, and with the same opportunity for presentation of written comments after the hearing. Then the commissioner may affirm, modify or withdraw the proposed district, but may not modify it to include land not included in the proposal upon which the second hearing was held.

3. Upon such affirmation or modification, a map of the district shall be filed by the commissioner of agriculture and markets with the county clerk of each county in which the district or a portion thereof is located, and publication of such filing shall be made in a newspaper of general circulation within the district to be created. The creation of the district shall become effective thirty days after such filing and publication.

4. The commissioner shall review any district created under this section, in consultation with the advisory council on agriculture, the commissioner of environmental conservation and the director of the division of the budget, eight, twelve or twenty years after the date of its creation, consistent with the review period set forth in the plan creating such district or every eight years if the district was adopted prior to August first, nineteen hundred eighty-three, and every eight, twelve or twenty year period thereafter, whichever may be applicable. Each such review shall include consultation with local elected officials, planning bodies, agricultural and agribusiness interests, community leaders, county agricultural and farmland protection boards, and other interested groups, and shall also include a public hearing at a specified time and at a specified place either within the district or easily accessible to the proposed district, notice of such hearing to be published in a newspaper having general circulation within the district. In addition, the commissioner shall give notice, in writing, of such public hearing to persons owning land in the district. After any such review, the commissioner may modify such district so as to exclude land which is no longer predominantly unique and irreplaceable agricultural land or to include additional such land, provided: (a) such modification would serve the public interest by assisting in maintaining a viable agricultural industry within the district and the state; (b) the commissioner of environmental conservation has determined that such modification would further state environmental plans, policies and objectives; and (c) such modification has been approved by the director of the division of the budget; provided, further, that if the commissioner modifies the district to include additional land, he or she shall hold another public hearing, on the same type of published and written notice. Then the commissioner may again modify or dissolve the district, but may not modify it to include land not included in the proposed modifications upon which the second hearing was held. After any such review the commissioner, after consultation with the advisory council on agriculture, shall dissolve any such district if (a) the land

within the district is no longer predominantly unique and irreplaceable agricultural land, or (b) the commissioner of environmental conservation has determined that the continuation of the district would not further state environmental plans, policies and objectives. A modification or dissolution of a district shall become effective in the same manner as is provided for in subdivision three of this section, except that in the case of dissolution, a notice of dissolution shall be filed instead of a map.

§ 304-a. Agricultural assessment values. 1. Agricultural assessment values shall be calculated and certified annually in accordance with the provisions of this section.

2. a. The commissioner of agriculture and markets shall establish and maintain an agricultural land classification system based upon soil productivity and capability. The agricultural land classification system shall distinguish between mineral and organic soils. There shall be ten primary groups of mineral soils and such other subgroups as the commissioner determines necessary to represent high-lime and low-lime content. There shall be four groups of organic soils.

b. The land classification system shall be promulgated by rule by the commissioner following a review of comments and recommendations of the advisory council on agriculture and after a public hearing. In making any revisions to the land classification system the commissioner may, in his or her discretion, conduct a public hearing. The commissioner shall foster participation by county agricultural and farmland protection boards, district soil and water conservation committees, and the cooperative extension service and consult with other state agencies, appropriate federal agencies, municipalities, the New York state college of agriculture and life sciences at Cornell university and farm organizations.

c. The commissioner shall certify to the commissioner of taxation and finance the soil list developed in accordance with the land classification system and any revisions thereto.

d. The commissioner shall prepare such materials as may be needed for the utilization of the land classification system and provide assistance to landowners and local officials in its use.

3. a. The commissioner of taxation and finance shall annually calculate a single agricultural assessment value for each of the mineral and organic soil groups which shall be applied uniformly throughout the state. A base agricultural assessment value shall be separately calculated for mineral and organic soil groups in accordance with the procedure set forth in subdivision four of this section and shall be assigned as the agricultural assessment value of the highest grade mineral and organic soil group.

b. The agricultural assessment values for the remaining mineral soil groups shall be the product of the base agricultural assessment value and a percentage, derived from the productivity measurements determined for each soil and related soil group in conjunction with the land classification system, as follows:

Mineral Soil Group	Percentage of Base Agricultural Assessment Value
--------------------	--

1A	100
1B	89
2A	89
2B	79
3A	79
3B	68
4A	68
4B	58
5A	58
5B	47
6A	47
6B	37
7	37
8	26
9	16
10	5

c. The agricultural assessment values for the remaining organic soil groups shall be the product of the base agricultural assessment value and a percentage, as follows:

Organic Soil Group	Percentage of Base Agricultural Assessment Value
A	100
B	65
C	55
D	35

d. The agricultural assessment value for organic soil group A shall be two times the base agricultural assessment value calculated for mineral soil group 1A.

e. The agricultural assessment value for farm woodland shall be the same as that calculated for mineral soil group seven.

f. Where trees or vines used for the production of fruit are located on land used in agricultural production, the value of such trees and vines, and the value of all posts, wires and trellises used for the production of fruit, shall be considered to be part of the agricultural assessment value of such land.

g. The agricultural assessment value for land and waters used in aquacultural enterprises shall be the same as that calculated for mineral soil group 1A.

4. a. The base agricultural assessment value shall be the average capitalized value of production per acre for the eight year period ending in the second year preceding the year for which the agricultural assessment values are certified. The capitalized value of production per acre shall be calculated by dividing the product of the value of production per acre and the percentage of net profit by a capitalization rate of ten percent, representing an assumed investment return rate of eight percent and an assumed real property tax rate of two percent.

b. The value of production per acre shall be the value of production divided by the number of acres harvested in New York state.

c. The percentage of net profit shall be adjusted net farm income divided by realized gross farm income.

(i) Adjusted net farm income shall be the sum of net farm income,

taxes on farm real estate and the amount of mortgage interest debt attributable to farmland, less a management charge of one percent of realized gross farm income plus seven percent of adjusted production expenses.

(ii) The amount of mortgage interest debt attributable to farmland shall be the product of the interest on mortgage debt and the percentage of farm real estate value attributable to land.

(iii) The percentage of farm real estate value attributable to land shall be the difference between farm real estate value and farm structure value divided by farm real estate value.

(iv) Adjusted production expenses shall be production expenses, less the sum of the taxes on farm real estate and the interest on mortgage debt.

d. The following data, required for calculations pursuant to this subdivision, shall be as published by the United States department of agriculture for all farming in New York state:

(i) Farm real estate value shall be the total value of farmland and buildings, including improvements.

(ii) Farm structure value shall be the total value of farm buildings, including improvements.

(iii) Interest on mortgage debt shall be the total interest paid on farm real estate debt.

(iv) Net farm income shall be realized gross income less production expenses, as adjusted for change in inventory.

(v) Production expenses shall be the total cost of production.

(vi) Realized gross income shall be the total of cash receipts from farm marketings, government payments, nonmoney income and other farm income.

(vii) Taxes on farm real estate shall be the total real property taxes on farmland and buildings, including improvements.

(viii) Number of acres harvested including all reported crops.

(ix) Value of production shall be the total estimated value of all reported crops.

e. In the event that the data required for calculation pursuant to this subdivision is not published by the United States department of agriculture or is incomplete, such required data shall be obtained from the New York state department of agriculture and markets.

f. Upon completion of each annual calculation of agricultural assessment values, the commissioner of taxation and finance shall publish an annual report, which shall include a schedule of values, citations to data sources and presentation of all calculations.

The commissioner of taxation and finance shall thereupon certify the schedule of agricultural assessment values and shall transmit a schedule of such certified values to each assessor. Beginning in the year two thousand six and every five years thereafter, the commissioner of taxation and finance shall transmit copies of such annual reports for the five years previous to such transmittal, to the governor and legislature, the advisory council on agriculture, and other appropriate state agencies and interested parties.

g. Notwithstanding any other provision of this section to the contrary, in no event shall the change in the base agricultural assessment value for any given year exceed two percent of the base agricultural assessment value of the preceding year.

5. a. In carrying out their responsibilities under this section, the commissioner of taxation and finance and the commissioner shall keep the advisory council on agriculture fully apprised on matters relating to

its duties and responsibilities.

b. In doing so, the commissioner of taxation and finance and the commissioner shall provide, in a timely manner, any materials needed by the advisory council on agriculture to carry out its responsibilities under this section.

§ 304-b. Agricultural district data reporting. 1. The commissioner shall file a written report with the governor and the legislature on January first, two thousand eight and biennially thereafter, covering each prior period of two years, concerning the status of the agricultural districts program. Such report shall include, but not be limited to, the total number of agricultural districts, the total number of acres in agricultural districts, a list of the counties that have established county agricultural and farmland protection plans, and a summary of the agricultural protection planning grants program.

2. Between report due dates, the commissioner shall maintain the necessary records and data required to satisfy such report requirements and to satisfy information requests received from the governor and the legislature between such report due dates.

§ 305. Agricultural districts; effects. 1. Agricultural assessments.

a. Any owner of land used in agricultural production within an agricultural district shall be eligible for an agricultural assessment pursuant to this section. If an applicant rents land from another for use in conjunction with the applicant's land for the production for sale of crops, livestock or livestock products, the gross sales value of such products produced on such rented land shall be added to the gross sales value of such products produced on the land of the applicant for purposes of determining eligibility for an agricultural assessment on the land of the applicant. Such assessment shall be granted only upon an annual application by the owner of such land on a form prescribed by the commissioner of taxation and finance; provided, however, that after the initial grant of agricultural assessment the annual application shall be on a form prescribed by the commissioner of taxation and finance and shall consist of only a certification by the landowner that the landowner continues to meet the eligibility requirements for receiving an agricultural assessment and seeks an agricultural assessment for the same acreage that initially received an agricultural assessment. The landowner shall maintain records documenting such eligibility which shall be provided to the assessor upon request. The landowner must apply for agricultural assessment for any change in acreage, whether land is added or removed, after the initial grant of agricultural assessment. Any new owner of the land who wishes to receive an agricultural assessment shall make an initial application for such assessment. Such applications shall be on a form prescribed by the commissioner of taxation and finance. The applicant shall furnish to the assessor such information as the commissioner of taxation and finance shall require, including classification information prepared for the applicant's land or water bodies used in agricultural production by the soil and water conservation district office within the county, and information demonstrating the eligibility for agricultural assessment of any land used in conjunction with rented land as specified in paragraph b of subdivision four of section three

hundred one of this article. Such application shall be filed with the assessor of the assessing unit on or before the appropriate taxable status date; provided, however, that (i) in the year of a revaluation or update of assessments, as those terms are defined in section one hundred two of the real property tax law, the application may be filed with the assessor no later than the thirtieth day prior to the day by which the tentative assessment roll is required to be filed by law; or (ii) an application for such an assessment may be filed with the assessor of the assessing unit after the appropriate taxable status date but not later than the last date on which a petition with respect to complaints of assessment may be filed, where failure to file a timely application resulted from: (a) a death of the applicant's spouse, child, parent, brother or sister, (b) an illness of the applicant or of the applicant's spouse, child, parent, brother or sister, which actually prevents the applicant from filing on a timely basis, as certified by a licensed physician, or (c) the occurrence of a natural disaster, including, but not limited to, a flood, or the destruction of such applicant's residence, barn or other farm building by wind, fire or flood. If the assessor is satisfied that the applicant is entitled to an agricultural assessment, the assessor shall approve the application and the land shall be assessed pursuant to this section. Not less than ten days prior to the date for hearing complaints in relation to assessments, the assessor shall mail to each applicant, who has included with the application at least one self-addressed, pre-paid envelope, a notice of the approval or denial of the application. Such notice shall be on a form prescribed by the commissioner of taxation and finance which shall indicate the manner in which the total assessed value is apportioned among the various portions of the property subject to agricultural assessment and those other portions of the property not eligible for agricultural assessment as determined for the tentative assessment roll and the latest final assessment roll. Failure to mail any such notice or failure of the owner to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on such real property.

b. That portion of the value of land utilized for agricultural production within an agricultural district which represents an excess above the agricultural assessment as determined in accordance with this subdivision shall not be subject to real property taxation. Such excess amount if any shall be entered on the assessment roll in the manner prescribed by the commissioner of taxation and finance.

c. (i) The assessor shall utilize the agricultural assessment values per acre certified pursuant to section three hundred four-a of this article in determining the amount of the assessment of lands eligible for agricultural assessments by multiplying those values by the number of acres of land utilized for agricultural production and adjusting such result by application of the latest state equalization rate or a special equalization rate as may be established and certified by the commissioner of taxation and finance for the purpose of computing the agricultural assessment pursuant to this paragraph. This resulting amount shall be the agricultural assessment for such lands.

(ii) Where the latest state equalization rate exceeds one hundred, or where a special equalization rate which would otherwise be established for the purposes of this section would exceed one hundred, a special equalization rate of one hundred shall be established and certified by the commissioner for the purpose of this section.

(iii) Where a special equalization rate has been established and

certified by the commissioner for the purposes of this paragraph, the assessor is directed and authorized to recompute the agricultural assessment on the assessment roll by applying such special equalization rate instead of the latest state equalization rate, and to make the appropriate corrections on the assessment roll, subject to the provisions of title two of article twelve of the real property tax law.

d. (i) If land within an agricultural district which received an agricultural assessment is converted parcels, as described on the assessment roll which include land so converted shall be subject to payments equalling five times the taxes saved in the last year in which the land benefited from an agricultural assessment, plus interest of six percent per year compounded annually for each year in which an agricultural assessment was granted, not exceeding five years. The amount of taxes saved for the last year in which the land benefited from an agricultural assessment shall be determined by applying the applicable tax rates to the excess amount of assessed valuation of such land over its agricultural assessment as set forth on the last assessment roll which indicates such an excess. If only a portion of a parcel as described on the assessment roll is converted, the assessor shall apportion the assessment and agricultural assessment attributable to the converted portion, as determined for the last assessment roll for which the assessment of such portion exceeded its agricultural assessment. The difference between the apportioned assessment and the apportioned agricultural assessment shall be the amount upon which payments shall be determined. Payments shall be added by or on behalf of each taxing jurisdiction to the taxes levied on the assessment roll prepared on the basis of the first taxable status date on which the assessor considers the land to have been converted; provided, however, that no payments shall be imposed if the last assessment roll upon which the property benefited from an agricultural assessment, was more than five years prior to the year for which the assessment roll upon which payments would otherwise be levied is prepared.

(ii) Whenever a conversion occurs, the owner shall notify the assessor within ninety days of the date such conversion is commenced. If the landowner fails to make such notification within the ninety day period, the assessing unit, by majority vote of the governing body, may impose a penalty on behalf of the assessing unit of up to two times the total payments owed, but not to exceed a maximum total penalty of five hundred dollars in addition to any payments owed.

(iii) (a) An assessor who determines that there is liability for payments and any penalties assessed pursuant to subparagraph (ii) of this paragraph shall notify the landowner by mail of such liability at least ten days prior to the date for hearing complaints in relation to assessments. Such notice shall indicate the property to which payments apply and describe how the payments shall be determined. Failure to provide such notice shall not affect the levy, collection or enforcement or payment of payments.

(b) Liability for payments shall be subject to administrative and judicial review as provided by law for review of assessments.

(iv) If such land or any portion thereof is converted to a use other than for agricultural production by virtue of oil, gas or wind exploration, development, or extraction activity or by virtue of a taking by eminent domain or other involuntary proceeding other than a tax sale, the land or portion so converted shall not be subject to payments. If the land so converted constitutes only a portion of a parcel described on the assessment roll, the assessor shall apportion

the assessment, and adjust the agricultural assessment attributable to the portion of the parcel not subject to such conversion by subtracting the proportionate part of the agricultural assessment attributable to the portion so converted. Provided further that land within an agricultural district and eligible for an agricultural assessment shall not be considered to have been converted to a use other than for agricultural production solely due to the conveyance of oil, gas or wind rights associated with that land.

(v) An assessor who imposes any such payments shall annually, and within forty-five days following the date on which the final assessment roll is required to be filed, report such payments to the commissioner of taxation and finance on a form prescribed by the commissioner.

(vi) The assessing unit, by majority vote of the governing body, may impose a minimum payment amount, not to exceed one hundred dollars.

(vii) The purchase of land in fee by the city of New York for watershed protection purposes or the conveyance of a conservation easement by the city of New York to the department of environmental conservation which prohibits future use of the land for agricultural purposes shall not be a conversion of parcels and no payment shall be due under this section.

e. In connection with any district created under section three hundred four of this article, the state shall provide assistance to each taxing jurisdiction in an amount equal to one-half of the tax loss that results from requests for agricultural assessments in the district. The amount of such tax loss shall be computed annually by applying the applicable tax rate to an amount computed by subtracting the agricultural assessment from the assessed value of the property on the assessment roll completed and filed prior to July first, nineteen hundred seventy-one, taking into consideration any change in the level of assessment. The chief fiscal officer of a taxing jurisdiction entitled to state assistance under this article shall make application for such assistance to the commissioner of taxation and finance on a form approved by such commissioner and containing such information as the commissioner shall require. Upon approval of the application by such commissioner, such assistance shall be apportioned and paid to such taxing jurisdiction on the audit and warrant of the state comptroller out of moneys appropriated by the legislature for the purpose of this article; provided, however, that any such assistance payment shall be reduced by one-half the amount of any payments levied under subparagraph (i) of paragraph d of this subdivision, for land in any district created under section three hundred four of this article, unless one-half the amount of such payments has already been used to reduce a previous assistance payment under this paragraph.

f. Notwithstanding any inconsistent general, special or local law to the contrary, if a natural disaster, act of God, or continued adverse weather conditions shall destroy the agricultural production and such fact is certified by the cooperative extension service and, as a result, such production does not produce an average gross sales value of ten thousand dollars or more, the owner may nevertheless qualify for an agricultural assessment provided the owner shall substantiate in such manner as prescribed by the commissioner of taxation and finance that the agricultural production initiated on such land would have produced an average gross sales value of ten thousand dollars or more but for the natural disaster, act of God or continued adverse weather conditions.

3. Policy of state agencies. It shall be the policy of all state agencies to encourage the maintenance of viable farming in agricultural

districts and their administrative regulations and procedures shall be modified to this end insofar as is consistent with the promotion of public health and safety and with the provisions of any federal statutes, standards, criteria, rules, regulations, or policies, and any other requirements of federal agencies, including provisions applicable only to obtaining federal grants, loans, or other funding.

4. Limitation on the exercise of eminent domain and other public acquisitions, and on the advance of public funds. a. Any agency of the state, any public benefit corporation or any local government which intends to acquire land or any interest therein, provided that the acquisition from any one actively operated farm within the district would be in excess of one acre or that the total acquisition within the district would be in excess of ten acres, or which intends to construct, or advance a grant, loan, interest subsidy or other funds within a district to construct, dwellings, commercial or industrial facilities, or water or sewer facilities to serve non-farm structures, shall use all practicable means in undertaking such action to realize the policy and goals set forth in this article, and shall act and choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable, minimize or avoid adverse impacts on agriculture in order to sustain a viable farm enterprise or enterprises within the district. The adverse agricultural impacts to be minimized or avoided shall include impacts revealed in the notice of intent process described in this subdivision.

b. As early as possible in the development of a proposal of an action described in paragraph a of this subdivision, but in no event later than the date of any determination as to whether an environmental impact statement need be prepared pursuant to article eight of the environmental conservation law, the agency, corporation or government proposing an action described in paragraph a of this subdivision shall file a preliminary notice of its intent with the commissioner and the county agricultural and farmland protection board in such manner and form as the commissioner may require. Such preliminary notice shall include the following:

(i) a brief description of the proposed action and its agricultural setting;

(ii) a summary of any anticipated adverse impacts on farm operations and agricultural resources within the district; and

(iii) such other information as the commissioner may require.

c. The agency, corporation or government proposing the action shall also, at least sixty-five days prior to such acquisition, construction or advance of public funds, file a final notice of intent with the commissioner and the county agricultural and farmland protection board. Such final notice shall include a detailed agricultural impact statement setting forth the following:

(i) a detailed description of the proposed action and its agricultural setting;

(ii) the agricultural impact of the proposed action including short-term and long-term effects;

(iii) any adverse agricultural effects which cannot be avoided should the proposed action be implemented;

(iv) alternatives to the proposed action;

(v) any irreversible and irretrievable commitments of agricultural resources which would be involved in the proposed action should it be implemented;

(vi) mitigation measures proposed to minimize the adverse impact of

the proposed action on the continuing viability of a farm enterprise or enterprises within the district;

(vii) any aspects of the proposed action which would encourage non-farm development, where applicable and appropriate; and

(viii) such other information as the commissioner may require.

The commissioner shall promptly determine whether the final notice is complete or incomplete. If the commissioner does not issue such determination within thirty days, the final notice shall be deemed complete. If the final notice is determined to be incomplete, the commissioner shall notify the party proposing the action in writing of the reasons for that determination. Any new submission shall commence a new period for department review for purposes of determining completeness.

d. The provisions of paragraphs b and c of this subdivision shall not apply and shall be deemed waived by the owner of the land to be acquired where such owner signs a document to such effect and provides a copy to the commissioner.

e. Upon notice from the commissioner that he or she has accepted a final notice as complete, the county agricultural and farmland protection board may, within thirty days, review the proposed action and its effects on farm operations and agricultural resources within the district, and report its findings and recommendations to the commissioner and to the party proposing the action in the case of actions proposed by a state agency or public benefit corporation, and additionally to the county legislature in the case of actions proposed by local government agencies.

f. Upon receipt and acceptance of a final notice, the commissioner shall thereupon forward a copy of such notice to the commissioner of environmental conservation and the advisory council on agriculture. The commissioner, in consultation with the commissioner of environmental conservation and the advisory council on agriculture, within forty-five days of the acceptance of a final notice, shall review the proposed action and make an initial determination whether such action would have an unreasonably adverse effect on the continuing viability of a farm enterprise or enterprises within the district, or state environmental plans, policies and objectives.

If the commissioner so determines, he or she may (i) issue an order within the forty-five day period directing the state agency, public benefit corporation or local government not to take such action for an additional period of sixty days immediately following such forty-five day period; and (ii) review the proposed action to determine whether any reasonable and practicable alternative or alternatives exist which would minimize or avoid the adverse impact on agriculture in order to sustain a viable farm enterprise or enterprises within the district.

The commissioner may hold a public hearing concerning such proposed action at a place within the district or otherwise easily accessible to the district upon notice in a newspaper having a general circulation within the district, and individual notice, in writing, to the municipalities whose territories encompass the district, the commissioner of environmental conservation, the advisory council on agriculture and the state agency, public benefit corporation or local government proposing to take such action. On or before the conclusion of such additional sixty day period, the commissioner shall report his or her findings to the agency, corporation or government proposing to take such action, to any public agency having the power of review of or approval of such action, and, in a manner conducive to the wide

dissemination of such findings, to the public. If the commissioner concludes that a reasonable and practicable alternative or alternatives exist which would minimize or avoid the adverse impact of the proposed action, he or she shall propose that such alternative or alternatives be accepted. If the agency, corporation or government proposing the action accepts the commissioner's proposal, then the requirements of the notice of intent filing shall be deemed fulfilled. If the agency, corporation or government rejects the commissioner's proposal, then it shall provide the commissioner with reasons for rejecting such proposal and a detailed comparison between its proposed action and the commissioner's alternative or alternatives.

g. At least ten days before commencing an action which has been the subject of a notice of intent filing, the agency, corporation or government shall certify to the commissioner that it has made an explicit finding that the requirements of this subdivision have been met, and that consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse agricultural impacts revealed in the notice of intent process will be minimized or avoided. Such certification shall set forth the reasons in support of the finding.

h. The commissioner may request the attorney general to bring an action to enjoin any such agency, corporation or government from violating any of the provisions of this subdivision.

h-1. Notwithstanding any other provision of law to the contrary, no solid waste management facility shall be sited on land in agricultural production which is located within an agricultural district, or land in agricultural production that qualifies for and is receiving an agricultural assessment pursuant to section three hundred six of this article. Nothing contained herein, however, shall be deemed to prohibit siting when:

(i) The owner of such land has entered into a written agreement which shall indicate his consent for site consideration; or

(ii) The applicant for a permit has made a commitment in the permit application to fund a farm land protection conservation easement within a reasonable proximity to the proposed project in an amount not less than the dollar value of any such farm land purchased for the project; or

(iii) The commissioner in concurrence with the commissioner of environmental conservation has determined that any such agricultural land to be taken, constitutes less than five percent of the project site.

For purposes of this paragraph, "solid waste management facility" shall have the same meaning as provided in title seven of article twenty-seven of the environmental conservation law, but shall not include solid waste transfer stations or land upon which sewage sludge is applied, and determinations regarding agricultural district boundaries and agricultural assessments will be based on those in effect as of the date an initial determination is made, pursuant to article eight of the environmental conservation law, as to whether an environmental impact statement needs to be prepared for the proposed project.

i. This subdivision shall not apply to any emergency project which is immediately necessary for the protection of life or property or to any project or proceeding to which the department is or has been a statutory party.

j. The commissioner may bring an action to enforce any mitigation

measures proposed by a public benefit corporation or a local government, and accepted by the commissioner, pursuant to a notice of intent filing, to minimize or avoid adverse agricultural impacts from the proposed action.

5. Limitation on power to impose benefit assessments, special ad valorem levies or other rates or fees in certain improvement districts or benefit areas. Within improvement districts or areas deemed benefited by municipal improvements including, but not limited to, improvements for sewer, water, lighting, non-farm drainage, solid waste disposal, including those solid waste management facilities established pursuant to section two hundred twenty-six-b of the county law, or other landfill operations, no benefit assessments, special ad valorem levies or other rates or fees charged for such improvements may be imposed on land used primarily for agricultural production within an agricultural district on any basis, except a lot not exceeding one-half acre surrounding any dwelling or non-farm structure located on said land, nor on any farm structure located in an agricultural district unless such structure benefits directly from the service of such improvement district or benefited area; provided, however, that if such benefit assessments, ad valorem levies or other rates or fees were imposed prior to the formation of the agricultural district, then such benefit assessments, ad valorem levies or other rates or fees shall continue to be imposed on such land or farm structure.

6. Use of assessment for certain purposes. The governing body of a fire, fire protection, or ambulance district for which a benefit assessment or a special ad valorem levy is made, may adopt a resolution to provide that the assessment determined pursuant to subdivision one of this section for such property shall be used for the benefit assessment or special ad valorem levy of such fire, fire protection, or ambulance district.

7. Notwithstanding any provision of law to the contrary, that portion of the value of land which is used solely for the purpose of replanting or crop expansion as part of an orchard or vineyard shall be exempt from real property taxation for a period of six successive years following the date of such replanting or crop expansion beginning on the first eligible taxable status date following such replanting or expansion provided the following conditions are met:

a. the land used for crop expansion or replanting must be a part of an existing orchard or vineyard which is located on land used in agricultural production within an agricultural district or such land must be part of an existing orchard or vineyard which is eligible for an agricultural assessment pursuant to this section or section three hundred six of this chapter where the owner of such land has filed an annual application for an agricultural assessment;

b. the land eligible for such real property tax exemption shall not in any one year exceed twenty percent of the total acreage of such orchard or vineyard which is located on land used in agricultural production within an agricultural district or twenty percent of the total acreage of such orchard or vineyard eligible for an agricultural assessment pursuant to this section and section three hundred six of this chapter where the owner of such land has filed an annual application for an agricultural assessment;

c. the land eligible for such real property tax exemption must be maintained as land used in agricultural production as part of such orchard or vineyard for each year such exemption is granted; and

d. when the land used for the purpose of replanting or crop expansion

as part of an orchard or vineyard is located within an area which has been declared by the governor to be a disaster emergency in a year in which such tax exemption is sought and in a year in which such land meets all other eligibility requirements for such tax exemption set forth in this subdivision, the maximum twenty percent total acreage restriction set forth in paragraph b of this subdivision may be exceeded for such year and for any remaining successive years, provided, however, that the land eligible for such real property tax exemption shall not exceed the total acreage damaged or destroyed by such disaster in such year or the total acreage which remains damaged or destroyed in any remaining successive year. The total acreage for which such exemption is sought pursuant to this paragraph shall be subject to verification by the commissioner or his designee.

In administering this subdivision, the portion of the value of land eligible for such real property tax exemption shall be determined based on the average per acre assessment of all agricultural land of the specific tax parcel as reported in a form approved by the commissioner of taxation and finance.

§ 305-a. Coordination of local planning and land use decision-making with the agricultural districts program. 1. Policy of local governments. a. Local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, shall exercise these powers in such manner as may realize the policy and goals set forth in this article, and shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened.

b. Upon the request of any municipality, farm owner or operator, the commissioner shall render an opinion to the appropriate local government officials, as to whether farm operations would be unreasonably restricted or regulated by proposed changes in local land use regulations, ordinances or local laws pertaining to agricultural practices and to the appropriate local land use enforcement officials administering local land use regulations, ordinances, or local laws or reviewing a permit pertaining to agricultural practices.

c. The commissioner, upon his or her own initiative or upon the receipt of a complaint from a person within an agricultural district, may bring an action to enforce the provisions of this subdivision.

2. Agricultural data statement; submission, evaluation. Any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval by a planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law, that would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The planning board, zoning board of appeals, town board, or village board of trustees shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. The information required by an agricultural data statement may be included as part of any other application form required by local law, ordinance

or regulation.

3. Agricultural data statement; notice provision. Upon the receipt of such application by the planning board, zoning board of appeals, town board or village board of trustees, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.

4. Agricultural data statement; content. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

§ 305-b. Review of proposed rules and regulations of state agencies affecting the agricultural industry. Upon request of the state advisory council on agriculture, or upon his or her own initiative, the commissioner may review and comment upon a proposed rule or regulation by another state agency which may have an adverse impact on agriculture and farm operations in this state, and file such comment with the proposing agency and the administrative regulations review commission. Each comment shall be in sufficient detail to advise the proposing agency of the adverse impact on agriculture and farm operations and the recommended modifications. The commissioner shall prepare a status report of any actions taken in accordance with this section and include it in the department's annual report.

§ 306. Agricultural lands outside of districts; agricultural assessments. 1. Any owner of land used in agricultural production outside of an agricultural district shall be eligible for an agricultural assessment as provided herein. If an applicant rents land from another for use in conjunction with the applicant's land for the production for sale of crops, livestock or livestock products, the gross sales value of such products on such rented land shall be added to the gross sales value of such products produced on the land of the applicant for purposes of determining eligibility for an agricultural assessment on the land of the applicant.

Such assessment shall be granted pursuant to paragraphs a, b and f of subdivision one of section three hundred five of this article as if such land were in an agricultural district, provided the landowner annually submits to the assessor an application for an agricultural assessment on or before the taxable status date. In the year of a revaluation or update of assessments, as those terms are defined in section one hundred two of the real property tax law, the application may be filed with the assessor no later than the thirtieth day prior to the day by which the tentative assessment roll is required to be filed by law. Nothing therein shall be construed to limit an applicant's discretion to

withhold from such application any land, or portion thereof, contained within a single operation.

2. a. (i) If land which received an agricultural assessment pursuant to this section is converted at any time within eight years from the time an agricultural assessment was last received, such conversion shall subject the land so converted to payments in compensation for the prior benefits of agricultural assessments. The amount of the payments shall be equal to five times the taxes saved in the last year in which land benefited from an agricultural assessment, plus interest of six percent per year compounded annually for each year in which an agricultural assessment was granted, not exceeding five years.

(ii) The amount of taxes saved for the last year in which the land benefited from an agricultural assessment shall be determined by applying the applicable tax rates to the amount of assessed valuation of such land in excess of the agricultural assessment of such land as set forth on the last assessment roll which indicates such an excess. If only a portion of such land as described on the assessment roll is converted, the assessor shall apportion the assessment and agricultural assessment attributable to the converted portion, as determined for the last assessment roll on which the assessment of such portion exceeded its agricultural assessment. The difference between the apportioned assessment and the apportioned agricultural assessment shall be the amount upon which payments shall be determined. Payments shall be levied in the same manner as other taxes, by or on behalf of each taxing jurisdiction on the assessment roll prepared on the basis of the first taxable status date on which the assessor considers the land to have been converted; provided, however, that no payments shall be imposed if the last assessment roll upon which the property benefited from an agricultural assessment, was more than eight years prior to the year for which the assessment roll upon which payments would otherwise be levied is prepared.

(iii) Whenever a conversion occurs, the owner shall notify the assessor within ninety days of the date such conversion is commenced. If the landowner fails to make such notification within the ninety day period, the assessing unit, by majority vote of the governing body, may impose a penalty on behalf of the assessing unit of up to two times the total payments owed, but not to exceed a maximum total penalty of five hundred dollars in addition to any payments owed.

b. (i) An assessor who determines that there is liability for payments and any penalties pursuant to subparagraph (ii) of this paragraph shall notify the landowner of such liability at least ten days prior to the day for hearing of complaints in relation to assessments. Such notice shall specify the area subject to payments and shall describe how such payments shall be determined. Failure to provide such notice shall not affect the levy, collection, or enforcement of payments.

(ii) Liability for payments shall be subject to administrative and judicial review as provided by law for the review of assessments.

(iii) An assessor who imposes any such payments shall annually, and within forty-five days following the date on which the final assessment roll is required to be filed, report such payments to the commissioner of taxation and finance on a form prescribed by the commissioner.

(iv) The assessing unit, by majority vote of the government body, may impose a minimum payment amount, not to exceed one hundred dollars.

c. If such land or any portion thereof is converted by virtue of oil, gas or wind exploration, development, or extraction activity or by virtue of a taking by eminent domain or other involuntary proceeding

other than a tax sale, the land or portion so converted shall not be subject to payments. If land so converted constitutes only a portion of a parcel described on the assessment roll, the assessor shall apportion the assessment, and adjust the agricultural assessment attributable to the portion of the parcel not subject to such conversion by subtracting the proportionate part of the agricultural assessment attributable to the portion so converted. Provided further that land outside an agricultural district and eligible for an agricultural assessment pursuant to this section shall not be considered to have been converted to a use other than for agricultural production solely due to the conveyance of oil, gas or wind rights associated with that land.

d. The purchase of land in fee by the city of New York for watershed protection purposes or the conveyance of a conservation easement by the city of New York to the department of environmental conservation which prohibits future use of the land for agricultural purposes shall not be a conversion of parcels and no payment for the prior benefits of agricultural assessments shall be due under this section.

3. Upon the inclusion of such agricultural lands in an agricultural district formed pursuant to section three hundred three, the provisions of section three hundred five shall be controlling.

4. A payment levied pursuant to subparagraph (i) of paragraph a of subdivision two of this section shall be a lien on the entire parcel containing the converted land, notwithstanding that less than the entire parcel was converted.

5. Use of assessment for certain purposes. The governing body of a water, lighting, sewer, sanitation, fire, fire protection, or ambulance district for whose benefit a special assessment or a special ad valorem levy is imposed, may adopt a resolution to provide that the assessments determined pursuant to subdivision one of this section for property within the district shall be used for the special assessment or special ad valorem levy of such special district.

§ 307. Promulgation of rules and regulations. The commissioner of taxation and finance and the commissioner are each empowered to promulgate such rules and regulations and to prescribe such forms as each shall deem necessary to effectuate the purposes of this article, and the commissioner is further empowered to promulgate such rules and regulations as are necessary to provide for the reasonable consolidation of existing agricultural districts with new agricultural districts or with other existing districts undergoing modification pursuant to section three hundred three of this article. Where a document or any other paper or information is required, by such rules and regulations, or by any provision of this article, to be filed with, or by, a county clerk or any other local official, such clerk or other local official may file such document, paper, or information as he deems proper, but he shall also file or record it in any manner directed by the commissioner of taxation and finance, by rule or regulation. In promulgating such a rule or regulation, such commissioner shall consider, among any other relevant factors, the need for security of land titles, the requirement that purchasers of land know of all potential tax and penalty liabilities, and the desirability that the searching of titles not be further complicated by the establishment of new sets of record books.

§ 308. Right to farm. 1. a. The commissioner shall, in consultation with the state advisory council on agriculture, issue opinions upon request from any person as to whether particular agricultural practices are sound.

b. Sound agricultural practices refer to those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of activities which entail practices the commissioner may consider include, but are not limited to, operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; agricultural tourism; "timber operation," as defined in subdivision fourteen of section three hundred one of this article and construction and use of farm structures. The commissioner shall consult appropriate state agencies and any guidelines recommended by the advisory council on agriculture. The commissioner may consult as appropriate, the New York state college of agriculture and life sciences and the U.S.D.A. natural resources conservation service, and provide such information, after the issuance of a formal opinion, to the municipality in which the agricultural practice being evaluated is located. The commissioner shall also consider whether the agricultural practices are conducted by a farm owner or operator as part of his or her participation in the AEM program as set forth in article eleven-A of this chapter. Such practices shall be evaluated on a case-by-case basis.

2. Upon the issuance of an opinion pursuant to this section, the commissioner shall publish a notice in a newspaper having a general circulation in the area surrounding the practice and notice shall be given in writing to the owner of the property on which the practice is conducted and any adjoining property owners. The opinion of the commissioner shall be final, unless within thirty days after publication of the notice a person affected thereby institutes a proceeding to review the opinion in the manner provided by article seventy-eight of the civil practice law and rules.

3. Notwithstanding any other provisions of law, on any land in an agricultural district created pursuant to section three hundred three or land used in agricultural production subject to an agricultural assessment pursuant to section three hundred six of this article, an agricultural practice shall not constitute a private nuisance, when an action is brought by a person, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued upon request by the commissioner. Nothing in this section shall be construed to prohibit an aggrieved party from recovering damages for personal injury or wrongful death.

4. The commissioner, in consultation with the state advisory council on agriculture, shall issue an opinion within thirty days upon request from any person as to whether particular land uses are agricultural in nature. Such land use decisions shall be evaluated on a case-by-case basis.

5. The commissioner shall develop and make available to prospective grantors and purchasers of real property located partially or wholly within any agricultural district in this state and to the general public, practical information related to the right to farm as set forth in this article including, but not limited to right to farm disclosure requirements established pursuant to section three hundred ten of this article and section three hundred thirty-three-c of the real property

law.

§ 308-a. Fees and expenses in certain private nuisance actions. 1. Definitions. For purposes of this section:

a. "Action" means any civil action brought by a person in which a private nuisance is alleged to be due to an agricultural practice on any land in an agricultural district or subject to agricultural assessments pursuant to section three hundred three or three hundred six of this article, respectively.

b. "Fees and other expenses" means the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, consultation with experts, and like expenses, and reasonable attorney fees, including fees for work performed by law students or paralegals under the supervision of an attorney, incurred in connection with the defense of any cause of action for private nuisance which is alleged as part of a civil action brought by a person.

c. "Final judgment" means a judgment that is final and not appealable, and settlement.

d. "Prevailing party" means a defendant in a civil action brought by a person, in which a private nuisance is alleged to be due to an agricultural practice, where the defendant prevails in whole or in substantial part on the private nuisance cause of action.

2. Fees and other expenses in certain private nuisance actions. a. When awarded. In addition to costs, disbursements and additional allowances awarded pursuant to sections eight thousand two hundred one through eight thousand two hundred four and eight thousand three hundred one through eight thousand three hundred three-a of the civil practice law and rules, and except as otherwise specifically provided by statute, a court shall award to a prevailing party, other than the plaintiff, fees and other expenses incurred by such party in connection with the defense of any cause of action for private nuisance alleged to be due to an agricultural practice, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued by the commissioner under section three hundred eight of this article, prior to the start of any trial of the action or settlement of such action, unless the court finds that the position of the plaintiff was substantially justified or that special circumstances make an award unjust. Fees shall be determined pursuant to prevailing market rates for the kind and quality of the services furnished, except that fees and expenses may not be awarded to a party for any portion of the litigation in which the party has unreasonably protracted the proceedings.

b. Application for fees. A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application which sets forth (i) the facts supporting the claim that the party is a prevailing party and is eligible to receive an award under this section, (ii) the amount sought, and (iii) an itemized statement from every attorney or expert witness for which fees or expenses are sought stating the actual time expended and the rate at which such fees and other expenses are claimed.

3. Interest. If the plaintiff appeals an award made pursuant to this section and the award is affirmed in whole or in part, interest shall be paid on the amount of the award. Such interest shall run from the date of the award through the day before the date of the affirmance.

4. Applicability. a. Nothing contained in this section shall be

construed to alter or modify the provisions of the civil practice law and rules where applicable to actions other than actions as defined by this section.

b. Nothing contained in this section shall affect or preclude the right of any party to recover fees or other expenses authorized by common law or by any other statute, law or rule.

§ 309. Advisory council on agriculture. 1. There shall be established within the department the advisory council on agriculture, to advise and make recommendations to the state agencies on state government plans, policies and programs affecting agriculture, as outlined below, and in such areas as its experience and studies may indicate to be appropriate. The department of agriculture and markets shall provide necessary secretariat and support services to the council.

2. The advisory council on agriculture shall consist of eleven members appointed by the governor with the advice and consent of the senate, selected for their experience and expertise related to areas of council responsibility. At least five members of the council shall be operators of a commercial farm enterprise and at least two members shall be representatives of local governments. The balance of the council shall be comprised of representatives of business or institutions related to agriculture. Members shall be appointed for a term of three years and may serve until their successors are chosen provided, however, that of the members first appointed, three shall serve for a term of one year, three shall serve for a term of two years, and three shall serve for a term of three years. Members shall serve without salary but shall be entitled to reimbursement of their ordinary and necessary travel expenses. The members of the council shall elect a chairman.

3. The duties and responsibilities of the advisory council on agriculture as they pertain to agricultural districts shall include, but not be limited to, providing timely advice, comments and recommendations to the commissioner in regard to:

- a. the establishment of agricultural districts;
- b. the eight year review of agricultural districts; and
- c. the establishment of and any revision to the land classification system used in connection with the determination of agricultural assessment values.

The commissioner may delegate to the council such additional duties and responsibilities as he deems necessary.

4. The duties and responsibilities of the advisory council on agriculture shall include, but not be limited to, providing timely advice, comments and recommendations to the commissioner of taxation and finance in regard to the establishment of agricultural assessment values.

5. The advisory council on agriculture shall advise the commissioner and other state agency heads on state government plans, policies and programs affecting farming and the agricultural industry of this state. Concerned state agencies shall be encouraged to establish a working relationship with the council and shall fully cooperate with the council in any requests it shall make.

6. The advisory council on agriculture may ask other individuals to attend its meetings or work with it on an occasional or regular basis provided, however, that it shall invite participation by the chairman of the state soil and water conservation committee and the dean of the New

York state college of agriculture and life sciences at Cornell university. The advisory council on agriculture shall set the time and place of its meetings, and shall hold at least four meetings per year.

7. The advisory council on agriculture shall file a written report to the governor and the legislature by April first each year concerning its activities during the previous year and its program expectations for the succeeding year.

8. The advisory council on agriculture shall advise the commissioner in regards to whether particular land uses are agricultural in nature.

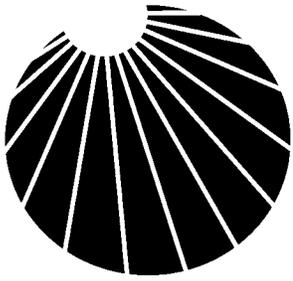
§ 310. Disclosure. 1. When any purchase and sale contract is presented for the sale, purchase, or exchange of real property located partially or wholly within an agricultural district established pursuant to the provisions of this article, the prospective grantor shall present to the prospective grantee a disclosure notice which states the following:

"It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and Markets Law."

1-a. Such disclosure notice shall be signed by the prospective grantor and grantee prior to the sale, purchase or exchange of such real property.

2. Receipt of such disclosure notice shall be recorded on a property transfer report form prescribed by the commissioner of taxation and finance as provided for in section three hundred thirty-three of the real property law.

APPENDIX C – COST OF COMMUNITY SERVICES INFORMATION



FARMLAND
INFORMATION
CENTER

FACT
SHEET

COST OF
COMMUNITY
SERVICES
STUDIES



FARMLAND INFORMATION CENTER
(800) 370-4879
www.farmlandinfo.org



DESCRIPTION

Cost of Community Services (COCS) studies are a case study approach used to determine the fiscal contribution of existing local land uses. A subset of the much larger field of fiscal analysis, COCS studies have emerged as an inexpensive and reliable tool to measure direct fiscal relationships. Their particular niche is to evaluate working and open lands on equal ground with residential, commercial and industrial land uses.

COCS studies are a snapshot in time of costs versus revenues for each type of land use. They do not predict future costs or revenues or the impact of future growth. They do provide a baseline of current information to help local officials and citizens make informed land use and policy decisions.

METHODOLOGY

In a COCS study, researchers organize financial records to assign the cost of municipal services to working and open lands, as well as to residential, commercial and industrial development. Researchers meet with local sponsors to define the scope of the project and identify land use categories to study. For example, working lands may include farm, forest and/or ranch lands. Residential development includes all housing, including rentals, but if there is a migrant agricultural work force, temporary housing for these workers would be considered part of agricultural land use. Often in rural communities, commercial and industrial land uses are combined. COCS studies findings are displayed as a set of ratios that compare annual revenues to annual expenditures for a community's unique mix of land uses.

COCS studies involve three basic steps:

1. Collect data on local revenues and expenditures.
2. Group revenues and expenditures and allocate them to the community's major land use categories.
3. Analyze the data and calculate revenue-to-expenditure ratios for each land use category.

The process is straightforward, but ensuring reliable figures requires local oversight. The most complicated task is interpreting existing records to reflect COCS land use categories. Allocating revenues and expenses requires a significant amount of research, including extensive interviews with financial officers and public administrators.

HISTORY

Communities often evaluate the impact of growth on local budgets by conducting or commissioning fiscal impact analyses. Fiscal impact studies project public costs and revenues from different land development patterns. They generally show that residential development is a net fiscal loss for communities and recommend commercial and industrial development as a strategy to balance local budgets.

Rural towns and counties that would benefit from fiscal impact analysis may not have the expertise or resources to conduct a study. Also, fiscal impact analyses rarely consider the contribution of working and other open lands, which is very important to rural economies.

American Farmland Trust (AFT) developed COCS studies in the mid-1980s to provide communities with a straightforward and inexpensive way to measure the contribution of agricultural lands to the local tax base. Since then, COCS studies have been conducted in at least 151 communities in the United States.

FUNCTIONS & PURPOSES

Communities pay a high price for unplanned growth. Scattered development frequently causes traffic congestion, air and water pollution, loss of open space and increased demand for costly public services. This is why it is important for citizens and local leaders to understand the relationships between residential and commercial growth, agricultural land use, conservation and their community's bottom line.

COCS studies help address three misperceptions that are commonly made in rural or suburban communities facing growth pressures:

1. Open lands—including productive farms and forests—are an interim land use that should be developed to their “highest and best use.”
2. Agricultural land gets an unfair tax break when it is assessed at its current use value for farming or ranching instead of at its potential use value for residential or commercial development.
3. Residential development will lower property taxes by increasing the tax base.

While it is true that an acre of land with a new house generates more total revenue than an acre of hay or corn, this tells us little about

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Colorado				
Custer County	1 : 1.16	1 : 0.71	1 : 0.54	Haggerty, 2000
Sagauche County	1 : 1.17	1 : 0.53	1 : 0.35	Dirt, Inc., 2001
Connecticut				
Bolton	1 : 1.05	1 : 0.23	1 : 0.50	Geisler, 1998
Brooklyn	1 : 1.09	1 : 0.17	1 : 0.30	Green Valley Institute, 2002
Durham	1 : 1.07	1 : 0.27	1 : 0.23	Southern New England Forest Consortium, 1995
Farmington	1 : 1.33	1 : 0.32	1 : 0.31	Southern New England Forest Consortium, 1995
Hebron	1 : 1.06	1 : 0.47	1 : 0.43	American Farmland Trust, 1986
Lebanon	1 : 1.12	1 : 0.16	1 : 0.17	Green Valley Institute, 2007
Litchfield	1 : 1.11	1 : 0.34	1 : 0.34	Southern New England Forest Consortium, 1995
Pomfret	1 : 1.06	1 : 0.27	1 : 0.86	Southern New England Forest Consortium, 1995
Windham	1 : 1.15	1 : 0.24	1 : 0.19	Green Valley Institute, 2002
Florida				
Leon County	1 : 1.39	1 : 0.36	1 : 0.42	Dorfman, 2004
Georgia				
Appling County	1 : 2.27	1 : 0.17	1 : 0.35	Dorfman, 2004
Athens-Clarke County	1 : 1.39	1 : 0.41	1 : 2.04	Dorfman, 2004
Brooks County	1 : 1.56	1 : 0.42	1 : 0.39	Dorfman, 2004
Carroll County	1 : 1.29	1 : 0.37	1 : 0.55	Dorfman and Black, 2002
Cherokee County	1 : 1.59	1 : 0.12	1 : 0.20	Dorfman, 2004
Colquitt County	1 : 1.28	1 : 0.45	1 : 0.80	Dorfman, 2004
Columbia County	1 : 1.16	1 : 0.48	1 : 0.52	Dorfman, 2006
Dooly County	1 : 2.04	1 : 0.50	1 : 0.27	Dorfman, 2004
Grady County	1 : 1.72	1 : 0.10	1 : 0.38	Dorfman, 2003
Hall County	1 : 1.25	1 : 0.66	1 : 0.22	Dorfman, 2004
Jackson County	1 : 1.28	1 : 0.58	1 : 0.15	Dorfman, 2008
Jones County	1 : 1.23	1 : 0.65	1 : 0.35	Dorfman, 2004
Miller County	1 : 1.54	1 : 0.52	1 : 0.53	Dorfman, 2004
Mitchell County	1 : 1.39	1 : 0.46	1 : 0.60	Dorfman, 2004
Morgan County	1 : 1.42	1 : 0.25	1 : 0.38	Dorfman, 2008
Thomas County	1 : 1.64	1 : 0.38	1 : 0.67	Dorfman, 2003
Union County	1 : 1.13	1 : 0.43	1 : 0.72	Dorfman and Lavigno, 2006
Idaho				
Booneville County	1 : 1.06	1 : 0.84	1 : 0.23	Hartmans and Meyer, 1997
Canyon County	1 : 1.08	1 : 0.79	1 : 0.54	Hartmans and Meyer, 1997
Cassia County	1 : 1.19	1 : 0.87	1 : 0.41	Hartmans and Meyer, 1997
Kootenai County	1 : 1.09	1 : 0.86	1 : 0.28	Hartmans and Meyer, 1997
Kentucky				
Campbell County	1 : 1.21	1 : 0.30	1 : 0.38	American Farmland Trust, 2005
Kenton County	1 : 1.19	1 : 0.19	1 : 0.51	American Farmland Trust, 2005
Lexington-Fayette County	1 : 1.64	1 : 0.22	1 : 0.93	American Farmland Trust, 1999
Oldham County	1 : 1.05	1 : 0.29	1 : 0.44	American Farmland Trust, 2003
Shelby County	1 : 1.21	1 : 0.24	1 : 0.41	American Farmland Trust, 2005

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Maine				
Bethel	1 : 1.29	1 : 0.59	1 : 0.06	Good, 1994
Maryland				
Carroll County	1 : 1.15	1 : 0.48	1 : 0.45	Carroll County Dept. of Management & Budget, 1994
Cecil County	1 : 1.17	1 : 0.34	1 : 0.66	American Farmland Trust, 2001
Cecil County	1 : 1.12	1 : 0.28	1 : 0.37	Cecil County Office of Economic Development, 1994
Frederick County	1 : 1.14	1 : 0.50	1 : 0.53	American Farmland Trust, 1997
Harford County	1 : 1.11	1 : 0.40	1 : 0.91	American Farmland Trust, 2003
Kent County	1 : 1.05	1 : 0.64	1 : 0.42	American Farmland Trust, 2002
Wicomico County	1 : 1.21	1 : 0.33	1 : 0.96	American Farmland Trust, 2001
Massachusetts				
Agawam	1 : 1.05	1 : 0.44	1 : 0.31	American Farmland Trust, 1992
Becket	1 : 1.02	1 : 0.83	1 : 0.72	Southern New England Forest Consortium, 1995
Dartmouth	1 : 1.14	1 : 0.51	1 : 0.26	American Farmland Trust, 2009
Deerfield	1 : 1.16	1 : 0.38	1 : 0.29	American Farmland Trust, 1992
Deerfield	1 : 1.14	1 : 0.51	1 : 0.33	American Farmland Trust, 2009
Franklin	1 : 1.02	1 : 0.58	1 : 0.40	Southern New England Forest Consortium, 1995
Gill	1 : 1.15	1 : 0.43	1 : 0.38	American Farmland Trust, 1992
Leverett	1 : 1.15	1 : 0.29	1 : 0.25	Southern New England Forest Consortium, 1995
Middleboro	1 : 1.08	1 : 0.47	1 : 0.70	American Farmland Trust, 2001
Southborough	1 : 1.03	1 : 0.26	1 : 0.45	Adams and Hines, 1997
Sterling	1 : 1.09	1 : 0.26	1 : 0.34	American Farmland Trust, 2009
Westford	1 : 1.15	1 : 0.53	1 : 0.39	Southern New England Forest Consortium, 1995
Williamstown	1 : 1.11	1 : 0.34	1 : 0.40	Hazler et al., 1992
Michigan				
Marshall Twp., Calhoun County	1 : 1.47	1 : 0.20	1 : 0.27	American Farmland Trust, 2001
Newton Twp., Calhoun County	1 : 1.20	1 : 0.25	1 : 0.24	American Farmland Trust, 2001
Scio Twp., Washtenaw County	1 : 1.40	1 : 0.28	1 : 0.62	University of Michigan, 1994
Minnesota				
Farmington	1 : 1.02	1 : 0.79	1 : 0.77	American Farmland Trust, 1994
Independence	1 : 1.03	1 : 0.19	1 : 0.47	American Farmland Trust, 1994
Lake Elmo	1 : 1.07	1 : 0.20	1 : 0.27	American Farmland Trust, 1994
Montana				
Carbon County	1 : 1.60	1 : 0.21	1 : 0.34	Prinzing, 1997
Flathead County	1 : 1.23	1 : 0.26	1 : 0.34	Citizens for a Better Flathead, 1999
Gallatin County	1 : 1.45	1 : 0.16	1 : 0.25	Haggerty, 1996
New Hampshire				
Brentwood	1 : 1.17	1 : 0.24	1 : 0.83	Brentwood Open Space Task Force, 2002
Deerfield	1 : 1.15	1 : 0.22	1 : 0.35	Auger, 1994
Dover	1 : 1.15	1 : 0.63	1 : 0.94	Kingsley, et al., 1993
Exeter	1 : 1.07	1 : 0.40	1 : 0.82	Niebling, 1997
Fremont	1 : 1.04	1 : 0.94	1 : 0.36	Auger, 1994
Groton	1 : 1.01	1 : 0.12	1 : 0.88	New Hampshire Wildlife Federation, 2001
Hookset	1 : 1.16	1 : 0.43	1 : 0.55	Innovative Natural Resource Solutions, 2008
Lyme	1 : 1.05	1 : 0.28	1 : 0.23	Pickard, 2000
Milton	1 : 1.30	1 : 0.35	1 : 0.72	Innovative Natural Resource Solutions, 2005

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
New Hampshire (continued)				
Mont Vernon	1 : 1.03	1 : 0.04	1 : 0.08	Innovative Natural Resource Solutions, 2002
Stratham	1 : 1.15	1 : 0.19	1 : 0.40	Auger, 1994
New Jersey				
Freehold Township	1 : 1.51	1 : 0.17	1 : 0.33	American Farmland Trust, 1998
Holmdel Township	1 : 1.38	1 : 0.21	1 : 0.66	American Farmland Trust, 1998
Middletown Township	1 : 1.14	1 : 0.34	1 : 0.36	American Farmland Trust, 1998
Upper Freehold Township	1 : 1.18	1 : 0.20	1 : 0.35	American Farmland Trust, 1998
Wall Township	1 : 1.28	1 : 0.30	1 : 0.54	American Farmland Trust, 1998
New York				
Amenia	1 : 1.23	1 : 0.25	1 : 0.17	Bucknall, 1989
Beekman	1 : 1.12	1 : 0.18	1 : 0.48	American Farmland Trust, 1989
Dix	1 : 1.51	1 : 0.27	1 : 0.31	Schuyler County League of Women Voters, 1993
Farmington	1 : 1.22	1 : 0.27	1 : 0.72	Kinsman et al., 1991
Fishkill	1 : 1.23	1 : 0.31	1 : 0.74	Bucknall, 1989
Hector	1 : 1.30	1 : 0.15	1 : 0.28	Schuyler County League of Women Voters, 1993
Kinderhook	1 : 1.05	1 : 0.21	1 : 0.17	Concerned Citizens of Kinderhook, 1996
Montour	1 : 1.50	1 : 0.28	1 : 0.29	Schuyler County League of Women Voters, 1992
North East	1 : 1.36	1 : 0.29	1 : 0.21	American Farmland Trust, 1989
Reading	1 : 1.88	1 : 0.26	1 : 0.32	Schuyler County League of Women Voters, 1992
Red Hook	1 : 1.11	1 : 0.20	1 : 0.22	Bucknall, 1989
Rochester	1 : 1.27	1 : 0.18	1 : 0.18	Bonner and Gray, 2005
North Carolina				
Alamance County	1 : 1.46	1 : 0.23	1 : 0.59	Renkow, 2006
Chatham County	1 : 1.14	1 : 0.33	1 : 0.58	Renkow, 2007
Henderson County	1 : 1.16	1 : 0.40	1 : 0.97	Renkow, 2008
Orange County	1 : 1.31	1 : 0.24	1 : 0.72	Renkow, 2006
Union County	1 : 1.30	1 : 0.41	1 : 0.24	Dorfman, 2004
Wake County	1 : 1.54	1 : 0.18	1 : 0.49	Renkow, 2001
Ohio				
Butler County	1 : 1.12	1 : 0.45	1 : 0.49	American Farmland Trust, 2003
Clark County	1 : 1.11	1 : 0.38	1 : 0.30	American Farmland Trust, 2003
Hocking Township	1 : 1.10	1 : 0.27	1 : 0.17	Prindle, 2002
Knox County	1 : 1.05	1 : 0.38	1 : 0.29	American Farmland Trust, 2003
Liberty Township	1 : 1.15	1 : 0.51	1 : 0.05	Prindle, 2002
Madison Village, Lake County	1 : 1.67	1 : 0.20	1 : 0.38	American Farmland Trust, 1993
Madison Twp., Lake County	1 : 1.40	1 : 0.25	1 : 0.30	American Farmland Trust, 1993
Madison Village, Lake County	1 : 1.16	1 : 0.32	1 : 0.37	American Farmland Trust, 2008
Madison Twp., Lake County	1 : 1.24	1 : 0.33	1 : .030	American Farmland Trust, 2008
Shalersville Township	1 : 1.58	1 : 0.17	1 : 0.31	Portage County Regional Planning Commission, 1997
Pennsylvania				
Allegheny Twp., Westmoreland County	1 : 1.06	1 : 0.14	1 : 0.13	Kelsey, 1997
Bedminster Twp., Bucks County	1 : 1.12	1 : 0.05	1 : 0.04	Kelsey, 1997
Bethel Twp., Lebanon County	1 : 1.08	1 : 0.17	1 : 0.06	Kelsey, 1992
Bingham Twp., Potter County	1 : 1.56	1 : 0.16	1 : 0.15	Kelsey, 1994
Buckingham Twp., Bucks County	1 : 1.04	1 : 0.15	1 : 0.08	Kelsey, 1996

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Pennsylvania (continued)				
Carroll Twp., Perry County	1 : 1.03	1 : 0.06	1 : 0.02	Kelsey, 1992
Hopewell Twp., York County	1 : 1.27	1 : 0.32	1 : 0.59	The South Central Assembly for Effective Governance, 2002
Kelly Twp., Union County	1 : 1.48	1 : 0.07	1 : 0.07	Kelsey, 2006
Lehman Twp., Pike County	1 : 0.94	1 : 0.20	1 : 0.27	Kelsey, 2006
Maiden Creek Twp., Berks County	1 : 1.28	1 : 0.11	1 : 0.06	Kelsey, 1998
Richmond Twp., Berks County	1 : 1.24	1 : 0.09	1 : 0.04	Kelsey, 1998
Shrewsbury Twp., York County	1 : 1.22	1 : 0.15	1 : 0.17	The South Central Assembly for Effective Governance, 2002
Stewardson Twp., Potter County	1 : 2.11	1 : 0.23	1 : 0.31	Kelsey, 1994
Straban Twp., Adams County	1 : 1.10	1 : 0.16	1 : 0.06	Kelsey, 1992
Sweden Twp., Potter County	1 : 1.38	1 : 0.07	1 : 0.08	Kelsey, 1994
Rhode Island				
Hopkinton	1 : 1.08	1 : 0.31	1 : 0.31	Southern New England Forest Consortium, 1995
Little Compton	1 : 1.05	1 : 0.56	1 : 0.37	Southern New England Forest Consortium, 1995
West Greenwich	1 : 1.46	1 : 0.40	1 : 0.46	Southern New England Forest Consortium, 1995
Tennessee				
Blount County	1 : 1.23	1 : 0.25	1 : 0.41	American Farmland Trust, 2006
Robertson County	1 : 1.13	1 : 0.22	1 : 0.26	American Farmland Trust, 2006
Tipton County	1 : 1.07	1 : 0.32	1 : 0.57	American Farmland Trust, 2006
Texas				
Bandera County	1 : 1.10	1 : 0.26	1 : 0.26	American Farmland Trust, 2002
Bexar County	1 : 1.15	1 : 0.20	1 : 0.18	American Farmland Trust, 2004
Hays County	1 : 1.26	1 : 0.30	1 : 0.33	American Farmland Trust, 2000
Utah				
Cache County	1 : 1.27	1 : 0.25	1 : 0.57	Snyder and Ferguson, 1994
Sevier County	1 : 1.11	1 : 0.31	1 : 0.99	Snyder and Ferguson, 1994
Utah County	1 : 1.23	1 : 0.26	1 : 0.82	Snyder and Ferguson, 1994
Virginia				
Augusta County	1 : 1.22	1 : 0.20	1 : 0.80	Valley Conservation Council, 1997
Bedford County	1 : 1.07	1 : 0.40	1 : 0.25	American Farmland Trust, 2005
Clarke County	1 : 1.26	1 : 0.21	1 : 0.15	Piedmont Environmental Council, 1994
Culpepper County	1 : 1.22	1 : 0.41	1 : 0.32	American Farmland Trust, 2003
Frederick County	1 : 1.19	1 : 0.23	1 : 0.33	American Farmland Trust, 2003
Northampton County	1 : 1.13	1 : 0.97	1 : 0.23	American Farmland Trust, 1999
Washington				
Okanogan County	1 : 1.06	1 : 0.59	1 : 0.56	American Farmland Trust, 2007
Skagit County	1 : 1.25	1 : 0.30	1 : 0.51	American Farmland Trust, 1999
Wisconsin				
Dunn	1 : 1.06	1 : 0.29	1 : 0.18	Town of Dunn, 1994
Dunn	1 : 1.02	1 : 0.55	1 : 0.15	Wisconsin Land Use Research Program, 1999
Perry	1 : 1.20	1 : 1.04	1 : 0.41	Wisconsin Land Use Research Program, 1999
Westport	1 : 1.11	1 : 0.31	1 : 0.13	Wisconsin Land Use Research Program, 1999

Note: Some studies break out land uses into more than three distinct categories. For these studies, AFT requested data from the researcher and recalculated the final ratios for the land use categories listed in this table. The Okanogan County, Wash., study is unique in that it analyzed the fiscal contribution of tax-exempt state, federal and tribal lands.

American Farmland Trust's Farmland Information Center acts as a clearinghouse for information about Cost of Community Services studies. Inclusion in this table does not necessarily signify review or endorsement by American Farmland Trust.

COST OF COMMUNITY SERVICES STUDIES

a community's bottom line. In areas where agriculture or forestry are major industries, it is especially important to consider the real property tax contribution of privately owned working lands. Working and other open lands may generate less revenue than residential, commercial or industrial properties, but they require little public infrastructure and few services.

COCS studies conducted over the last 20 years show working lands generate more public revenues than they receive back in public services. Their impact on community coffers is similar to that of other commercial and industrial land uses. On average, because residential land uses do not cover their costs, they must be subsidized by other community land uses. Converting agricultural land to residential land use should not be seen as a way to balance local budgets.

The findings of COCS studies are consistent with those of conventional fiscal impact analyses, which document the high cost of residential development and recommend commercial and industrial development to help balance local budgets. What is unique about COCS studies is that they show that agricultural land is similar to other commercial and industrial uses. In nearly every community studied, farmland has generated a fiscal surplus to help offset the shortfall created by residential demand for

public services. This is true even when the land is assessed at its current, agricultural use. However as more communities invest in agriculture this tendency may change. For example, if a community establishes a purchase of agricultural conservation easement program, working and open lands may generate a net negative.

Communities need reliable information to help them see the full picture of their land uses. COCS studies are an inexpensive way to evaluate the net contribution of working and open lands. They can help local leaders discard the notion that natural resources must be converted to other uses to ensure fiscal stability. They also dispel the myths that residential development leads to lower taxes, that differential assessment programs give landowners an "unfair" tax break and that farmland is an interim land use just waiting around for development.

One type of land use is not intrinsically better than another, and COCS studies are not meant to judge the overall public good or long-term merits of any land use or taxing structure. It is up to communities to balance goals such as maintaining affordable housing, creating jobs and conserving land. With good planning, these goals can complement rather than compete with each other. COCS studies give communities another tool to make decisions about their futures.

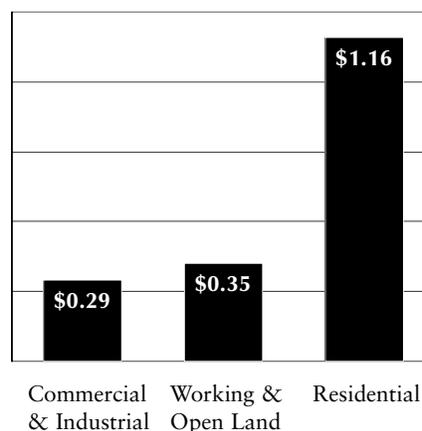
For additional information on farmland protection and stewardship contact the Farmland Information Center. The FIC offers a staffed answer service and online library with fact sheets, laws, sample documents and other educational materials.

www.farmlandinfo.org
(800) 370-4879



AFT NATIONAL OFFICE
1200 18th Street, NW, Suite 800
Washington, DC 20036
(202) 331-7300
www.farmland.org

Median COCS Results



Median cost per dollar of revenue raised to provide public services to different land uses.



APPENDIX D – ZONING AUDIT

Audit of Agricultural Provisions in Zoning and Subdivision Regulations – Town of Chili

This audit of the Town of Chili’s zoning regulations identifies those provisions in the Town’s zoning and subdivision regulations that relate to agricultural uses and assesses how well the Town’s zoning and subdivision regulations help to support agriculture and protect farming. The audit focuses on provisions that may unreasonably constrain agricultural practices that are protected through the NYS Agricultural District Law and suggests additional revisions to support continued viability of agriculture in the Town.

NYS Agriculture & Markets Law Article 25AA, which addresses the Agricultural Districts Program, includes provisions intended to protect standard farming practices from unreasonable restrictions of local laws. Section 305-a. states:

- a. Local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, shall exercise these powers in such manner as may realize the policy and goals set forth in this article, and shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened.
- b. The commissioner, upon his or her own initiative or upon the receipt of a complaint from a person within an agricultural district, may bring an action to enforce the provisions of this subdivision.

The limitation on local laws specifically applies to “farm operations within agricultural districts” as defined in the statute:

"Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise."

Farm operations that may be protected by NYS Agricultural Districts Law include agricultural production and certain agricultural support uses, and may include commercial horse boarding operations and on-farm timber harvesting.

The NYS Department of Agriculture & Markets has published several guidance documents to assist municipalities in determining whether their local regulations “unreasonably restrict” standard farming practices in Agricultural Districts. Topics include farm markets, horse boarding, manure storage and others. While the Department of Agriculture & Markets does not have the authority to invalidate local laws, it can limit the ability of municipalities to enforce provisions in their local laws that are deemed to be unreasonable in specific cases.

Zoning Audit – Town of Chili Agricultural & Farmland Protection Plan

The following findings and recommendations are intended to remove provisions that unreasonably restrict farm practices and to encourage additional provisions to make the Town’s regulations more supportive of agriculture.

Continue to Permit Agricultural Uses

Most (73%) of the actively farmed land in the Town of Chili is within the AC Agricultural Conservation zoning district. An additional 532 acres (9%) are in the Planned Residential Development District. (See attached map and the table below.) “General farming,” “Animal Husbandry,” and “Sale of agricultural products” are permitted “by right” in both of these zoning districts; no special use permit is required. However, “agribusiness,” which by definition includes “large scale” farming, requires a special use permit and is specifically permitted only in the AC district. (See the following section for recommended changes to the definition of “Agribusiness.”

Active Farmland by Zoning District – Town of Chili

Zoning District		Farmland	
		acres	% of total
FW	Floodway District	116.0	2.0%
RA	Rural Agricultural District	32.0	<1%
RM	Residential Multiple-Family District	40.4	<1%
PRD	Planned Residential Development District	532.4	9.3%
RB	Restricted Business District	0.5	<1%
GB	General Business District	1.1	<1%
GI	General Industrial District	79.1	1.4%
AC	Agricultural Conservation District	4,174.0	72.6%
HP	Historical Preservation	9.0	<1%
LI	Light Industrial	155.2	2.7%
R-15	Residential	248.6	4.3%
R-20	Residential	362.1	6.3%
		5,750.4	100.0%

The Statement of purpose for the AC district clearly supports agricultural uses.

The purpose of the AC Agricultural Conservation District is to encourage a proper environment to foster customary agricultural operations and rural residential land uses; to maintain an open rural character; to protect viable agricultural soils; and to coordinate residential densities with the availability of utilities. The district regulations contain incentives to encourage landowners to maintain lands in permanent open space and/or agricultural use.

Zoning Audit – Town of Chili Agricultural & Farmland Protection Plan

A total of 532 acres of farmland is within the Planned Residential Development District. This district is intended for residential and mixed uses as part of a coordinated development plan. Agriculture is a permitted use only in those portions of the district that are not serviced by public water and sewers.

In addition, 611 acres are in the R1-15 and R1-20 Residential zoning districts. Agriculture is not listed as a permitted use in these zoning districts. The Town’s zoning regulations permit existing agricultural operations to continue as pre-existing, non-conforming uses.

A small amount of agricultural land is FW Floodway (116 acres), GI General Industrial (79 acres), RM Residential Multiple Family (40 acres) and RA Rural Agricultural (32 acres.) Agriculture is listed as a permitted use the FW and RA district but not in the GI and RM district. However, the Town’s zoning regulations permit existing agricultural operations in the GI and RM districts to continue as pre-existing, non-conforming uses.

Recommendation: 1) *Continue to permit agriculture as a permitted use in the AC, RA, and FW districts.*

2) *Rezone some land in the PRD district to AC*

Amend Definition of “Agriculture” to include all uses protected by NYS Agricultural Districts Law

Although the Town’s definition of “Agriculture or Farming” includes a range of agricultural activities, certain agricultural uses that are protected by NYS Agricultural District Law are prohibited. In addition, “large scale” farm operations appear to require a special use permit.

The Town’s zoning regulations currently define “Agriculture or Farming” as follows:

The use of the land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, apiaries and animal and poultry husbandry, and the necessary accessory uses for storing produce; provided, however, that the operation of any such accessory use shall be incidental to that of normal agricultural activities, and provided further that the above uses shall not include the operation of a feed lot or other commercial feeding of animals or the manufacturing or processing of agricultural products as a principal use.

If a farm operation is within a State-certified Agricultural District, the Town may not prohibit feed lots or “commercial feeding of animals.”

The Town’s zoning defines “Agribusiness” as, “Agriculture or farming engaged in as a large-scale business operation including the production, processing, and/or distribution of agricultural products.” This definition could be construed to include much of the farming that occurs in the Town.

Recommendation: 1) *Redefine “Agribusiness” to include farm-related businesses such as distribution and processing and exclude farming and the production of agricultural products.*

- 2) ***Modify the definition of “Agriculture” to ensure consistency with the application of NYS Agricultural Districts Law. For example, “Unless located within a NYS-certified agricultural district and part of a farm operation as defined by NYS Agricultural Districts Law, the above uses shall not include the operation of a feed lot or other commercial feeding of animals.”***

Exempt farms in Agricultural Districts from 10 acre minimum lot size

The minimum lot size for farms in the AC Agricultural Conservation District is 10 acres. When located within NYS-certified Agricultural Districts, smaller lots may be part of a farm operation that is protected by NYS Agricultural Districts Law. The zoning should include an exception for farm operations located within State-certified Agricultural Districts that meet the threshold for protection in NYS Agricultural Districts Law.

Recommendation: Include an exception to minimum 10-acre lot size requirement for farm operations within State-certified Agricultural Districts that meet the threshold for protection in NYS Agricultural Districts Law.

Consider allowing more diverse products to be sold at farm stands.

In the AC and RA zoning districts, the Town permits “sales of agricultural products, subject to the limitation that they are sold only during their local individual harvest season.” This limitation is fairly restrictive, but not unreasonable according to guidance published by the NYS Dept. of Agriculture & Markets.

Recommendation: Consider allowing additional products to be sold at farm stands in the Town.

Consider allowing additional businesses uses on farms

Currently, a “home business” is permitted as an accessory use to a residence, with a special use permit issued by the Zoning Board of Appeals. Such businesses may not employ more than one person other than a family member residing in the dwelling.

While limitations on home-based businesses are appropriate for residential neighborhoods, they may be excessive for farm properties that are located at a large distance from the nearest neighbor. A business located on a farm would be less likely to impact neighborhoods. A business located on a farm may be related to the agricultural operation, such as trucking or storage, or may not be agriculture-related, such as wood-working or small scale manufacturing.

Recommendation: Consider allowing diverse businesses uses on farms In agricultural areas. Establish limitations on lot size, setbacks, deliveries and other aspects of the business.

Expand options for permanent preservation of agricultural land as part of the subdivision review process

Subdivision of lots from farms results often results in the direct conversion from agricultural to residential use. Indirect impacts include new residential neighbors near or adjacent to farmland, which may lead to conflicts over farming practices, the fragmentation of remaining farmland, less efficient size or shape of remaining farm fields, or the destruction of farm infrastructure such as drainage tile or access roads. During the review of proposed subdivisions, Planning Boards can help reduce these impacts by considering potential impacts on agriculture during the review of proposed subdivisions.

The Town's incentive zoning provisions provide for the protection of open space, including agricultural land, in exchange for increased density or other amenities. This process requires approval by the Town Board. Protecting land through the subdivision process is another method of achieving land protection.

The use of "cluster" or "conservation" subdivisions allows open space or farmland to be preserved without reducing the number of lots that would be permitted. For example, if 10 lots could be constructed on a 50-acre parcel under conventional zoning with five-acre lots, the same 10 lots could be constructed on 15 acres with 35 acres set aside as open space.

The minimum lot size in the AC zoning district, where most of the Town's actively farmed land is located, is five acres. When farmland is subdivided into five-acre lots, typically only 1-2 acres are maintained as lawn and the remaining land grows into brush. Subdivisions with smaller lots, bordering protected farmland, may be attractive to customers as an alternative to 5-acre lots.

Recommendation: Consider authorizing the Planning Board to require conservation subdivisions as part of the Subdivision review process. See example of this approach on the following page.

Example of Conservation Subdivision Approach

Actual Buildout with 5-acre lots



Alternative lot configuration:



Address Agricultural Considerations in the Review of Subdivisions and Site Plans

When reviewing proposed subdivisions, the Planning Board should encourage house lots to be located on the least productive agricultural soils and ensure that existing agricultural infrastructure is maintained, including drainage improvements and access lanes. The subdivision regulations should acknowledge that preservation of prime agricultural soils and agricultural infrastructure is one of the objectives of the regulations. They should require applicants to document the location of prime agricultural soils and existing agricultural infrastructure in the sketch plan and preliminary plat.

- Add to §439-22, “F. Conservation of high quality agricultural land. Where the proposed subdivision includes land identified in published plans as recommended for agricultural protection, lots should be sited on areas that are least suitable for continued agricultural production. Conservation easements or other means to ensure continued agricultural production shall be considered. Access to land used in agricultural production and infrastructure supporting agricultural production shall be preserved.”
- Add to §439-27, Easements: Easements within the subdivision shall be provided where required for storm drains, sanitary sewers, other utilities, recreation areas, open spaces, agricultural production or pedestrian traffic.
- Add to §439-22, “The location of agricultural drainage tile, agricultural access roads and other infrastructure that agricultural production on the parcel to be subdivided or neighboring parcels.”

Zoning Audit – Town of Chili Agricultural & Farmland Protection Plan

- Add to §439-31, Preliminary Plat: “A description and map of those areas that have been used for agricultural production during the past three years and those areas that have soils identified as prime agricultural soils, prime if drained, or soils of statewide importance based on the USDA Soil Survey and/or the NYS Soil & Water Conservation District.”

During the review of site plans, the Planning Board and Conservation Board should consider potential impacts on neighboring farmland. For example, a vegetative buffer of trees adjoining farmland will reduce the productivity of the field, as trees block sun and roots grow into fields.

APPENDIX E – PARCEL RATING LIST AND MAP

Farm Parcels by Agricultural Soils Rating

Town of Chili

Parcel #	Parcel Location		Parcel Class Code	Parcel Size (Acres)	Farmed/ Open Land (acres)	% of Parcel Farmed or Open Farmed	Acres by Soil Type of Farmed/ Open Land				Ag Soils Parcel Rating
	Street Number	Street Name					Prime Soils	Prime When Drained	Soils of Statewide Importance	Other Soils	
174.03-1-24	2380	Scottsville Rd	120	363.3	271.4	74.7%	219.7	27.4	23.5	0.8	789.1
186.02-1-6.2	1002	Chili Scottsville Rd	105	198.7	180.4	90.8%	81.6	22.2	60.9	15.7	449.0
172.03-1-29.3	4281	Union St	105	146.2	139.5	95.4%	111.7	15.6	12.3	0.0	406.3
185.02-2-4.211	127	Wickens Rd	105	122.0	119.5	97.9%	82.9	27.8	8.9	0.0	349.5
173.04-1-3.11	2431	Scottsville Rd	105	138.8	118.2	85.2%	69.5	23.9	6.9	17.9	312.1
146.19-1-1.11	100	Club House Dr	105	260.7	121.5	46.6%	10.2	68.6	8.6	34.0	287.7
186.01-1-8	1001	Chili Scottsville Rd	120	113.7	95.0	83.6%	59.3	29.0	6.8	0.0	278.3
173.04-1-16.001	50	Morgan Rd	105	102.8	97.4	94.8%	59.8	11.5	25.6	0.4	265.8
185.02-2-1	125	Wheatland Center Rd	105	106.0	93.6	88.3%	56.3	14.1	19.2	4.0	253.6
144.04-2-18.2	1489	Davis Rd	113	86.6	76.3	88.1%	62.5	13.8	0.0	0.0	229.0
172.01-1-3.2	4100	Union St	105	86.5	73.5	85.0%	72.0	0.0	1.6	0.0	219.0
173.03-1-1.111	1060	Reed Rd	120	132.4	76.2	57.5%	48.8	13.2	14.2	0.0	214.3
159.03-1-12	881	Ballantyne Rd	120	99.2	77.8	78.4%	44.6	15.9	6.6	10.6	205.4
172.03-1-30.111	4229	Union St	105	76.5	70.3	91.9%	40.5	20.1	8.9	0.8	200.4
159.02-1-4	420	Ballantyne Rd	557	119.1	78.9	66.3%	2.7	57.1	0.0	19.1	198.5
173.02-1-7.1	212	Krenzer Rd	105	167.2	97.9	58.5%	13.9	31.4	0.0	52.6	188.4
172.02-1-11.1	434	Stottle Rd	120	150.1	69.1	46.0%	41.8	5.7	21.6	0.0	185.8
172.03-1-6	4180	Union St	105	63.6	59.7	93.8%	57.7	1.9	0.0	0.0	179.0
159.04-1-9.31	150	Coates Rd	105	174.8	78.4	44.9%	29.7	18.6	0.0	30.1	175.1
171.04-2-18.11	869	Morgan Rd	105	73.7	58.4	79.2%	50.6	5.0	2.7	0.0	172.3
159.01-1-3.1	75	Beaver Rd	105	72.7	59.7	82.1%	37.5	13.5	1.9	6.8	163.7
172.04-1-15.111	371	Morgan Rd	105	74.0	63.7	86.1%	22.4	17.8	17.7	5.9	161.7
144.04-2-23	1545	Davis Rd	105	58.0	52.7	90.9%	33.5	18.4	0.8	0.0	157.3
159.01-1-2	95	Beaver Rd	120	102.8	53.4	51.9%	43.0	4.9	5.3	0.1	154.6
159.04-1-10	745	Ballantyne Rd	120	100.0	70.8	70.8%	22.9	8.7	20.6	18.7	154.5
173.02-1-3		Coates Rd	105	65.2	55.4	84.9%	38.2	11.1	0.0	6.1	153.8
159.04-1-9.21	133	Brook Rd	105	83.9	66.4	79.1%	0.0	41.9	0.0	24.5	150.2
185.02-2-2	120	Wheatland Center Rd	120	70.0	50.9	72.7%	43.9	2.5	3.2	1.4	146.8
187.02-1-36	2720	Scottsville Rd	120	73.7	58.1	78.8%	43.7	0.2	0.0	14.1	145.9
132.20-1-7.1	69	Golden Rd	312	72.2	62.2	86.2%	21.1	20.0	1.2	19.9	145.6

Farm Parcels by Agricultural Soils Rating

Town of Chili

Parcel #	Parcel Location		Parcel Class Code	Parcel Size (Acres)	Farmed/ Open Land (acres)	% of Parcel Farmed or Open Farmed	Acres by Soil Type of Farmed/ Open Land				Ag Soils Parcel Rating
	Street Number	Street Name					Prime Soils	Prime When Drained	Soils of Statewide Importance	Other Soils	
159.03-1-11	870	Ballantyne Rd	105	83.8	49.1	58.6%	27.8	11.0	10.3	0.1	136.9
187.01-1-20	187	Sheffer Rd	105	93.0	52.6	56.5%	10.8	21.1	19.0	1.6	135.4
174.03-1-2	2320	Scottsville Rd	105	72.1	46.8	64.9%	38.1	3.6	5.0	0.0	135.3
158.04-1-5.11	122	Stryker Rd	120	71.7	47.9	66.8%	25.6	15.1	4.5	2.7	133.8
187.01-1-17.2	10	Reed Rd	105	50.1	49.6	98.8%	33.6	5.1	6.0	4.9	132.9
157.02-2-3.1	3861	Chili Ave	120	54.8	43.1	78.6%	38.0	5.0	0.0	0.0	129.2
145.01-1-9	1250	Paul Rd	113	48.5	42.2	87.1%	42.2	0.0	0.0	0.0	126.7
173.03-1-15	282	Morgan Rd	120	73.0	46.6	63.9%	18.6	17.5	7.7	2.8	126.7
158.04-1-19	11	Stryker Rd	120	61.0	47.6	78.1%	25.7	2.2	19.2	0.6	122.6
174.01-1-13		Coates Rd	117	46.1	41.3	89.5%	14.3	26.3	0.0	0.7	122.4
186.02-1-7	950	Chili Scottsville Rd	120	64.1	45.0	70.2%	24.2	5.3	12.7	2.8	116.8
158.04-1-21.12	465	Chili Scottsville Rd	105	62.3	39.3	63.1%	33.0	4.7	1.6	0.0	116.4
146.14-1-1.111	177	Archer Rd	120	48.1	38.8	80.6%	31.6	6.2	1.0	0.0	115.3
158.02-1-32	391	Chili Scottsville Rd	120	110.7	39.1	35.3%	20.8	17.1	0.0	1.2	114.8
144.02-2-2	3457	Union St	240	78.1	38.1	48.8%	20.9	14.9	1.5	0.8	111.3
174.01-1-1.12	2179	Scottsville Rd	117	59.9	45.5	76.0%	25.3	0.0	14.4	5.9	110.5
185.02-2-5	250	Wheatland Center Rd	105	38.6	36.7	94.9%	24.8	11.8	0.0	0.0	110.0
186.02-1-3	918	Chili Scottsville Rd	105	68.7	42.1	61.3%	26.9	0.5	11.9	2.9	108.7
171.04-2-19.12	921	Morgan Rd	120	45.4	36.3	79.8%	31.8	0.0	0.0	4.4	99.9
187.01-1-1.2	299	Morgan Rd	240	58.5	42.1	72.0%	18.8	0.4	17.0	6.0	97.4
158.02-1-35.111	60	Stottle Rd	105	49.2	32.3	65.6%	27.5	4.7	0.0	0.1	96.6
187.02-1-12	2573	Scottsville Rd	120	35.7	32.2	90.1%	28.6	3.1	0.4	0.0	96.0
159.03-1-14.112	250	Humphrey Rd	105	63.6	42.8	67.3%	20.6	0.0	10.8	11.4	94.8
187.01-1-22.11	200	Sheffer Rd	105	35.3	32.1	91.1%	19.0	10.9	2.3	0.0	94.2
157.02-2-13	31	Stuart Rd	120	49.8	34.0	68.2%	16.6	7.5	9.8	0.0	92.1
158.04-1-4	196	Stryker Rd	120	59.0	30.1	51.1%	16.2	13.9	0.0	0.0	90.4
145.14-1-1.1	1161	Paul Rd	105	42.3	29.9	70.6%	29.1	0.8	0.0	0.0	89.7
160.01-1-5.1	201	Ballantyne Rd	120	62.5	39.1	62.7%	17.0	7.9	0.0	14.2	88.9
174.01-1-8.1	2250	Scottsville Rd	321	73.2	32.1	43.9%	27.8	0.0	0.0	4.3	87.8
172.04-1-10	380	Morgan Rd	120	37.9	29.8	78.5%	14.8	13.1	1.9	0.0	87.4

Farm Parcels by Agricultural Soils Rating

Town of Chili

Parcel #	Parcel Location		Parcel Class Code	Parcel Size (Acres)	Farmed/ Open Land (acres)	% of Parcel Farmed or Open Farmed	Acres by Soil Type of Farmed/ Open Land				Ag Soils Parcel Rating
	Street Number	Street Name					Prime Soils	Prime When Drained	Soils of Statewide Importance	Other Soils	
172.04-1-13.1	458	Morgan Rd	120	37.4	30.8	82.3%	8.7	11.9	10.2	0.0	82.2
172.04-1-11	380B	Morgan Rd	105	51.5	27.6	53.6%	17.4	9.0	1.1	0.0	81.7
158.04-1-21.111	460	Chili Scottsville Rd	105	35.4	30.0	84.6%	20.3	0.9	8.8	0.0	81.2
144.04-2-1.11	1560	Davis Rd	341	37.6	27.3	72.7%	6.4	20.4	0.0	0.4	81.1
186.02-1-4.2	145	Sheffer Rd	105	52.0	28.3	54.5%	13.2	11.2	3.9	0.0	81.0
145.11-1-4.1	1135	Paul Rd	140	28.1	27.1	96.5%	25.8	0.2	1.2	0.0	80.2
159.01-1-1.1	10	Humphrey Rd	105	120.0	34.2	28.5%	23.0	0.0	0.0	11.3	80.2
172.04-1-6	781	Chili Scottsville Rd	105	37.9	26.6	70.1%	24.1	2.4	0.0	0.0	79.6
186.01-1-6.2	949	Chili Scottsville Rd	105	32.5	26.0	80.1%	24.4	1.6	0.0	0.0	78.1
159.02-1-1.11	15	Beaver Rd	105	45.8	29.0	63.4%	5.1	19.1	0.6	4.3	78.0
172.01-1-11	4125	Union St	120	32.0	26.1	81.5%	23.7	0.0	2.3	0.0	75.9
172.02-1-3.151	437	Humphrey Rd	240	30.1	24.8	82.4%	4.6	14.3	5.9	0.0	68.5
146.04-1-30	243	Archer Rd	311	28.2	24.5	86.8%	15.1	3.0	6.4	0.0	67.0
173.03-1-2.1	1025	Reed Rd	120	54.8	24.0	43.8%	13.7	3.5	6.5	0.3	64.9
158.02-1-35.122	98	Stottle Rd	322	31.5	21.5	68.2%	15.9	5.6	0.0	0.0	64.5
187.01-1-8.1	20	Chili Wheatland T L Rd	105	94.7	24.9	26.3%	13.5	4.5	3.4	3.5	64.3
187.01-1-9	62	Chili Wheatland T L Rd	105	52.6	25.8	49.0%	15.2	1.1	6.0	3.5	64.3
145.03-1-52	3549	Union St	311	24.4	21.3	87.5%	18.5	2.9	0.0	0.0	64.0
173.02-1-1	739	Ballantyne Rd	105	61.5	43.2	70.2%	0.0	8.6	3.3	31.3	63.7
172.04-1-4	620	Morgan Rd	120	36.2	21.5	59.3%	17.5	2.8	1.2	0.0	63.3
174.01-1-10.2	2300	Scottsville Rd	105	100.3	21.5	21.4%	18.5	1.2	1.8	0.0	62.8
159.03-1-9.11	816	Ballantyne Rd	120	62.5	21.9	35.0%	13.2	4.9	3.8	0.0	62.0
186.01-1-5.21	925	Chili Scottsville Rd	472	26.5	20.5	77.7%	17.8	2.7	0.0	0.0	61.6
172.02-1-3.131	427	Humphrey Rd	105	30.0	23.8	79.3%	9.1	4.8	9.9	0.0	61.6
172.04-1-12.1	418	Morgan Rd	120	27.4	20.6	75.2%	6.4	11.9	2.3	0.0	59.5
173.04-1-6.2	2530	Scottsville Rd	322	26.0	20.1	77.5%	15.7	3.3	1.1	0.0	59.3
186.01-1-9.1	4409	Union St	105	22.8	21.4	93.8%	9.8	6.5	5.1	0.0	59.0
172.02-1-4	447	Humphrey Rd	120	33.1	26.9	81.2%	3.4	0.7	22.7	0.2	57.6
160.01-1-15	269	Ballantyne Rd	322	39.0	21.7	55.7%	0.0	17.7	0.0	4.0	57.1
158.02-1-35.2	100	Stottle Rd	312	39.7	19.4	48.7%	18.0	0.1	1.2	0.0	56.8

Farm Parcels by Agricultural Soils Rating

Town of Chili

Parcel #	Parcel Location		Parcel Class Code	Parcel Size (Acres)	Farmed/ Open Land (acres)	% of Parcel Farmed or Open Farmed	Acres by Soil Type of Farmed/ Open Land				Ag Soils Parcel Rating
	Street Number	Street Name					Prime Soils	Prime When Drained	Soils of Statewide Importance	Other Soils	
174.01-1-1.2	20	Coates Rd	117	35.4	24.0	67.7%	9.2	5.6	2.9	6.2	56.7
159.02-1-14.1	545	Ballantyne Rd	321	27.3	22.6	82.9%	0.0	15.0	0.0	7.6	52.6
172.04-1-13.22	485	Morgan Rd	105	25.9	19.3	74.4%	12.3	1.9	5.0	0.1	52.6
159.02-1-2	335	Archer Rd	321	64.8	21.1	32.6%	2.2	13.0	0.0	5.9	51.5
174.01-1-12	2321	Scottsville Rd	120	21.8	16.6	76.0%	16.2	0.2	0.2	0.0	49.5
146.03-1-20	179	Beaver Rd	120	38.6	17.6	45.7%	7.2	7.2	2.4	0.8	48.9
173.02-1-6		Coates Rd	105	42.1	29.5	70.0%	1.6	7.9	0.0	20.0	48.5
158.02-1-34.12	102	Stottle Rd	105	19.3	16.0	82.7%	14.0	1.9	0.0	0.1	47.7
173.02-1-5		Coates Rd	117	35.9	16.3	45.4%	14.5	0.8	0.0	0.9	47.0
159.04-1-4.11	615	Ballantyne Rd	323	168.4	20.9	12.4%	1.4	11.3	0.0	8.2	46.3
159.02-1-15	170	Brook Rd	120	40.0	21.7	54.1%	0.0	12.2	0.0	9.4	46.1
172.03-1-23.2	667	Morgan Rd	105	19.7	15.3	77.3%	13.7	1.5	0.0	0.0	45.8
186.01-1-7	981	Chili Scottsville Rd	105	25.2	16.9	67.2%	10.0	1.8	5.2	0.0	45.6
172.03-1-33.2	903	Chili Scottsville Rd	484	43.6	14.9	34.3%	14.8	0.0	0.0	0.1	44.6
159.04-1-1.2	704	Ballantyne Rd	105	22.6	22.1	97.8%	4.3	6.9	0.0	10.9	44.5
157.02-2-1.5	760	Chili Ave Ext	240	21.3	14.8	69.4%	10.7	3.3	0.8	0.0	43.6
172.03-1-9	690	Morgan Rd	484	17.9	13.3	74.1%	11.1	2.2	0.0	0.0	39.8
185.02-2-12	203	Wheatland Center Rd	105	19.2	15.2	79.1%	11.2	1.1	0.0	2.9	39.8
173.04-1-2	20	Krenzer Rd	105	52.5	12.9	24.6%	7.4	5.5	0.0	0.0	38.7
173.04-1-7	2495	Scottsville Rd	240	16.4	13.2	80.2%	11.0	1.2	1.0	0.0	38.6
159.03-1-9.3	800	Ballantyne Rd	240	33.2	14.4	43.3%	6.4	3.0	5.0	0.0	38.2
187.01-1-18	191	Sheffer Rd	105	12.7	12.5	98.6%	7.6	4.9	0.0	0.0	37.6
173.01-1-1.2	358	Humphrey Rd	240	20.0	16.3	81.3%	4.2	0.0	12.0	0.0	36.7
159.01-1-9	200	Old Scottsville Chili Rd	105	14.3	12.2	85.2%	4.0	8.2	0.0	0.0	36.6
172.04-1-15.12	425	Morgan Rd	105	41.3	12.7	30.8%	5.6	4.4	2.7	0.0	35.5
186.01-1-5.1	939	Chili Scottsville Rd	120	19.3	11.7	60.9%	10.3	1.4	0.0	0.0	35.2
186.01-1-4.221	4310	Union St	240	20.0	13.6	68.2%	9.1	0.0	3.3	1.2	35.1
173.04-1-6.12	2500	Scottsville Rd	322	12.9	11.4	88.3%	10.8	0.5	0.1	0.0	34.0
173.01-1-1.1	360	Humphrey Rd	120	35.0	12.2	34.8%	5.6	3.7	2.9	0.0	33.6
187.02-1-19	2629	Scottsville Rd	105	12.3	11.7	95.4%	4.7	4.9	2.1	0.0	33.1

Farm Parcels by Agricultural Soils Rating

Town of Chili

Parcel #	Parcel Location		Parcel Class Code	Parcel Size (Acres)	Farmed/ Open Land (acres)	% of Parcel Farmed or Open Farmed	Acres by Soil Type of Farmed/ Open Land				Ag Soils Parcel Rating
	Street Number	Street Name					Prime Soils	Prime When Drained	Soils of Statewide Importance	Other Soils	
173.04-1-16.103	100	Morgan Rd	240	17.2	11.2	65.2%	7.3	2.3	1.3	0.2	31.8
186.02-1-4.1	95	Sheffer Rd	120	32.9	12.2	37.0%	5.7	1.4	5.1	0.0	31.4
187.01-1-22.12	212	Sheffer Rd	283	20.2	10.4	51.8%	6.8	3.6	0.0	0.0	31.3
172.03-1-29.2	4260	Union St	105	16.8	14.6	86.5%	5.2	0.0	6.1	3.3	31.1
158.04-1-3.111	200	Stottle Rd	323	26.8	9.9	37.0%	9.1	0.9	0.0	0.0	29.8
157.02-2-5.2	3937	Chili Ave	311	12.2	9.8	79.9%	9.8	0.0	0.0	0.0	29.3
160.01-1-1	272	Ballantyne Rd	117	21.0	10.4	49.7%	0.0	8.7	0.0	1.7	27.9
187.01-1-3.1	201	Morgan Rd	105	66.8	12.8	19.1%	4.3	2.1	2.0	4.3	27.6
186.01-1-5.22	919	Chili Scottsville Rd	822	14.7	10.0	67.8%	7.6	0.4	1.3	0.7	27.3
172.02-1-8.2	620	Chili Scottsville Rd	240	20.0	9.1	45.5%	4.3	4.8	0.0	0.0	27.3
186.01-1-6.11	961	Chili Scottsville Rd	120	16.0	9.7	60.3%	7.2	0.2	2.3	0.0	26.7
145.01-1-13.2	1191	Paul Rd	120	12.8	8.8	68.5%	8.8	0.0	0.0	0.0	26.3
172.03-1-29.1	4280	Union St	240	26.3	13.4	50.9%	2.2	3.0	2.3	5.8	26.2
172.01-1-10.2	415	Stottle Rd	240	14.7	8.5	57.8%	8.4	0.0	0.0	0.1	25.3
145.03-1-11.1	2	Boon Dr	449	64.4	8.3	12.9%	3.9	4.1	0.3	0.0	24.7
172.03-1-35	563	Stottle Rd	240	12.3	8.0	65.2%	7.2	0.8	0.0	0.0	24.0
159.04-1-3	610	Ballantyne Rd	321	40.3	9.2	22.8%	3.6	1.3	4.3	0.0	23.2
145.01-1-13.1	1196	Paul Rd	105	11.1	7.7	69.1%	7.7	0.0	0.0	0.0	23.1
144.04-2-21.1	1530	Davis Rd	105	8.7	8.3	95.3%	2.5	3.9	2.0	0.0	23.0
158.04-1-20	470	Chili Scottsville Rd	240	12.1	7.9	65.7%	6.2	0.0	1.8	0.0	22.1
160.03-1-15	2113	Scottsville Rd	105	12.5	10.6	84.6%	1.1	4.5	0.0	5.0	21.8
172.04-1-14	470	Morgan Rd	105	15.4	7.8	50.7%	1.1	5.3	1.2	0.2	21.8
173.04-1-6.11	2492	Scottsville Rd	240	12.9	7.9	61.0%	5.4	0.2	2.2	0.0	21.3
172.02-1-8.13	660	Chili Scottsville Rd	240	11.4	7.1	61.9%	1.0	6.1	0.0	0.0	21.2
172.03-1-29.41	4298	Union St	240	13.6	8.3	61.1%	3.2	1.6	3.1	0.4	20.9
187.01-1-1.1	50	Reed Rd	321	41.3	7.2	17.3%	6.6	0.2	0.1	0.3	20.8
160.03-1-18	2091	Scottsville Rd	321	10.0	6.7	67.2%	0.6	6.2	0.0	0.0	20.2
157.02-2-5.1	3935	Chili Ave	210	12.4	6.6	53.1%	6.6	0.0	0.0	0.0	19.7
158.03-1-60.115	281	Stottle Rd	240	28.1	6.5	23.3%	6.2	0.2	0.1	0.0	19.5
144.04-2-25.211	1550	Davis Rd	311	7.1	6.9	98.3%	2.8	2.6	1.5	0.0	19.3

Farm Parcels by Agricultural Soils Rating

Town of Chili

Parcel #	Parcel Location		Parcel Class Code	Parcel Size (Acres)	Farmed/ Open Land (acres)	% of Parcel Farmed or Open Farmed	Acres by Soil Type of Farmed/ Open Land				Ag Soils Parcel Rating
	Street Number	Street Name					Prime Soils	Prime When Drained	Soils of Statewide Importance	Other Soils	
172.01-1-17	291	Stottle Rd	210	8.4	6.2	74.0%	6.0	0.0	0.2	0.0	18.5
144.04-2-2	3513	Union St	340	19.1	6.6	34.6%	4.2	1.6	0.0	0.8	18.2
174.01-1-5	2200	Scottsville Rd	312	9.3	6.5	69.9%	5.8	0.0	0.0	0.7	18.1
144.04-2-13.1	1502	Davis Rd	311	6.7	5.9	88.3%	4.1	1.8	0.0	0.0	17.8
172.02-1-9	631	Chili Scottsville Rd	240	20.1	5.9	29.2%	2.8	3.0	0.0	0.0	17.6
173.01-1-14.2		Ballantyne Rd			7.5		2.2	0.0	5.1	0.1	17.1
158.02-1-35.3	94	Stottle Rd	210	7.9	5.6	71.0%	5.3	0.3	0.0	0.0	16.8
172.02-1-3.21	530	Chili Scottsville Rd	240	10.5	8.3	79.0%	0.0	0.0	8.3	0.0	16.7
158.02-1-35.4	80	Stottle Rd	105	6.9	5.5	79.8%	5.5	0.0	0.0	0.0	16.5
158.01-1-20	135	Stottle Rd	210	8.1	5.3	65.4%	5.3	0.0	0.0	0.0	15.9
144.04-2-25.1	1610	Davis Rd	220	9.0	5.2	57.9%	5.2	0.1	0.0	0.0	15.7
144.04-2-25.212	1540	Davis Rd	311	8.7	6.4	74.1%	0.0	2.9	3.6	0.0	15.7
172.02-1-3.121	560	Chili Scottsville Rd	240	10.0	6.2	62.5%	2.1	1.0	3.1	0.0	15.6
172.01-1-21.1	437	Stottle Rd	210	9.1	5.2	56.8%	5.2	0.0	0.0	0.0	15.5
144.04-2-21.2	1520	Davis Rd	210	7.7	5.2	67.7%	4.4	0.7	0.1	0.0	15.5
172.01-1-20	431	Stottle Rd	312	11.6	5.1	43.8%	5.1	0.0	0.0	0.0	15.2
174.01-1-9.1	2284	Scottsville Rd	117	34.2	5.0	14.7%	5.0	0.0	0.0	0.0	15.1
172.02-1-7.3	459	Humphrey Rd	210	5.1	5.0	99.5%	1.6	3.2	0.2	0.0	14.9
172.03-1-42	707	Morgan Rd	105	5.9	5.9	99.5%	4.1	0.0	0.0	1.8	14.2
158.04-1-5.3	125	Stryker Rd	105	5.0	4.6	93.0%	4.6	0.0	0.0	0.0	13.9
174.01-1-14	2259	Scottsville Rd	117	7.0	4.6	65.6%	0.9	3.6	0.0	0.1	13.6
145.11-1-1	1140	Paul Rd	210	9.9	5.1	51.9%	3.3	0.0	1.8	0.0	13.5
187.02-1-18.1	2601	Scottsville Rd	120	25.3	4.4	17.5%	2.6	1.1	0.7	0.0	12.6
173.03-1-16.111	14	Krenzer Rd	105	20.7	5.3	25.6%	1.8	0.0	3.3	0.2	12.2
159.04-1-1.1	620	Ballantyne Rd	323	55.5	6.0	10.7%	0.5	0.0	0.0	5.4	7.1
159.02-1-12	341	Ballantyne Rd	117	13.1	0.0	0.2%	0.0	0.0	0.0	0.0	0.1

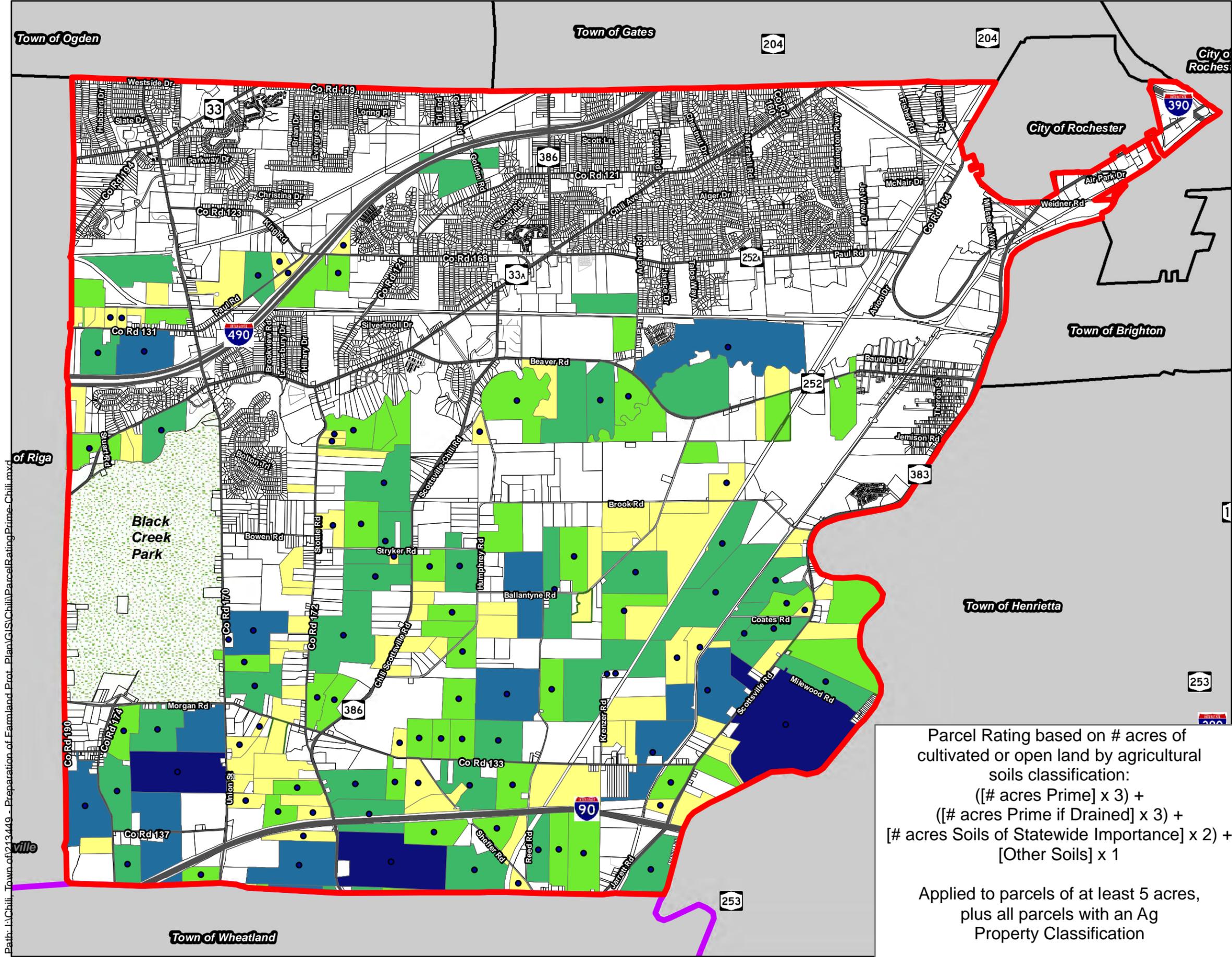
Farm Parcels by Agricultural Soils Rating Town of Chili

Column Heading Descriptions - Prime Soils Parcel Rating

SWIS	Municipal Code unique to municipality
Parcel #	Tax parcel number - from Real Property database
Street Number, Street Name	Parcel location - from Real Property database
Parcel Class Code	Land use classification - from Real Property database (See list of codes below)
Parcel Size (acres)	Total acreage of parcel - from Real Property database
Farmed/ Open Land (acres)	Total acreage of active cropland, pasture or other open land that may be suitable for agricultural use - delineated from aerial photographs and computed from GIS by LaBella Associates
Portion of Parcel Farmed or Open (acres)	# of farmed/ open acres divided by total acreage of parcels
Prime Soils	Acres of prime agricultural soils within the parcel - computed from GIS by LaBella Associates; soils mapped and classified by USDA Natural Resources Conservation Service (NRCS)
Prime If Drained	Acres of soils within the parcel classified as "prime if drained" - acreage computed from GIS by LaBella Associates, D.P.C.; soils mapped and classified by USDA (NRCS)
Soils of Statewide Importance	Acres of soils within the parcel classified as "soils of statewide importance" - acreage computed from GIS by LaBella Associates; soils mapped and classified by USDA NRCS
Other Soils	Acres of soils within the parcel considered "not prime farmland" - acreage computed from GIS by LaBella Associates, D.P.C.s; soils mapped and classified by USDA NRCS
Ag Soils Rating	Rating =[Prime Soils x 3] +[Prime If Drained Total x 3]+[Statewide Imp Total x 2]+[Other Soils Total] . Computed by LaBella Associates

Property Classification Codes

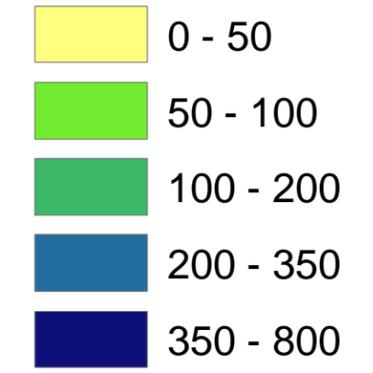
100s	Agricultural
200s	Residential
300s	Vacant
400s	Commercial
500s	Recreation
600s	Public/ Government
700s	Mining; Industrial
800s	Utilities/ Transportation
900s	Conservation



Town of Chili
Agricultural & Farmland
Protection Plan

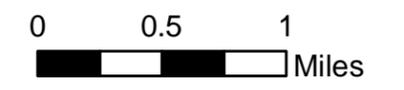
Agricultural Soils
Parcel Rating

Parcel Rating



• Ag Exemption 2014

SOURCE: Prime Soils Parcel Ranking by LaBella Associates.
Parcel data from Monroe County Agricultural Soil Classification obtained from USDA Natural Resources Conservation Service (NRCS) Soil Survey via the SSURGO online database. County and Town Boundaries and Roads obtained from US Census TIGER/Line 2010 shapefile database.



REVISED: March 8, 2015



Parcel Rating based on # acres of cultivated or open land by agricultural soils classification:

$$([\# \text{ acres Prime}] \times 3) +$$

$$([\# \text{ acres Prime if Drained}] \times 3) +$$

$$([\# \text{ acres Soils of Statewide Importance}] \times 2) +$$

$$[\text{Other Soils}] \times 1$$

Applied to parcels of at least 5 acres, plus all parcels with an Ag Property Classification



Path: I:\Chili_Town of 1213449 - Preparation of Farmland Prot. Plan\GIS\Chili\ParcelRatingPrime-Chili.mxd

APPENDIX F – NYS FARMLAND PROTECTION IMPLEMENTATION GRANTS INFORMATION
(PURCHASE OF DEVELOPMENT RIGHTS)

DEPARTMENT OF AGRICULTURE AND MARKETS ROUND 13 REQUEST FOR PROPOSALS

for State Assistance Payments for

FARMLAND PROTECTION IMPLEMENTATION PROJECTS

I. INTRODUCTION

A. Intent of Request for Proposals (RFP)

The New York State Department of Agriculture and Markets (the “**Department**”) invites proposals for financial assistance to implement certain farmland protection implementation activities described in or otherwise consistent with agricultural and farmland protection plans that have been adopted by counties or municipalities.

This grant opportunity is being offered to enable eligible applicants to implement projects with owners of viable agricultural lands that are at risk of conversion to non-farm uses, specifically for: (i) perpetual conservation easements, **or** (ii) incentive payment agreements. Therefore, all of the following activities would be possible under this RFP subject to the stipulations described elsewhere in this RFP (and summarized in “Match Contribution Requirements and Associated Stipulations” tables in Section III D.):

- Perpetual conservation easement resulting from the sale of development rights associated with a Purchase of Development Rights (PDR) transaction or a Transfer of Development Rights (TDR) transaction; **AND**
- Perpetual conservation easement resulting from the donation of the full value of development rights; **AND**
- Lease of Development Rights (LDR) that employs an incentive payment agreement (e.g., contract or equivalent agreement).

B. Background

Article 25-AAA of the Agriculture and Markets Law authorizes the Commissioner to maintain a State agricultural and farmland protection program to provide financial and technical assistance, within funds available, to assist locally-led efforts in developing agricultural and farmland protection plans and in the implementation of such plans.

C. Purpose

The purpose of this funding opportunity is to provide State financial assistance to enable local initiatives that are intended to maintain the economic viability of the State’s agricultural industry and its supporting land base and to protect the environmental and landscape preservation values associated with agriculture.

II. ELIGIBILITY

A. Applicant Eligibility

New York State vendors must register in the Grants Gateway to become established users in the system. Therefore, **each entity that intends to submit a proposal in response to this RFP must be registered.** If your entity has not registered prior to the submission of your proposal(s), each proposal you submit will be rejected and not considered for funding under this RFP. Furthermore, **all not-for-profit conservation organizations that intend to submit a proposal must also be pre-qualified prior to the submission of your proposal(s).** If your not-for-profit conservation organization has not pre-qualified with the Division of Budget by the time you submit your proposal(s), each proposal you submit will be rejected and not considered for funding under this RFP.

Proposals for funding will only be accepted from:

- (1) any county agricultural and farmland protection board in a county with an approved county plan developed pursuant to Section 324 of Article 25-AAA of the Agriculture and Markets Law; **OR**
- (2) any municipality which has in place a local farmland protection plan, provided the proposed project is endorsed for funding in a letter provided by the agricultural and farmland protection board for the county in which the municipality is located; **OR**
- (3) any not-for-profit conservation organization that will assist a county or municipality to implement a county or municipal agricultural and farmland protection plan approved by the commissioner, provided the proposed project is endorsed for funding in a letter provided by the county agricultural and farmland protection board for the county in which the proposed project is located and the proposed project must also be endorsed for funding in a letter provided by the municipality in which the proposed project is located; **OR**
- (4) any soil and water conservation district that will assist a county or municipality to implement a county or municipal agricultural and farmland protection plan approved by the commissioner, provided the proposed project is endorsed for funding in a letter provided by the county agricultural and farmland protection board for the county in which the proposed project is located and the proposed project must also be endorsed for funding in a letter provided by the municipality in which the proposed project is located.

For purposes of this section, a “local farmland protection plan” may include a town, village or city comprehensive plan as defined in the Town Law, the Village Law, or General City Law, if such plan includes an element which considers agricultural uses and needs; an open space plan adopted by the municipality which presents strategies for the preservation of viable agricultural land; or any other formal agricultural and farmland protection planning document *provided that if* the plan was developed on or after January 1, 2006, it must comply with section 324-a of Article 25-AAA of the Agriculture and Markets Law. **Any applicant intending to submit a proposal for the first time for a proposed farmland protection implementation project is urged to contact the Department regarding the applicant’s eligibility prior to submitting its proposal. Any proposal submitted by an ineligible applicant shall not be considered for funding under this RFP.**

The applicant shall be the entity that is proposing the project. In other words, the Grantee (or “holder”) of the conservation easement must be the applicant of the proposal for that **Conservation Easement Project**. Similarly, the party that will enter into an incentive payment agreement with the participating landowner must be the applicant of the proposal for

that **Incentive Payment Project**. Furthermore, each such entity shall be the Lead Applicant for any joint proposal that is submitted for funding consideration under this RFP.

B. Project Eligibility

Projects eligible for an award through this RFP are limited only to those that will result in a (i) perpetual conservation easement or (ii) an incentive payment agreement.

To be eligible for funding under this RFP, the location of each proposed project must, at a minimum, be consistent with the location of any land or areas proposed to be protected in a county's or a municipality's agricultural and farmland protection plan (i.e., pursuant to Section 324 or Section 324-a, as applicable, of Article 25-AAA of the Agriculture and Markets Law). Furthermore, each proposed project must be endorsed for funding in a letter provided by the agricultural and farmland protection board for the county in which the proposed project is located.

Each proposed project shall involve only **one** (1) Farm Operation (as that term is defined in Section 301 of Article 25-AA of the Agriculture and Markets Law). However, any given Farm Operation may be the subject of more than one proposal provided that requested funding does not overlap the same land. In other words, it is acceptable to segment the lands comprising a single Farm Operation into two or more distinct proposals.

Example:

*A Farm Operation operated by the Henry Family is comprised of parcel 1 (owned by the Henry Family) and parcel 2 (rented by the Henry Family, but owned by the Smith Family). An applicant submits proposal #1 to permanently protect parcel 1 as a **Conservation Easement Project** featuring a perpetual conservation easement to be conveyed by the Henry Family. That same applicant also submits proposal #2 to protect parcel 2 as an **Incentive Payment Project** featuring an incentive payment agreement with the Smith Family for a period of 10 years.*

Any proposal involving more than one (1) Farm Operation shall not be considered for funding under this RFP.

Publically owned lands or lands subject to an existing conservation easement (regardless of its duration) are not eligible under this RFP.

Conservation Easement Projects funded through this RFP shall be comprised only of perpetual conservation easements.

Incentive Payment Projects funded through this RFP shall be based upon an incentive payment agreement whose duration shall be not less than 5 years and not longer than 10 years.

III. DETAILED SPECIFICATIONS AND DELIVERABLES OF THE FUNDING AGREEMENT

A. Anticipated Time Frames

The start date for funding agreements awarded through this RFP is anticipated to be on or before April 1, 2015, and awarded projects are expected to be completed within the following timeframes:

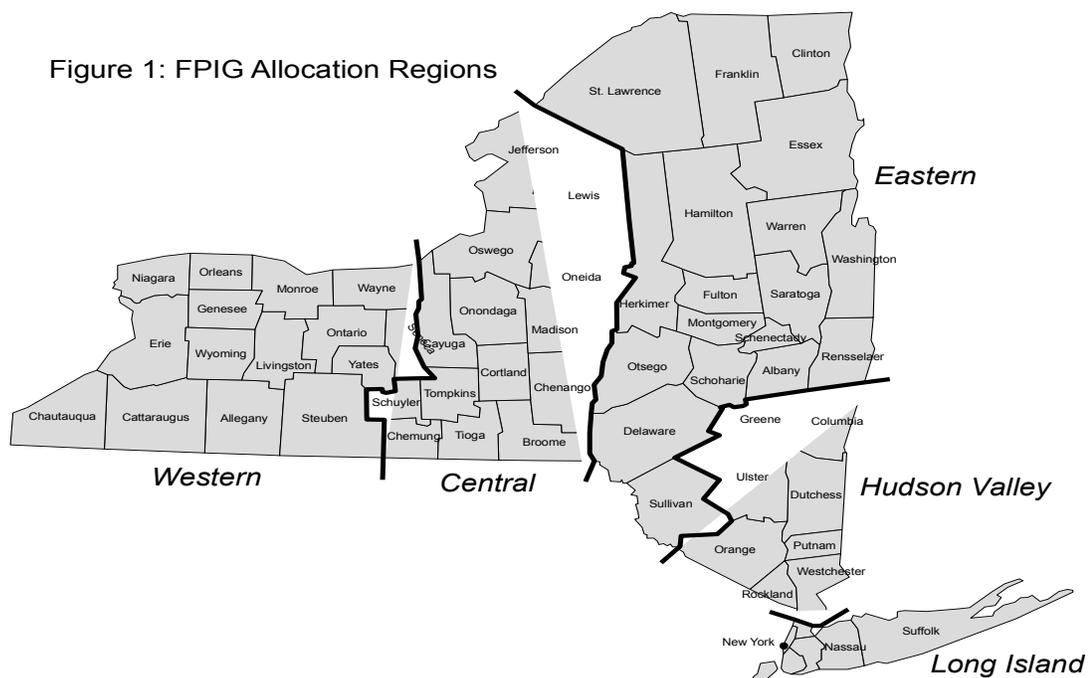
- (1) **Conservation Easement Projects** will be limited to a funding agreement term of four (4) years, subject to the milestones/deliverables stipulated therein; and
- (2) **Incentive Payment Projects** will be limited to a funding agreement term of not more than ten (10) years, subject to the milestones/deliverables stipulated therein.

B. Available Funds

The Department has made available approximately \$20.5 million for awards under this RFP as follows:

- Approximately \$17.5 million for **Conservation Easement Projects** shall be allocated equally for each of five (5) regions across the state (see Figure 1 below); and
- Approximately \$2.0 million for **Incentive Payment Projects** shall be allocated equally for each of five (5) regions across the state (see Figure 1 below); and
- Approximately \$1.0 million for **Conservation Easement Projects** as potential contingency awards as authorized (see “Contingency Awards for **Conservation Easement Projects**” of Section VI, “Proposal Review and Awarding of Successful Proposals”).

Figure 1: FPIG Allocation Regions



The following general limitations apply to proposals for **Conservation Easement Projects**:

- No award shall exceed \$2.0 million, but any project seeking Federal farmland protection funding shall not be awarded more than \$500,000 of State financial assistance.
- State contribution toward purchase price of the development rights shall not exceed \$29,000/acre.
- State contribution toward easement stewardship shall be \$10,000 per easement.

The following general limitations apply to proposals for **Incentive Payment Projects**:

- No award shall exceed \$125,000.
- State contribution toward annual incentive payment amount shall not exceed \$450/acre.

C. Eligible Costs

Any costs incurred prior to the start date of a funding agreement and any indirect or overhead costs shall not be deemed eligible costs under this RFP. No State funds shall be used toward the landowner's cost for legal or financial advisors for any project awarded through this RFP.

For **Conservation Easement Projects**, funds distributed pursuant to this RFP may be used for any of the following purposes:

- (1) value of the development rights being acquired, provided such value associated with any perpetual conservation easement is from an appraisal deemed acceptable to the Department.
- (2) transactional costs acceptable to the Department, provided those are limited to the following –
 - title reports (including associated continuation fees until such time that title insurance is purchased);
 - title insurance;
 - property surveys;
 - appraisals;
 - easement holder's legal fees to negotiate/close the conservation easement transaction and to review title reports and, as necessary, prepare title curatives;
 - project partner staff time to negotiate/close the conservation easement transaction, manage the preparation/compilation of required deliverables, and locally administer the awarded funding agreement;
 - recording fees; and
 - easement stewardship fee.

No State funds shall be used toward state or local real estate transfer taxes associated with any Conservation Easement Project awarded through this RFP.

For **Incentive Payment Projects**, funds distributed pursuant to this RFP may be used for any of the following purposes:

- i. annual incentive payments to the participating landowner, *provided* –
 - The basis of such annual payments shall be 1.5% of “land only” assessed value of subject lands from the most recently available final assessment roll following an indexing adjustment to 100% Uniform Percent of Value; and
 - Only in the event of the conveyance of a perpetual conservation easement on the lands subject to the incentive payment agreement during the term of said agreement, any undisbursed balance of annual incentive payments may be disbursed to the participating landowner as satisfaction of protecting the subject lands for the remainder of the incentive payment agreement.
- ii. project administration costs acceptable to the Department, provided those are limited to the following –
 - project partner staff time to negotiate and administer the incentive payment agreement (including its enforcement), manage the preparation/compilation of required deliverables, and locally administer the awarded funding agreement;
 - applicant’s legal fees to negotiate/create the incentive payment agreement; and
 - required annual monitoring visit (whether by applicant, another project sponsor or a consultant retained by the applicant) conducted on lands subject to an incentive payment agreement.

D. Match Requirements

The following general requirements apply to **all** proposals:

- Any governmental entity providing a cash contribution must provide a letter from an authorized representative formally acknowledging its proposed contribution¹.
- As applicable, any other entity (including participating landowners) providing a local cash match must provide a letter from an authorized representative formally acknowledging the amount of its contribution.
- None of the local cash contribution(s) shall be from a State source of financial assistance.
- Cash and in-kind match must be for items that are eligible costs and may be provided by the applicant or other supporters of the project.
- Local match may include in-kind contributions, but the amount of in-kind contributions shall be limited to no more than 80% of total administrative costs of the proposed project, or \$25,000, whichever is less.

¹ If the governmental entity is a successful applicant, the governmental entity must submit a copy of a resolution from its governing body formally obligating its cash match before the State will approve a funding agreement with the successful applicant.

For any **Conservation Easement Project**, there are particular match stipulations for each of the differing levels of State contribution awarded as noted below.

(1) Proposals seeking a State contribution of 87.5% of total eligible project costs:

- Landowner shall provide local match contribution of 12.5% of total eligible project costs.

(2) Proposals seeking a State contribution of **up to** 75% of total eligible project costs:

- Local match contribution shall be at least 25% of total eligible project costs, which must include a cash match of 5% of total project costs or \$5,000, whichever amount is less. However, this local cash match requirement is waived whenever a participating landowner donates the *full value* of development rights for the conservation easement(s) comprising the proposed project.
- Local cash contribution shall not be from any Federal farmland protection funding source.
- Local cash contribution may be provided, but only in part, by the participating landowner(s).

(3) Proposals seeking a State contribution of **up to** 25% of easement purchase price plus eligible transaction costs:

- Local match contribution must cover **all** of the remaining eligible total project costs and may be provided, but only in part, by the participating landowner(s).
- Applicant must subsequently be awarded Federal farmland protection funding within the funding agreement term. Such Federal farmland protection funding awarded to the applicant shall be deemed part of the required local match contribution.

Match Contribution Requirements and Associated Stipulations for Conservation Easement Projects

Duration	Maximum State Award	Maximum State Contribution	Other "Caps" on State Contribution	Minimum Local Match		Other State Requirements
				%	Cash	
Perpetual ²	\$2,000,000	87.5% of total project costs	\$29,000/acre toward purchase price of development rights	12.5% of total project costs <i>(solely from landowner)</i>	None specified	Use of Department conservation easement
Perpetual ²	\$2,000,000	75.0% of total project costs	\$29,000/acre toward purchase price of development rights	25.0% of total project costs	5.0% of total project costs or \$5,000, whichever is less <i>(waived if development rights value fully donated)</i>	Use of Department-required conservation easement provisions
Perpetual ²	\$500,000	25.0% of purchase price plus all transaction costs	\$29,000/acre toward purchase price of development rights	remainder of all project costs	Federal farmland protection grant award	Land remains available for agricultural use

² Perpetual conservation easements that result from a PDR or a TDR transaction or from the donation of the full value of development rights are all acceptable as an eligible **Conservation Easement Project** under this RFP.

For any **Incentive Payment Project**, there are particular match stipulations for the State contribution awarded as noted below.

(1) Proposals seeking a State contribution of **up to 75%** of total eligible project costs:

- Local match contribution shall be at least 25% of eligible total project costs, which must include a cash contribution of at least 25% of the total incentive payment amount to be paid to the participating landowner(s).
- Local match contributions are **not** eligible from participating landowner(s).

Match Contribution Requirements and Associated Stipulations for Incentive Payment Projects³						
Duration	Maximum State Award	Maximum State Contribution	Other "Caps" on State Contribution	Minimum Local Match		Other State Requirements
				%	Cash	
5-10 year term	\$125,000	75.0% of total project costs	\$450/acre toward annual incentive payment amount	25.0% of total project costs	25.0% of incentive payment amount to be paid to landowner	Use of Department-required provisions

E. Policy Guidance

(1) Conservation Easement Projects

The **Department** is providing the following guidance documents to assist in the compilation of required deliverables pursuant to this RFP. All required deliverables must conform to, and be consistent with, the following guidance documents:

- “Developing a Land Plan for an Agricultural Conservation Easement (GD#3)”
- “Conservation Easements – Title Curative Letter”
- “2014 Model Agricultural Conservation Easement” (only for easement projects awarded a State contribution of 87.5% of eligible total project costs)
- “Farmland Protection Implementation Grants (FPIG) Program Required Easement Provisions” (only for easement projects awarded a State contribution of up to 75% of eligible total project costs, EXCEPT those awarded 25% of easement purchase price plus all transaction costs)
- “Memorandum (dated 10/1/2013) – Enhancement of Value of Other Property (Update)”
- “Appraisals for Conservation Easements (GD#6)”
- “SAMPLE Scope of Work for Easement Appraisals”

³ A “lease of development rights” that employs an incentive payment agreement (i.e., a contract) is acceptable as an eligible **Incentive Payment Project** under this RFP.

(2) Incentive Payment Projects

The **Department** is providing the following guidance document to assist in the compilation of required deliverables pursuant to this RFP. All required deliverables must conform to, and be consistent with, the following guidance documents:

- “Use of the Final Assessment Roll to Calculate ‘Land Only’ Assessed Value”
- “Farmland Protection Implementation Grants (FPIG) Program Required Incentive Payment Agreement Provisions”

F. Project Deliverables

Required deliverables for awarded projects are described in (1) and (2) below.

(1) Conservation Easement Projects

Preliminary Review

All Conservation Easement Projects must receive the Department’s preliminary approval before proceeding to compile a complete project file. The project deliverables required for a preliminary review are described in Attachment A-1 of the sample funding agreement, attached to this RFP. Preliminary review of the proposed project shall include the Department’s Farmland Protection Program Manager conducting a site visit with the Grantee and participating landowner(s) to review the proposed site plan. If the site visit reveals information or landscape conditions that are either inconsistent with the Department’s guidance documents or deemed otherwise unacceptable to the Department **and** any such matters cannot be resolved to the satisfaction of the Department, the Department may terminate the funding agreement and withdraw the State award.

Project File

After the Department has given its preliminary approval of the proposed **Conservation Easement Project**, the local project manager should submit to the **Department** (within eighteen (18) months of state approval of the funding agreement) a compilation of required project deliverables (referred to as a project file) as described in Attachment A-1 of the sample funding agreement, attached to this RFP.

Final Report

Within one hundred twenty (120) calendar days of receipt interim payment #2, the local project manager must submit to the Department a compilation of required project deliverables (referred to as a final report) as described in Attachment A-1 of the sample funding agreement, attached to this RFP.

(2) Incentive Payment Projects

Project File

A complete project file should be submitted by the local project manager to the **Department** within four (4) months of state approval of the funding agreement. A compilation of required project deliverables (referred to as a project file) is described in Attachment A-1 of the sample funding agreement, attached to this RFP.

Interim Reports

After the Department approves the project file for the **Incentive Payment Project**, the local project manager must submit to the Department a compilation of required project deliverables (referred to as an interim report) as described in Attachment A-1 of the sample funding agreement, attached to this RFP.

Beginning with the first anniversary of the effective date of the incentive payment agreement and continuing each successive year thereafter throughout the duration of said agreement, the local project manager shall submit (within sixty (60) calendar days following each such anniversary date) a subsequent interim report.

Final Report

Within ninety (90) calendar days of the expiration of the funding agreement awarded through this RFP or within ninety (90) calendar days of any early termination⁴ of the incentive payment agreement with the participating landowner(s), the local project manager must submit a compilation of required project deliverables (referred to as a final report) as described in Attachment A-1 of the sample funding agreement, attached to this RFP.

⁴ "Early termination" of an incentive payment agreement may result when either of the following events occurs during the term of such agreement: (i) the participating landowner conveys a perpetual conservation easement on the lands subject to the incentive payment agreement, or (ii) the participating landowner reimburses at least the State's contribution of the incentive payments received.

IV. ADMINISTRATIVE REQUIREMENTS AND RELATED CONSIDERATIONS

A. Issuing Agency

This RFP is issued by the New York State Department of Agriculture and Markets. The **Department** is responsible for the requirements specified herein and for the evaluation of completeness of all proposals.

B. Question and Answer Phase

All questions about requirements contained in this RFP must be submitted in writing (via mail or delivery service or by facsimile or e-mail) and must be received at the Department by noon local time, June 9, 2014. Please submit all written questions to:

David Behm
NYS Dept. of Agriculture and Markets
10B Airline Drive
Albany, New York 12235
Fax: (518) 457-3412
E-mail: david.behm@agriculture.ny.gov

To the degree possible, each inquiry should cite the RFP title, section and paragraph to which it refers. Applicants should note that all clarifications are to be resolved prior to the submission of a proposal. A list of questions about the program which are received from potential applicants, and answers to those questions, as well as any changes, additions or deletions to the RFP, will be posted by June 13, 2014, in the "Funding Opportunities" section of the **Department's** web site, www.agriculture.ny.gov under the heading: Frequently Asked Questions, FAQ, along with the electronic version of this RFP. Questions and responses will be posted as questions are received. **Applicants are urged to check the Department's web site frequently for notices of any changes, additions or deletions to the RFP.** If you are unable to access the web site, please contact David Behm to arrange for alternate delivery. All questions and answers shall become a formal addendum to the RFP.

C. How to File a Proposal

Proposals must conform to the format and content specified in Section V in this RFP. Furthermore, no applicant (whether as a single or joint applicant or in combination thereof) shall submit more than a total of four (4) proposals in response to this RFP.

One (1) original, signed proposal and four (4) additional copies of the signed proposal should be submitted to:

Lucy Roberson, Director
Division of Fiscal Management
NYS Dept. of Agriculture and Markets
10B Airline Drive
Albany, New York 12235

Envelopes should be clearly marked "**Attention - Round 13 FPIG - RFP**"

All proposals submitted in response to this RFP **MUST BE RECEIVED by 4:30 p.m. local time on July 14, 2014**. Applicants, and not courier services or other intermediaries, are responsible for the timely submission of proposals. ***Proposals received after the scheduled date and time will not be accepted.*** Faxed or e-mailed proposals will not be accepted.

D. The Department's Reserved Rights

The **Department** reserves the right to:

1. Reject any or all proposals received in response to this RFP.
2. Withdraw the RFP at any time, at the **Department's** sole discretion.
3. Make an award under the RFP in whole or part.
4. Award more than one funding agreement to the same successful applicant resulting from this RFP.
5. Disqualify any applicant whose conduct and/or proposal fails to conform to the requirements of the RFP.
6. Seek clarifications and revisions of proposals.
7. Amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available and with appropriate written notice to all potential applicants by posting amendments on the **Department** web site (www.agriculture.ny.gov) and on the New York State Grants Gateway (https://grantsgateway.ny.gov/IntelliGrants_NYSGG/module/nysgg/goportal.aspx).
8. Direct applicants to submit proposal modifications addressing subsequent RFP amendments.
9. Change any of the scheduled dates.
10. Waive any requirements that are not material.
11. Waive or modify minor irregularities in proposals received after prior notification to the applicant.
12. Require clarification at any time during the grant process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offerer's proposal and/or to determine an offerer's compliance with the requirements of the RFP.
13. Negotiate with successful applicants any matter within the scope of the RFP in the best interests of the State.
14. Eliminate any mandatory, non-material specifications with which all applicants cannot comply.
15. The value of in-kind services must be reasonable and documented to the satisfaction of the Department, and such value and documentation are subject to adjustment by the Department.
16. Make all final decisions with respect to the amount of State funding and the timing of payments to be provided to an applicant.

E. Term of Funding Agreement

Proposed **Conservation Easement Projects** should be completed within four (4) years from the start date of the funding agreement and proposed **Incentive Payment Projects** shall be completed within ten (10) years from the start date of the funding agreement.

Continued funding throughout this period is contingent upon satisfactory contractor performance and availability of funds. The **Department** also reserves the right to revise the funding amounts for awards as necessary due to changes in the availability of funds.

F. Payment & Reporting Requirements of Successful Applicants

Each funding agreement will contain a table of milestones, which shall include a schedule of payments authorized under that awarded funding agreement (refer to “Payment and Reporting Schedule” tables, beginning on next page).

Conservation Easement Projects - PAYMENT AND REPORTING SCHEDULE

TIMING	MILESTONES / DELIVERABLES ⁵	SCHEDULED PAYMENT ⁶ (State Contribution)
Contract Approval Date	Final approval of funding agreement by New York State.	Advance Payment includes: <ul style="list-style-type: none"> • \$1,500 title report stipend • 50% of cost for project partners' staff time • 50% of cost for Grantee's legal fees
Month 1 to 3	Submission for Preliminary Review: <ul style="list-style-type: none"> • See Attachment A-1 of sample funding agreement for required project deliverables. 	
Month 4 to 5	Department Preliminary Approval of project.	Interim Payment #1 includes reimbursement for incurred costs: <ul style="list-style-type: none"> <li style="width: 50%;">• Appraisal <li style="width: 50%;">• Survey <li style="width: 50%;">• Baseline documentation report <li style="width: 50%;">• Grantee's legal fees <li style="width: 50%;">• Project partners' staff time
Month 6 to 18	Submission of Project File: <ul style="list-style-type: none"> • See Attachment A-1 of sample funding agreement for required project deliverables. 	
- -	Department approval of Project File.	Interim Payment #2 includes: Balance of contract award, less State contribution toward easement stewardship.
120 Calendar Days (After receipt of Interim Payment 2)	Submission of Final Report: <ul style="list-style-type: none"> • See Attachment A-1 of sample funding agreement for required project deliverables. 	
- -	Department approval of Final Report.	Final Payment includes: State contribution toward easement stewardship

⁵ Successful applicant must adhere to the anticipated dates for the specified milestones and project deliverables to ensure prompt completion of the projects associated with funding agreements awarded through this RFP; doing so will enable efficient and predictable State disbursements. Failure to achieve the noted milestone may result in termination of that funding agreement upon the Department's examination of the circumstances surrounding the delay. Please see Attachment A-1 of the sample funding agreement for further details.

⁶ All payments are disbursed on a first approved, first paid basis. All disbursements to successful applicants are as authorized by the NYS Division of the Budget and the NYS Office of State Comptroller. For any **Conservation Easement Project** associated with Federal farmland protection monies, no advance payment shall be disbursed by the State until the successful applicant provides proof of a Federal funding agreement to the Department.

Incentive Payment Projects - PAYMENT AND REPORTING SCHEDULE

TIMING	MILESTONES / DELIVERABLES⁷	SCHEDULED PAYMENT⁸ of State Contribution
Contract Approval Date	Final approval of funding agreement by New York State.	Advance payment shall be 15% of total award.
Month 1 to 4	Submission of Project File <ul style="list-style-type: none"> See Attachment A-1 of sample funding agreement for required project deliverables. 	N/A
Month 5 to 6	Department approval of Project File.	N/A
Duration of Contract	Submission of annual Interim Reports <ul style="list-style-type: none"> See Attachment A-1 of sample funding agreement for required project deliverables. 	N/A
- -	Department approval of annual Interim Report.	Annual Interim Payments includes reimbursement for incurred costs: <ul style="list-style-type: none"> annual landowner incentive payment annual administrative costs annual monitoring site visit expenses
90 Calendar Days (Within expiration of funding agreement OR after early termination of incentive payment agreement)	Submission of Final Report <ul style="list-style-type: none"> See Attachment A-1 of sample funding agreement for required project deliverables. 	N/A
- -	Department approval of Final Report.	Final Payment includes reimbursement of remaining incurred costs: <ul style="list-style-type: none"> annual landowner incentive payment annual administrative costs annual monitoring site visit expenses

⁷ Successful applicants must adhere to the anticipated dates for the specified milestones and project deliverables to ensure prompt completion of the projects associated with funding agreements awarded through this RFP; doing so will enable efficient and predictable State disbursements. Failure to achieve the noted milestone may result in termination of that funding agreement upon the Department's examination of the circumstances surrounding the delay. Please see Attachment A-1 of the sample funding agreement for further details.

⁸ All payments are disbursed on a first approved, first paid basis. All disbursements to successful applicants are as authorized by the NYS Division of the Budget and the NYS Office of State Comptroller.

G. Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority- and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women

Pursuant to New York State Executive Law Article 15-A, New York State Department of Agriculture and Markets recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority- and women-owned business enterprises and the employment of minority group members and women in the performance of **Department** funding agreements.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority- and women-owned business enterprises in state procurement contracting versus the number of minority- and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that the **Department** establishes goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State funding agreements.

Business Participation Opportunities for MWBEs

For purposes of this solicitation, the New York State Department of Agriculture and Markets hereby establishes an overall goal of 2% for MWBE participation, 1% for Minority-Owned Business Enterprises ("MBE") participation and 1% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). A contractor ("**Contractor**") on the subject funding agreement ("Agreement") must document good faith efforts to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Agreement and **Contractor** agrees that the **Department** may withhold payment pending receipt of the required MWBE documentation. The directory of New York State Certified MWBEs can be viewed at: <http://www.esd.ny.gov/mwbe.html>.

For guidance on how the **Department** will determine a **Contractor's** "good faith efforts," refer to 5 NYCRR §142.8.

In accordance with 5 NYCRR §142.13, **Contractor** acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Agreement, such finding constitutes a breach of Agreement and the **Department** may withhold payment from the **Contractor** as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the **Contractor** achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Agreement.

By submitting a bid or proposal, a bidder on the Agreement (“Bidder”) agrees to submit the following documents and information as evidence of compliance with the foregoing:

- A. Bidders are required to submit a MWBE Utilization Plan (Form MWBE/EEO4) with their bid or proposal. Any modifications or changes to the MWBE Utilization Plan after the Agreement award and during the term of the Agreement must be reported on a revised MWBE Utilization Plan and submitted to the **Department**.
- B. The **Department** will review the submitted MWBE Utilization Plan and advise the Bidder of acceptance or issue a notice of deficiency within 30 days of receipt.
- C. If a notice of deficiency is issued, Bidder agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to the New York State Department of Agriculture and Markets, Fiscal Management, 10B Airline Drive, Albany, New York 12235, or by email to mwbe@agriculture.ny.gov, a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by the **Department** to be inadequate, the **Department** shall notify the Bidder and direct the Bidder to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. (Form MWBE/EEO5) Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- D. The **Department** may disqualify a Bidder as being non-responsive under the following circumstances:
 - a) If a Bidder fails to submit a MWBE Utilization Plan;
 - b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - c) If a Bidder fails to submit a request for waiver; or
 - d) If the **Department** determines that the Bidder has failed to document good faith efforts.

Contractors shall attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Agreement. Requests for a partial or total waiver of established goal requirements made subsequent to Agreement Award may be made at any time during the term of the Agreement to the **Department**, but must be made no later than prior to the submission of a request for final payment on the Agreement.

Contractors are required to submit a **Contractor’s** Quarterly MWBE **Contractor** Compliance & Payment Report (Form MWBE/EEO6) to the New York State Department of Agriculture and Markets, Fiscal Management, 10B Airline Drive, Albany, New York 12235, by the 10th day following each end of quarter over the term of the Agreement documenting the progress made toward achievement of the MWBE goals of the Agreement.

Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the Bidder/**Contractor** agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The **Contractor** is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the **Contractor**, shall undertake or continue programs to ensure that minority group members and women are

afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Agreement; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid a staffing plan (Form MWBE/EEO2) identifying the anticipated work force to be utilized on the Agreement and if awarded a Agreement, will, upon request, submit to the **Department** a workforce utilization report (Form MWBE/EEO3) identifying the workforce actually utilized on the Agreement if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the **Contractor** and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Agreement, leading to the withholding of funds, suspension or termination of the Agreement or such other actions or enforcement proceedings as allowed by the Agreement.

H. Vendor Access to Grants Gateway

New York State vendors must register in the Gateway and establish users in the system. To start this process, from the Grant Opportunity Portal (https://grantsgateway.ny.gov/IntelliGrants_NYSGG/module/nysgg/goportal.aspx), under Registration, click "Request Access Now!" to view your options.

For existing NYS vendors, there is only one step. You must submit a Registration Form for Administrators identifying a Delegated Administrator responsible for managing your organization's profile and users.

To find out if your organization has already registered, enter its SFS Vendor ID number and search. If your organization is registered, the search result will include contact information for its delegated administrator, and you can contact this individual to request access to the system. If your organization is not registered, the search result will provide a link to the Request Form for Administrator, which you will need to complete and submit pursuant to the instructions provided.

If your organization is not currently doing business with NYS, you will need to submit a Substitute W-9 Form to obtain a NYS SFS Vendor ID, in addition to the Registration Form for Administrators, in order to register.

Therefore, **each entity that intends to submit a proposal in response to this RFP must be registered.** If your entity has not registered prior to the submission of your

proposal(s), each proposal you submit will be rejected and not considered for funding under this RFP.

Furthermore, **all not-for-profit conservation organizations that intend to submit a proposal in response to this RFP must also be pre-qualified prior to the submission of your proposal(s)**. If you have not pre-qualified with the Division of Budget by the time that you submit your proposal(s), each proposal you submit will be rejected and not considered for funding under this RFP. For more information regarding the pre-qualification process, please view [FAQs About Prequalification](#) as provided by the New York State Grants Reform Team.

I. General Specifications

1. By signing the "Proposal Form" each applicant attests to its express authority to sign on behalf of the applicant.
2. **Contractors** will possess, at no cost to the State, all qualifications, licenses and permits to engage in the required business as may be required within the jurisdiction where the work specified is to be performed. Workers to be employed in the performance of this funding agreement will possess the qualifications, training, licenses and permits as may be required within such jurisdiction.
3. Submission of a proposal indicates the applicant's acceptance of all conditions and terms contained in this RFP, including the terms and conditions of the funding agreement. Any exceptions allowed by the **Department** during the Question and Answer Phase (Section IV.B.) must be clearly noted in a cover letter attached to the proposal.
4. Provisions Upon Default
 - a. In the event that the Applicant, through any cause, fails to perform any of the terms, covenants or promises of any funding agreement resulting from this RFP, the **Department** acting for and on behalf of the State, shall thereupon have the right to terminate the funding agreement by giving notice in writing of the fact and date of such termination to the Applicant.
 - b. If, in the judgment of the **Department**, the Applicant acts in such a way which is likely to or does impair or prejudice the interests of the State, the **Department** acting on behalf of the State, shall thereupon have the right to terminate any funding agreement resulting from this RFP by giving notice in writing of the fact and date of such termination to the **Contractor**. In such case the **Contractor** shall receive equitable compensation for such services as shall, in the judgment of the State Comptroller, have been satisfactorily performed by the **Contractor** up to the date of the termination of this funding agreement, which such compensation shall not exceed the total cost incurred for the work which the **Contractor** was engaged in at the time of such termination, subject to audit by the State Comptroller.

J. Miscellaneous Considerations

1. New York State Environmental Quality Review Act Requirements (SEQRA). Some projects may be subject to review under SEQRA. Municipalities should go to the New York State Department of Environmental Conservation web site www.dec.ny.gov for further information regarding applicability.

2. Freedom Of Information Law (FOIL). All proposals submitted and all related funding agreements and reports may be subject to disclosure under the Freedom of Information Law.

3. Liability. The **Department** shall not be held liable for any costs incurred by any party for work performed in the preparation of and production of a proposal or for any work performed prior to the formal execution of a funding agreement.

V. COMPLETING THE PROPOSAL

A. Proposal Format

Hand written proposals will not be accepted. Paper copies of Portable Document Format (PDF) or Microsoft Word files or paper copies of typewritten documents, such as resumes, must be readable. Evaluators are not responsible for deciphering any illegible or otherwise poor quality copies in a proposal. Furthermore, evaluators are not required to consider any information that is submitted on illegible or otherwise poor quality copies of documents comprising the proposal.

Font size should be no smaller than 12 point. Margins (top, bottom, left, right) should be no less than one inch (1”).

Material that is not required to be included in the proposal should not be submitted, unless supplemental information is being submitted specifically for consideration of bonus points to be assessed to the proposal’s aggregate averaged score. Evaluators are under no obligation to consider any other additional information regardless of where it is placed in the proposal.

Please paginate each page of the proposal.

Please observe the space limits for each section of the proposal. Material in excess of the space limits for each section will not be considered when your proposal is reviewed for completeness. Proposal evaluators are obligated to review and consider only the information contained in section(s) of the proposal that address each criterion, as specified by and within the limitations described in this RFP.

B. Proposal Content

Applicants must use the sections as provided in the Proposal Package of this RFP to create each proposal to be submitted to the **Department**.

VI. PROPOSAL REVIEW AND AWARDING OF SUCCESSFUL PROPOSALS

A. Review Process

1. Receipt of Proposals

Proposals must be received at the Department by 4:30pm local time on July 14, 2014. Proposals will be logged in and assigned a unique number based on the order of its receipt.

All proposals will be screened for eligibility and completeness according to the “Checklist for Proposal Completeness and Assessment of Penalty / Bonus Points.”

If any proposal exhibits one or more of the following fatal flaws, that proposal shall not be considered for funding under this RFP:

1. proposal received after submission deadline (after 4:30pm local time on July 14,

- 2014);
2. ineligible applicant;
3. a letter signed by all participating landowners or a signed letter from each participating landowner was/were omitted;
4. letter of endorsement from the County Agricultural & Farmland Protection Board was omitted; or
5. correct version of Financial Worksheet was omitted from the proposal.

If any other required information is determined to be missing or incomplete or requires further clarification, the applicant will be notified by email and provided 5 business days to submit the requested information. If the requested information is not submitted by the designated subsequent deadline, the proposal will be deemed incomplete and not be considered for funding. If the requested information is received by the designated subsequent deadline, the proposal will receive a 5-point reduction penalty to the aggregate total score.

2. Advisory Council on Agriculture (ACA)

A summary of the proposals to be scored shall be provided to the ACA; ACA members may provide comments on those proposals to the Department's Program Manager. Any comments received by the Program Manager shall be provided to each evaluator.

3. Scoring

Proposals deemed to be complete and eligible will be forwarded to the evaluators for scoring. Scoring is based on selection criteria contained in the Proposal Rating Sheet (see attached) for the particular type of project being proposed: perpetual conservation easement or incentive payment.

(a) Aggregate Score – Evaluators will use a rating sheet (for the appropriate type of project), which addresses four scoring categories, to record a score of up to forty (40) points for each proposal; each evaluator shall consider any comments received from the ACA into their respective scoring of each proposal. Each evaluator is encouraged to assess any decimal fractional value (in 1/10 increments – e.g., 0.0 up to 2.0 for any 2-point scoring item) when assessing points to a particular proposal for each scoring item so as to clearly convey the evaluator's perspective on the quality of the applicant's response to each scoring item.

The evaluators' scores will be aggregated to determine if the proposal has attained or exceeded the threshold score of 120.0 prior to the assessment of bonus or penalty points. Proposals receiving an aggregate score of less than 120.0 shall not be considered for funding.

Maximum possible aggregated score for any proposal is 160.0.

(b) Bonus Points – If applicable, bonus points will be assessed to the aggregate total score by the Program Manager based on the submission of the required information pursuant to the RFP. If the required information for bonus point consideration is not received, no bonus points shall be assessed. Furthermore, if the required information for bonus points is determined to be incomplete, the applicant shall not be afforded any further opportunity to submit the omitted documentation.

Maximum possible bonus points that may be assessed to any proposal is 8.0.

(c) Penalty Points – If any required information is determined to be missing from any proposal, the applicant will be notified by email from the Program Manager and provided 5 business days to submit the missing item(s). If the requested information is received by the designated subsequent deadline and later deemed acceptable by the Program Manager, the proposal will receive a 5-point penalty deducted from the aggregate total score. However, if the requested information is not submitted by the designated subsequent deadline, the proposal will be deemed incomplete and shall not be considered for funding.

Maximum possible deduction for penalty points that may be assessed to any proposal is 5.0.

(d) Final Score – A final score for each proposal shall be determined as follows: (a) aggregated total score + (b) bonus points (if applicable) – (c) penalty points (if applicable) = (d) final score.

Maximum possible final score is 168.0 for any non-penalized proposal or 163.0 for any proposal assessed penalty points. Minimum possible final score that may be considered for funding is a score of 120.0 without any adjustment through assessment of bonus or penalty points.

3. Debriefings

Following the announcement of the applicants awarded funding agreements under this RFP, unsuccessful applicants may request a debriefing from the **Department's** Division of Fiscal Management no later than sixty (60) days from the date of the award or non-award announcement. This debriefing will be limited to the positive and negative aspects of the subject proposal.

B. Awards

The Department shall compile a list of eligible projects for award consideration; one for **Conservation Easement Projects** and one for **Incentive Payment Projects**. The available funding for each type of project shall be allocated equally to each of five (5) regions across the state (regions are shown in Figure 1 on page 4 of this RFP). Awards for each type of project shall be determined pursuant to the procedures described below.

1. Funding of Ranked Projects

Eligible proposals within each region will be compiled in order of overall final score from highest to lowest. For each region, awards will be made to those proposals receiving the highest final scores above the threshold score and continuing until available funds for that region are exhausted, or until all such proposals for that region are funded, whichever occurs first.

Remaining unfunded eligible proposals from all regions for each list that have scored above the threshold score shall then be awarded any remaining available funding beginning with the highest numerical final score and continuing until remaining available funds are exhausted or until all such proposals are funded, whichever occurs first. In the event that two or more proposals have the same final score and there are not enough available funds remaining to fully fund all of those proposals, then the projects to be awarded shall be determined by the following tie-breaking procedure (in order of priority sequence):

1. bonus points assessed,
2. protected acreage,
3. extent of Prime Soils (% of protected acreage),
4. extent of protected acreage available for crop and/or livestock production (% of protected acreage), and, if necessary,
5. coin flip.

If there are insufficient funds remaining to fully award the last eligible project, the remaining funds shall be awarded to that successful applicant. If that applicant chooses to reject the award because of insufficient State funding in relation to that applicant's request, that remaining amount shall be reserved for awards in a future grant opportunity.

In the event that any available funds for **Incentive Payment Projects** remain, all such funds shall be made available for awards to eligible **Conservation Easement Projects** scoring above the threshold pursuant to the award procedures described above.

The Commissioner will approve a final list pursuant to the award procedures described above for each type of project and authorize funding of proposals until all eligible projects of each project type have been awarded, or until all available funds have been exhausted, whichever occurs first. The Commissioner will notify successful applicants and provide information regarding funding agreements that will be forthcoming from the Department. Applicants whose projects were not funded will be notified by the Land and Water Resources Division Director.

2. Funding Agreements

A funding agreement defining all terms, conditions and responsibilities shall be developed by the **Department** upon the **State's** approval of an awarded proposal. A sample funding agreement appears in Appendix A of this RFP.

Once the funding agreement has been fully executed, State funds will be disbursed on the basis of scheduled payments subject to the "Payment and Reporting Schedule" described in the "Payment & Reporting Requirements of Successful Applicants" section of this RFP. The **Department** shall retain the full amount of the State contribution toward easement stewardship (for any **Conservation Easement Project**) or toward monitoring site visits (for any **Incentive Payment Project**) to be disbursed to the **Contractor** until such time that the final report for the funding agreement has been accepted by the **Department**.

The **Department** and State Comptroller's Office reserve the right to audit the Applicant's books and records relating to the performance of the project during and up to six years after the completion of the project.

3. Contingency Awards for **Conservation Easement Projects**

In addition to the funds that are initially awarded under this RFP, the **Department** will set aside approximately \$1 million for a contingency fund to allow up to twenty percent (20%) in additional funding for unanticipated project cost increases associated only with **Conservation Easement Projects**. Subject to the 20% cap on additional funding, the applicant must provide a match for the total unanticipated project cost increases that is at least equal to the same percentage of match that was committed in the budget and the financial worksheet contained in the initially awarded funding agreement. Contingency funds will be made available to

successful applicants on a first-requested, first-awarded basis based on the following criteria:

- i. justification of need for supplemental funding;
- ii. likely adverse consequences to project if supplemental funding is not provided;
- iii. documentation of additional costs supporting a request for funding; and
- iv. likelihood that the project will be successfully completed if funding is provided.

There will be no additional state monies available for cost increases once the contingency funds are exhausted. *Requests for contingency funds should not be included in the initial proposal; successful applicants may only request these funds after a funding agreement is in place.*

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects
PROPOSAL PACKAGE

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

Instructions: ▶ Please complete each page of this Proposal Package. Please provide all requested information, including any requested attachments. *For joint proposals, please complete this page for each applicant and attach both as the "first page" of your joint proposal.*
▶ Staple each copy in the upper left hand corner of the proposal.
▶ Submit one (1) original, signed proposal and four (4) additional copies of the signed proposal.

Ten Digit NY State Vendor Identification Number:

Document Vault Name (if applicant is a not-for-profit organization that is pre-qualified, enter yours here GDV-XXX-XXXXX):

GDV -

Name of Applicant

Address

City State Zip Code

Amount of State funding requested Percent of total project costs

Specify Project Type

Specify Allocation Region

(Refer to Figure 1 on page 4 of the RFP)

Select ONLY ONE

Conservation easement. **Only one Farm Operation per proposal.**

NOTE: If joint proposal, Lead Applicant:

Incentive payment. **Only one Farm Operation per proposal.**

Specify duration of incentive payment agreement (i.e. 5, 6, 7, 8, 9, or 10 years)

NOTE: If joint proposal, Lead Applicant:

Contact Information for Authorized Representative

Full Name of Authorized Representative:

Phone Number of Authorized Representative:

Email Address of Authorized Representative:

Please complete if the applicant intends for Principal Contact to be someone other than the Authorized Representative.

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects
PROPOSAL PACKAGE

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

Contact Information for Principal Contact

Full Name of Principal Contact for Applicant:

Phone Number of Principal Contact for Applicant:

Fax Number of Principal Contact for Applicant:

Email Address of Principal Contact for Applicant:

Signature of Authorized Representative of Applicant

Signature of Principal Contact for Applicant

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects
PROPOSAL PACKAGE

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

PARTICIPANT INFORMATION

Primary Contact for the Farm Operation

Please identify only one person, either the owner or other principal decision maker, of the Farm Operation associated with this proposed project.

Name	<input type="text"/>		
Farm Name	<input type="text"/>		
Address (of business center of farm operation)	<input type="text"/>		
City	<input type="text"/>	State	<input type="text"/>
		Zip Code	<input type="text"/>
Phone Number	<input type="text"/>		
Email	<input type="text"/>		

Landowner(s)

Please identify all landowners involved in the proposed project. Use the 'Add Landowner' button to add additional landowners.

<input type="button" value="Add Landowner"/>	<input type="button" value="Remove Landowner"/>
--	---

Name	<input type="text"/>		
Farm Name (if applicable)	<input type="text"/>		
Address	<input type="text"/>		
City	<input type="text"/>	State	<input type="text"/>
		Zip Code	<input type="text"/>
Phone Number	<input type="text"/>		
Email	<input type="text"/>		

Please attach a letter that has been composed by and signed by all landowners who will participate in the proposed project. (Alternatively, each landowner may submit his/her own letter, provided that a signed letter is submitted for all participating landowners.)

Each letter must clearly address the following items:

1. Why each landowner is participating in the proposed project; and
2. Why each landowner has selected the particular type of project being proposed as the means to protect his/her agricultural land (i.e. rationale for why he/she chose a perpetual conservation easement or an incentive payment).

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects
PROPOSAL PACKAGE

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

POTENTIAL CONFLICTS OF INTEREST

An organizational conflict of interest exists if, in its deliberation or selection of this proposal for submission to the Department for funding consideration, the organization's governing body (or any committee from which a recommendation was made to its governing body) includes any participating landowner associated with this proposal.

An organizational conflict of interest exists when the nature of the work to be performed for the project associated with this proposal may, without some restriction on future activities, impair or appear to impair the successful applicant's objectivity (or the objectivity of its sub-contractor(s)) in performing the work associated with this proposal.

A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair or appear to impair the objectivity of the employee, subcontractor employee, or consultant in performing the work associated with this proposal.

For County Agricultural and Farmland Protection Board (AFPB):

1. Does the AFPB have a potential conflict of interest associated with this proposal? No Yes

If yes - Identify the conflict:

2. Did the AFPB follow its policy regarding conflicts of interest?

No - Describe why Yes - Describe the action(s) taken

For Entity submitting this proposal:

1. Does the entity have a potential conflict of interest associated with this proposal? No Yes

If yes - Identify the conflict:

2. Did the entity follow its policy regarding conflicts of interest?

No - Describe why Yes - Describe the action(s) taken

For Any Other Conflict of Interest:

1. Please identify the potential conflict of interest?

If there were other potential conflicts, describe the action(s) taken or describe why no action(s) taken:

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects
PROPOSAL PACKAGE

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

CHECKLIST FOR PROPOSAL COMPLETENESS

* - **Required element of proposal.** Proposals not meeting any of these requirements will be returned and not considered for funding under this RFP.

Penalty Points. If any required information is determined to be missing from this proposal, the applicant will be notified by Email from the Department's Program Manager and provided five (5) business days to submit the missing item(s). If the requested information is received by the designated deadline and subsequently deemed acceptable by the Program Manager, the proposal will receive a 5-point penalty deducted from the aggregate score assigned to this proposal by the evaluators. If the requested information is not submitted by the designated deadline, this proposal will be deemed incomplete and shall not be considered for funding. Maximum possible deduction for penalty points that may be assessed to any proposal is 5.0.

- One (1) original, signed proposal and **four (4) additional copies** of the signed proposal must be **received* at the Department by 4:30pm local time, July 14, 2014.**
- Proposal submitted by **eligible applicant*** (refer to "Applicant Eligibility" section of RFP). And, if applicant is either a not-for-profit conservation organization OR a soil and water conservation district:
 - Letter of project endorsement from the municipality (in which the proposed project is located) is included in the proposal (refer to "Applicant Eligibility" narrative in the "Eligibility" section of the RFP).
- Letter of project endorsement*** from County Agricultural & Farmland Protection Board is included in this proposal (refer to the "Receipt of Proposals" narrative of the "Review Process" section of the RFP).
- All required **landowner letter(s)*** have been included in this proposal (refer to page 2 of this Proposal Package).
- All required attachments, as stipulated in this RFP, have been included in this proposal, including:
 - copy of signed resolution authorizing the submission of this proposal to the State;
 - copy of a signed letter from the Authorized Representative regarding its proposed cash contribution. Furthermore, please ensure that this proposal reflects the following:
 - correct* version of the Financial Worksheet** for the project you are proposing.
 - Your request for State funding does not exceed any of the award "caps" stipulated in the RFP.
 - Local match contribution equals or exceeds the minimum requirement stipulated in the RFP.
 - No work or project expense occurred or will occur prior to State approval of a funding agreement awarded through this RFP.
 - No other source of New York State funds shall be used on this project.
 - Indirect and overhead costs are not included as eligible project costs.
- OPTIONAL:** Information necessary to document local actions for the awarding of bonus points has been included in this proposal.

Signature of Principal Contact for Applicant
(or of Principal Contact for Lead Applicant, if joint proposal)

Date

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects
PROPOSAL PACKAGE

New York State Department of Agriculture and Markets
 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

**GOAL AND OUTCOME OF PROPOSED PROJECT;
 KEY PROJECT PERSONNEL**

1. Overall Goal of Proposed Project. Please briefly summarize below the applicant's overall goal for this proposed farmland protection implementation activity *and* how this proposed project is consistent with the agricultural and farmland protection plan of the municipality or county.

Name of municipality or county:

Describe overall goal:

2. Anticipated Outcome of Proposed Project. Please briefly summarize the applicant's anticipated outcome for this proposed farmland protection implementation activity.

3. Key Project Personnel. Please list the individuals who will be directly responsible for developing and managing the proposed project. For each person listed, specify only education and actual prior experience in the development, administration or management of farmland protection implementation activities; do not include any education or experience not specifically associated with prior farmland protection implementation activities. If any person listed has no such prior experience, simply indicate "no such prior experience." *Do not attach resumes.*

	Name	Education	Experience
+ -			

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects
PROPOSAL PACKAGE

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

WORK PLAN (SCOPE OF WORK)

1. Anticipated time frame for completing all tasks resulting in the completion of all required project deliverables as stipulated in this RFP for this proposed project:

2. In the space provided below, please summarize (in either outline or tabular form) the steps/activities that you will conduct to complete all of the necessary tasks to result in the completion of all deliverables as stipulated in this RFP for this proposed project.

3. Please attach a resolution, which is signed by the Authorized Representative of the applicant that authorizes the submission of this proposal to the State.

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects
PROPOSAL PACKAGE

New York State Department of Agriculture and Markets
 Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

FINANCIAL WORKSHEET

Please indicate below which version of Attachment B-4 (a, b, or c) (Financial Worksheet) is being provided for this proposal **(select only one)**:

Perpetual Easement(≤ \$29,000/acre) Perpetual Easement (> \$29,000/acre) Incentive Payment

Budget Summary

Total State Funds Requested:	
Total Local Cash Match:	
Total Local In-Kind Match:	
Total Cost of Project:	

Please provide a brief description of any in-kind services to be used as part of the required local match contribution:

List Sources (names and sector) and the Amount of Applicant Match:
 (If applicant obtained or will obtain match funds from outside sources, please fill in below.)

	Source of Match	Sector	Amount
+ -		<input type="radio"/> Public <input type="radio"/> Private	

Please attach documentation such as a letter from the Authorized Representative committing the local cash match.

New York State Department of Agriculture and Markets

Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

CHARACTERISTICS OF PROJECT AREA

1. Please provide ALL of the following information regarding the proposed project area:

	Acres	Extent of Project Area (%)
Acres to be protected (based upon either a tax parcel map or an existing legal survey)		
# of protected acres available for crop and/or livestock production		
# of protected acres in Prime Soils (NOTE: Prime soils are distinct from those below. Do NOT include "Prime, if drained" soils or Unique Soils.)		
# of protected acres in Soils of Statewide Importance (NOTE: These soils are distinct from those above. Do NOT include Unique Soils.)		

2. Provide a soil survey map showing the boundaries of:

- a) the proposed project area; and
- b) all Prime Soils and all Soils of Statewide Importance (please delineate each type separately) that fall within the proposed project area.

3. Provide a site plan that covers the entire proposed project area. The base map for the site plan must be ONE of the following: (a) recent aerial photograph (i.e., within five (5) years of the date of submission of this proposal), or (b) current tax parcel map, or (c) GIS map created by the applicant (or other project partner) specifically for this proposal in response to this RFP. The site plan must delineate, as applicable, each of the following:

- a) Farmstead area, if any, within the project area;
- b) Rural enterprise area, if any, within the project area;
- c) Resource protection area, if any, within the project area;
- d) Any significant natural public resource within or adjoining the boundary of the proposed project area; and
- e) Any parcel (or portion thereof) of real property that is NOT subject to the proposed project but is (i) imbedded within the project area or (ii) adjoining any boundary of the project area or (iii) located in close proximity of any boundary of the project area **and** for which any landowner associated with this proposed project also owns or may have a partial ownership interest therein. For each such "exclusion" from the proposed project area, identify each person having any such ownership interest.

NOTE: Failure to identify all such "exclusions" and/or failure to fully disclose all such ownership interests therein in this proposal may result in the cancellation of any funding agreement awarded for this proposal and full restitution of that award to the State.

4. Project Narratives: For each subheading listed below, please attach a ONE-page statement that provides a thorough response to each item. Label each answer as entitled below.

- a) **Current Farm Operation:** Describe the nature of the current farm enterprise, including the type and size of operation, recent production history, years in operation, plans for future operations, amount of additional land owned and/or rented, and awards received (e.g. Dairy of Distinction).

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects
PROPOSAL PACKAGE

New York State Department of Agriculture and Markets
Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

b) **Long-term Viability:** Describe factors and/or attributes of the Farm Operation that suggest it will likely continue to be a farm in the future.

c) **Evidence of Development Pressure:** Describe the extent to which the Farm Operation is facing significant development pressure and why it is at-risk of being converted to non-farm uses. You may incorporate any figures, tables or other information showing development patterns, trends, population statistics or other relevant factors as part of your one-page attachment.

New York State Department of Agriculture and Markets

Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

OPTIONAL:

Supplemental Information for Bonus Points Consideration

Bonus points (as noted herein) shall be awarded by the Department's Program Manager to any proposal *only if* it has attained an aggregate score of at least 120.0 **and** such proposal also includes acceptable documentation for the items described herein.

For any proposal, you may **ONLY** submit supporting documentation regarding the following items; do **NOT** submit any supplemental information that does not pertain directly to those items listed here. Extent to which the proposal demonstrates and documents efforts to actively protect local farmland –

➤ **Six or more** from the following list must have been accomplished by the applicant and/or project partner entity and documentation of each is attached. (3 points)

- municipality has an agricultural and farmland protection plan **approved by** the Commissioner of NYS Department of Agriculture & Markets
- municipality has comprehensive land use plan that has been **updated** within last 5 years
- all agricultural district(s) within which the subject properties are located are current (i.e., each agricultural district has been reviewed on or before its respective anniversary date)
- right to farm law enacted
- farmland mitigation ordinance enacted
- municipality has established Transfer of Development Rights (TDR) program that delineates "viable agricultural land"¹ to be protected in its sending areas

¹ *"Viable agricultural land" means land highly suitable for agricultural production and which will continue to be economically feasible for such use if real property taxes, farm use restrictions, and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of non-agricultural development.*

- municipality-sponsored/hosted farm or produce market(s) operate within the project area
- applicant and/or project partner entity holds or co-holds conservation easement(s) **whose primary purpose** is to preserve "viable agricultural land"¹
- during the 12-month period preceding the submission of this proposal, at least one of the applicant's or project partner's staff or one of any elected or appointed official representing the applicant or a project partner entity has attended a farmland protection or conservation easement training session sponsored by (1) USDA-Natural Resources Conservation Service, or (2) Cornell Cooperative Extension, or (3) Department of Agriculture & Markets, or (4) American Farmland Trust, or (5) Land Trust Alliance
- applicant has an Agricultural Economic Development (or equivalent) staff position
- during the 12-month period preceding the submission of this proposal, at least one of the applicant's or project partner's staff or one of any elected or appointed official representing the applicant or a project partner has attended an agricultural economic development training session sponsored by (1) any agency of the U.S. Department of Agriculture, or (2) Cornell Cooperative Extension, or (3) Department of Agriculture & Markets, or (4) any State University of New York campus or affiliated community college
- agri-business expo (or equivalent trade show highlighting local/area agriculture) is conducted annually within the project area
- board of commissioners of local fire district(s) within the project area utilize(s) agricultural use assessments for the purpose of assessing fire district taxes

New York State Department of Agriculture and Markets

Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

OPTIONAL:

Supplemental Information for Bonus Points Consideration

(continued)

For any Conservation Easement Project, you may attach supporting documentation regarding the following items; do NOT submit any supplemental information that does not pertain directly to those items listed here:

- ❖ Extent to which the subject properties comprising the project area are located within an agricultural district (***maximum = 2***)
 - Entire project area lies within an agricultural district (2 points) ***OR***
 - Less than the entire project area lies within an agricultural district (1 point) ***OR***
 - None of the project area lies within an agricultural district (0 points)
- ❖ Extent to which the applicant and/or project partner entity demonstrates its capacity and commitment to adequately monitor, enforce and defend conservation easements (***maximum = 3***)
 - Applicant and/or project partner entity has a legal defense fund for defense and enforcement of all easements it holds or co-holds ***or*** for which it retains a third party with right of enforcement (Submit copy of a dated financial statement that indicates the current cash balance of the legal defense fund; this cash balance must be distinct from any cash balance restricted to an easement stewardship fund.) (1 point)
 - Applicant and/or project partner entity has an easement stewardship fund to cover annual expenses associated with monitoring of all easement areas (Submit copy of a dated financial statement that indicates the current cash balance of the easement stewardship fund; this cash balance must be distinct from any cash balance restricted to a legal defense fund.) (1 point)
 - Applicant and/or project partner entity has a written policy regarding easement enforcement (i.e., procedures and forms that must be followed and completed in the event of an easement violation) (Submit a copy of the policy, all associated forms and copy(ies) of any minutes of meetings of the governing body that adopted this policy.) (0.5 point)
 - Applicant and/or project partner entity has a written policy and/or documented history of updating the baseline inventory reports for each easement area on a regular interval (e.g., every five years) (Submit a copy of the policy and copy(ies) of any minutes of meetings of the governing body that adopted this policy, plus documentation of the updating of baseline inventory reports.) (0.5 point)

New York State Department of Agriculture and Markets

Proposal for State Assistance Payments for Farmland Protection Implementation Projects

PROPOSAL PACKAGE

OPTIONAL:

Supplemental Information for Bonus Points Consideration

(continued)

For any Incentive Payment Project, you may attach supporting documentation regarding the following items; do NOT submit any supplemental information that does not pertain directly to those items listed here:

- ❖ Extent to which the subject properties comprising the project area are located within an agricultural district (***maximum = 2 points***)
 - Entire project area lies within an agricultural district (2 points) ***OR***
 - Less than the entire project area lies within an agricultural district (1 point) ***OR***
 - None of project area lies within an agricultural district (0 points)
- ❖ Extent to which the applicant and/or project partner entity demonstrates its capacity and commitment to adequately monitor, enforce and defend conservation easements ***OR*** deed restrictions ***OR*** municipal land use regulations (***maximum = 3 points***)
 - Applicant and/or project partner entity has a legal defense fund for defense and enforcement of all such land-use restrictions (Submit a copy of a dated financial statement that indicates the current cash balance of the legal defense fund; as applicable, this cash balance must be distinct from any cash balance restricted to an easement stewardship fund.) (1 point)
 - (Applicable only to those project partner entities, including the applicant, that holds conservation easements) – Applicant and/or project partner entity has an easement stewardship fund to cover annual expenses associated with monitoring of all easement areas (Submit a copy of a dated financial statement that indicates the current cash balance of the easement stewardship fund; this cash balance must be distinct from any cash balance restricted to a legal defense fund.) (1 point)
 - Applicant and/or project partner entity has a written policy regarding enforcement (i.e., procedures and forms that must be followed and completed in the event of a violation) (Submit a copy of the policy, all associated forms and copy(ies) of any minutes of meetings of the governing body that adopted this policy.) (0.5 point)
 - (Applicable only to those project partner entities, including the applicant, that holds conservation easements) – Applicant and/or project partner entity has a written policy and/or documented history of updating the baseline inventory reports for each easement area on a regular interval (e.g., every five years) (Submit a copy of the policy and copy(ies) of any minutes of meetings of the governing body that adopted this policy, plus documentation of the updating of baseline inventory reports.) (0.5 point)

Project Budget for FPIG Proposal (Attachment B-4 (a, b, or c))

1) Attachment B-4a: Perpetual Conservation Easement Project (≤\$29K)

ATTACHMENT B-4a: FINANCIAL WORKSHEET - Perpetual Conservation Easement Project L1orEQto29K - Project Budget for FPIG Proposal (≤ \$29,000/A for development rights)

FPIG Project Budget Farmland Protection Implementation Project Involving a Perpetual Conservation Easement															
Farm Name:	Estimated Acres to be Permanently Protected =		Applicant:		FUNDING SOURCES							Proposed Purchase Price of Conservation Easement ⁷			
	Value of Development Rights =	\$ per acre =	County (in-kind)	Town (in-kind)	County (cash)	Town (in-kind)	Other ⁵ (in-kind)	Sum of Funding Sources (cash) ⁶	Sum of In-Kind Contributions ⁷	Landowner Contribution ⁸					
LAND COSTS (Add these "Estimated Costs" amounts to line 2f on Attachment B-1 of the Master Contract.)															
Value of Development Rights	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
TRANSACTION COSTS (Add or enter each "Estimated Costs" amount to the appropriate line (as noted below) on Attachment B-1 of the Master Contract.)															
Title Insurance (Line 2f)	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
Surveys (Line 2a)	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
Appraisal (Line 2a)	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
Project Partners' Staff Time ¹⁰ (e.g., contract administration, project management, outside easement expertise, etc.)	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
Outside Legal Fees (if any) (Line 2a)	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
Recording Fees (Line 2f)	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
Stewardship Fee ¹¹ (Line 2a)	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
Baseline Documentation Report (Line 2a)	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
Other transaction cost ¹² (Line 2f)	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
Other transaction cost ¹² (Line 2f)	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
Other transaction cost ¹² (Line 2f)	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
Subtotal =	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
TOTAL PROJECT COSTS	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	
Percentage of Total Project Cost from Each Contributor ¹³			#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	
Auto Math Check ¹⁶	Total Project Costs =	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-	\$	-
NOTE: NYS real estate transfer tax, if any, shall NOT be paid from proceeds provided to the Applicant from the State via the FPIG contract associated with this project.															

2) Attachment B-4b: Perpetual Conservation Easement Project (>\$29K)

ATTACHMENT B-4b: FINANCIAL WORKSHEET - Perpetual Conservation Easement Project
 MORE THAN 29K - Project Budget for FPIG Proposal (> \$29,000/A for development rights)

Project Budget for FPIG Proposal
 Farmland Protection Implementation Project Involving a Perpetual Conservation Easement

Farm Name: _____ Applicant: _____

Estimated Acres to be Permanently Protected = _____
 Value of Development Rights = \$ _____ \$ per acre = #DIV/0! If value is less than or equal to \$29,000/acre, use ATTACHMENT B-4a.

LAND COSTS (Add these "Estimated Costs" amounts to line 2f on Attachment B-1 of the Master Contract.)	Municipal Government					Other ⁵		Landowner Contribution ⁸	Proposed Purchase Price of Conservation Easement ⁹
	State Contribution ²	County (cash) ³	County (in-kind)	Town (cash) ⁴	Town (in-kind)	(cash)	(in-kind)		
Value of Development Rights ¹	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TRANSACTION COSTS (Add or enter each "Estimated Costs" amount to the appropriate line (as noted below) on Attachment B-1 of the Master Contract.)									
Title Insurance (Line 2f)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Survey(s) (Line 2a)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Appraisal (Line 2a)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Partners' Staff Time ¹⁰ (e.g., contract administration, project management, outside assessment expertise, etc.) (Line 2a)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Outside Legal Fees (if any) (Line 2a)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Recording Fees (Line 2f)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Stewardship Fee ¹¹ (Line 2e)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Baseline Documentation Report (Line 2a)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other transaction cost ¹² (Line 2f)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other transaction cost ¹³ (Line 2f)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other transaction cost ¹⁴ (Line 2f)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other transaction cost ¹⁵ (Line 2f)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL PROJECT COSTS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Percentage of Total Project Cost from Each Contributor ¹³	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Auto Match Check ¹⁶ Total Project Costs =	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local Match Totals	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Percentage of Local Match that is In-Kind ¹⁵	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!

NOTE: NYS real estate transfer tax, if any, shall NOT be paid from proceeds provided to the Applicant from the State via the FPIG contract associated with this project.

3) Attachment B-4c: Incentive Payment Project

ATTACHMENT B-4c: FINANCIAL WORKSHEET - Incentive Payment Project

FPIG Project Budget - Farmland Protection Implementation Project Involving an Incentive Payment

Farm Name: Applicant:

Estimated Acres to be Protected = Calculated Incentive Payment = \$

"Land only" Assessed Value of Acres = Years = Duration of Incentive Payment Agreement

	Municipal Government					Other ⁵		Sum of In-Kind Contributions ⁷	Landowner Contribution ⁸	Proposed Incentive Payment ⁹
	State Contribution ³	County (cash) ⁴	County (in-kind)	Town (cash) ⁵	Town (in-kind)	(cash)	(in-kind)			
LAND COSTS (Add these "Estimated Costs" amounts to line 2f on Attachment B-1 of the Master Contract).										
Total Incentive Payment (sum of all annual payments over term of Incentive Payment Agreement)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TRANSACTION COSTS (Add or enter each "Estimated Costs" amount to the appropriate line (as noted below) on Attachment B-1 of the Master Contract).										
Project Partners' Staff Time ¹⁰ (e.g., contract administration, project management, negotiation of incentive payment agreement, etc., EXCEPT annual monitoring site visits) (Line 2a)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Applicant's Legal Fees (if any) (Line 2a)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Monitoring Site Visits (sum of all annual visits over term of Incentive Payment Agreement) (Line 2a)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other transaction cost ¹¹ (Line 2f)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other transaction cost ¹¹ (Line 2f)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other transaction cost ¹¹ (Line 2f)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal =	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL PROJECT COSTS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Percentage of Total Project Cost from Each Contributor ¹²	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Auto Match Check ¹⁵	Total Project Costs = \$ -	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Local Match Total ¹³	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Percentage of Local Match that is In-Kind ¹⁴	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!

APPENDIX A: Master Contract

NYS Master Contract

New York State has developed a standard “Master Contract” containing standard clauses required in all State Contracts. The Master Contract will be used for all projects awarded under this RFP, and applicants are responsible for complying with the terms and conditions contained therein.

The Master grant contract can be found at
http://www.grantsreform.ny.gov/sites/default/files/docs/nys_master_contract_for_grants_42913.pdf .

New York State Department of Agriculture and Markets

Attachment A-1

Specific Terms and Conditions of this Agreement

These special conditions apply to the administrative aspects of this particular Agreement. These special conditions cannot be changed.

I. AGENCY SPECIFIC TERMS AND CONDITIONS

RESPONSIBILITY REQUIREMENTS

- A. The **Department** is required to undertake an affirmative review of the responsibility of any vendor to which it proposes to make a funding agreement award. Such review shall be designed to provide reasonable assurances that the proposed **Contractor** is responsible. In undertaking such review, the **Department** must comply with the following standards:
- a. In all cases, the **Department** must consider any information that has come to its attention from the proposed **Contractor** or any other source that would raise issues concerning the proposed **Contractor's** responsibility.
 - b. In the case of any funding agreement valued at \$100,000 or more, the **Department** must affirmatively require disclosure by the proposed **Contractor** of all information that the **Department** reasonably deems relevant to a determination of responsibility by completing a Vendor Responsibility Questionnaire.
- B. The **Contractor** shall at all times during the **Agreement** term remain responsible. The **Contractor** agrees, if requested by Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
- C. The Commissioner or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this **Agreement**, at any time, when he or she discovers information that calls into question the responsibility of the **Contractor**. In the event of such suspension, the **Contractor** will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the **Contractor** must comply with the terms of the suspension order. **Agreement** activity may resume at such time as the Commissioner or his or her designee issues a written notice authorizing a resumption of performance under the **Agreement**.

New York State Department of Agriculture and Markets

- D. Upon written notice to the **Contractor**, and a reasonable opportunity to be heard with appropriate Commissioner officials or staff, the **Agreement** may be terminated by Commissioner or his or her designee at the **Contractor's** expense where the **Contractor** is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

CONFLICT OF INTEREST

- A. Organizational Conflict of Interest. To the best of the **Contractor's** knowledge and belief, the **Contractor** warrants that there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the **Contractor** has disclosed all such relevant information to the **Department**.

1. An organizational conflict of interest exists when the nature of the work to be performed under this Agreement may, without some restriction on future activities, impair or appear to impair the **Contractor's** objectivity in performing the work for the **Department**.
2. The **Contractor** agrees that if an actual, or potential organizational conflict of interest is discovered at any time after award, whether before or during performance, the **Contractor** will immediately make a full disclosure in writing to the **Department**. This disclosure shall include a description of actions which the **Contractor** has taken or proposes to take, after consultation with the **Department**, to avoid, mitigate, or minimize the actual or potential conflict.
3. To the extent that the work under this funding agreement requires access to personal, proprietary or confidential business or financial data of persons or other companies, and as long as such data remains proprietary or confidential, the **Contractor** shall protect such data from unauthorized use and disclosure and agrees not to use it to compete with such companies.

- B. Personal Conflict of Interest. The following provisions with regard to management or professional level employee personnel performing under this Agreement shall apply until the earlier of the termination date of the affected employee(s) or the duration of the Agreement.

1. A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair or appear to impair the objectivity of the employee, subcontractor employee, or consultant in performing the work associated with this Agreement. The **Contractor** agrees to notify the **Department** immediately of any actual or

New York State Department of Agriculture and Markets

potential personal conflict of interest with regard to any such person working on or having access to information regarding this Agreement, as soon as **Contractor** becomes aware of such conflict. The **Department** will notify the **Contractor** of the appropriate action to be taken.

2. The **Contractor** agrees to advise all management or professional level employees involved in the work of this Agreement, that they must report any personal conflicts of interest to the **Contractor**. The **Contractor** must then advise the **Department** which will advise the **Contractor** of the appropriate action to be taken.
3. Unless waived by the **Department**, the **Contractor** shall certify annually that, to the best of the **Contractor's** knowledge and belief, all actual, apparent or potential conflicts of interest, both personal and organizational, as defined herein, have been reported to the **Department**. Such certification must be signed by a senior executive of the **Contractor** and submitted in accordance with instructions provided by the **Department**. Along with the annual certification, the **Contractor** shall also submit an update of any changes in any conflict of interest plan submitted with its proposal for this Agreement. The initial certification shall cover the one-year period from the date of award for this Agreement, and all subsequent certifications shall cover successive annual periods thereafter. The certification is to be submitted no later than 45 days after the close of the previous certification period covered.
4. In performing this Agreement, the **Contractor** recognizes that its employees may have access to data, either provided by the **Department** or first generated during Agreement performance, of a sensitive nature which should not be released without **Department** approval. If this situation occurs, the **Contractor** agrees to obtain confidentiality agreements from all affected employees working on requirements under this Agreement including subcontractors and consultants. Such agreements shall contain provisions which stipulate that each employee agrees not to disclose, either in whole or in part, to any entity external to the **Department**, any information or data provided by the **Department** or first generated by the **Contractor** under this Agreement, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the **Department**. If a **Contractor**, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure, the **Contractor** must provide immediate advance notification to the **Department** so that the **Department** can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of this Agreement and for a period of five (5) years after completion of this Agreement.

C. Remedies. The **Department** may terminate this Agreement in whole or in part, if it deems such termination necessary to avoid an organizational or personal

New York State Department of Agriculture and Markets

conflict of interest, or an unauthorized disclosure of information. If the **Contractor** fails to make required disclosures or misrepresents relevant information to the **Department**, the **Department** may terminate the Agreement, or pursue such other remedies as may be permitted by the terms of other applicable provisions of this Agreement regarding termination.

- D. The **Contractor** will be ineligible to make a proposal or bid on a funding agreement for which the **Contractor** has developed the statement of work or the solicitation package.
- E. The **Contractor** agrees to insert in each subcontract or consultant agreement placed hereunder provisions which shall conform substantially to the language of this clause, including this paragraph (e), unless otherwise authorized by the **Department**.

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE FUNDING AGREEMENTS: REQUIREMENTS AND PROCEDURES

I. General Provisions

- A. The **Department** is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all State funding agreements as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The **Contractor** to the subject funding agreement (the “Agreement”) agrees, in addition to any other nondiscrimination provision of the Agreement and at no additional cost to the **Department**, to fully comply and cooperate with the **Department** in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). **Contractor’s** demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable Federal, State or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Agreement.

New York State Department of Agriculture and Markets

II. Agreement Goals

- A. For purposes of this procurement, the **Department** hereby establishes an overall goal of 2% for Minority and Women-Owned Business Enterprises (“MWBE”) participation, 1% for Minority-Owned Business Enterprises (“MBE”) participation and 1% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).
- B. For purposes of providing meaningful participation by MWBEs on the Agreement and achieving the Agreement Goals established in Section II-A hereof, **Contractor** should reference the directory of New York State Certified MBWEs found at the following internet address:

<http://www.esd.ny.gov/mwbe.html>

Additionally, **Contractor** is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Agreement.

- C. Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, **Contractor** must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Agreement. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the **Contractor** acknowledges that if **Contractor** is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Agreement, such a finding constitutes a breach of contract and the **Contractor** shall be liable to the **Department** for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

- A. **Contractor** agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the “Division”). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- B. **Contractor** shall comply with the following provisions of Article 15-A:
1. **Contractor** and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job

New York State Department of Agriculture and Markets

assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

2. The **Contractor** shall submit an EEO policy statement to the **Department** within seventy two (72) hours after the date of the notice by **Department** to award the Agreement to the **Contractor**.
3. If **Contractor** or Subcontractor does not have an existing EEO policy statement, the **Department** may provide the **Contractor** or Subcontractor a model statement (see Form MWBE/EEO1 – Minority and Women-Owned Business Enterprises Equal Employment Opportunity Policy Statement).
4. The **Contractor's** EEO policy statement shall include the following language:
 - a. The **Contractor** will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The **Contractor** shall state in all solicitations or advertisements for employees that, in the performance of the Agreement, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The **Contractor** shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the **Contractor's** obligations herein.
 - d. The **Contractor** will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Agreement.

C. Form MWBE/EEO2- Staffing Plan

To ensure compliance with this Section, the **Contractor** shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Agreement by the specified categories listed, including ethnic background, gender, and Federal occupational categories. **Contractors** shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the Agreement.

New York State Department of Agriculture and Markets

D. Form MWBE/EEO3 - Workforce Employment Utilization Report ("Workforce Report")

1. Once an Agreement has been awarded and during the term of that Agreement, **Contractor** is responsible for updating and providing notice to the **Department** of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Agreement to report the actual workforce utilized in the performance of the Agreement by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.
2. Separate forms shall be completed by **Contractor** and any subcontractor performing work on the Agreement.
3. In limited instances, **Contractor** may not be able to separate out the workforce utilized in the performance of the Agreement from **Contractor's** and/or subcontractor's total workforce. When a separation can be made, **Contractor** shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Agreement. When the workforce to be utilized on the Agreement cannot be separated out from **Contractor's** and/or subcontractor's total workforce, **Contractor** shall submit the Workforce Report and indicate that the information provided is **Contractor's** total workforce during the subject time frame, not limited to work specifically under the Agreement.

E. **Contractor** shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. **Contractor** and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

- A. The **Contractor** represents and warrants that **Contractor** has submitted an MWBE Utilization Plan (MWBE/EEO4) either prior to, or at the time of, the execution of the Agreement.
- B. **Contractor** agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Agreement pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.
- C. **Contractor** further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Agreement. Upon the occurrence of such a material breach, the **Department** shall be entitled to any

New York State Department of Agriculture and Markets

remedy provided herein, including but not limited to, a finding of **Contractor** non-responsiveness.

V. Waivers

- A. For Waiver Requests **Contractor** should use Form MWBE/EEO5 – Waiver Request.
- B. If the **Contractor**, after making good faith efforts, is unable to comply with MWBE goals, the **Contractor** may submit a Request for Waiver form documenting good faith efforts by the **Contractor** to meet such goals. If the documentation included with the waiver request is complete, the **Department** shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the **Department**, upon review of the MWBE Utilization Plan and updated Quarterly MWBE **Contractor** Compliance Reports determines that **Contractor** is failing or refusing to comply with the Agreement goals and no waiver has been issued in regards to such non-compliance, the **Department** may issue a notice of deficiency to the **Contractor**. The **Contractor** must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Agreement Goals.

VI. Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE **Contractor** Compliance Report (Form MWBE/EEO6) to the **Department** by the 10th day following each end of quarter over the term of the Agreement documenting the progress made towards achievement of the MWBE goals of the Agreement.

VII. Liquidated Damages - MWBE Participation

- A. Where the **Department** determines that **Contractor** is not in compliance with the requirements of the Agreement and **Contractor** refuses to comply with such requirements, or if **Contractor** is found to have willfully and intentionally failed to comply with the MWBE participation goals, **Contractor** shall be obligated to pay to the **Department** liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - 1. All sums identified for payment to MWBEs had the **Contractor** achieved the contractual MWBE goals; and
 - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Agreement.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the **Department**, **Contractor** shall pay such liquidated damages to the **Department**

New York State Department of Agriculture and Markets

within sixty (60) days after they are assessed by the **Department** unless prior to the expiration of such sixtieth day, the **Contractor** has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the **Department**.

The forms referenced above can be found at <http://www.agriculture.ny.gov/MWBE.html>.

PROJECT INSURANCE CONSIDERATIONS

- A. The **Contractor** agrees to procure and maintain at its own expense and without expense to the **Department** until final acceptance by the **Department** of the services covered by this Agreement, insurance of the kinds and amounts applicable to the project work plan, hereinafter provided by insurance companies licensed to do business in the State of New York, covering all operations under this Agreement.
- B. Upon execution of this Agreement, the **Contractor** shall furnish to the **Department** a certificate or certificates, in form satisfactory to the **Department**, showing that it has complied with this Article, which certificate or certificates shall provide that the policies shall not be changed or canceled until thirty (30) days written notice has been given to the **Department**. The certificate shall list the **Department** and the State of New York as additional insureds, except with respect to worker's compensation and disability coverage. The insurance certificate(s) must contain an endorsement in writing added to and made part of the insurance contract for the purpose of changing the original terms such that the **Department** and the State of New York are added as additional insureds. In addition, the applicable insurance policy number(s) referenced on the ACCORD form must be referenced on the endorsement. A copy of the endorsement page, showing the **Department** and the State of New York as additional insureds, must be provided to the **Department**. This Agreement shall be void and of no effect unless the **Contractor** procures the required insurance policies and maintains them until acceptance of the work. The kinds and amounts of insurance required are as follows:
1. Policy covering the obligations of the **Contractor** in accordance with the provisions of the Worker's Compensation Law, Employers Liability, and Disability Benefits.

The only forms which are accepted as proof of Workers' Compensation Insurance are as follows:

FORM #	FORM TITLE
C-105.2	Certificate of Workers' Compensation Insurance
CE-200	Certificate of Attestation of Exemption – (no employees)

New York State Department of Agriculture and Markets

U-26.3	State Insurance Fund Version of the C-105.2 form
SI-12	Certificate of Workers' Compensation Self-Insurance
GSI-105.2	Certificate of Participation in Worker's Comp Group Self-Insurance

The *only* forms which are accepted as proof of Disability Benefit Insurance are as follows:

FORM #	FORM TITLE
DB-120.1	Certificate of Disability Benefit Insurance
DB-120.2	Certificate of Participation in Disability Benefits Group Self-insurance
DB-155	Certificate of Disability Benefit Self-Insurance
CE-200	Certificate of Attestation of Exemption – (no employees)

An ACORD form is **NOT** an acceptable proof of Workers' Compensation coverage. **ALL OF THE ABOVE REFERENCED FORMS, EXCEPT CE-200, SI-12 & DB-155 MUST NAME:** The New York State Department of Agriculture and Markets, Division of Land and Water Resources, 10B Airline Drive, Albany, NY 12235, as the Entity Requesting Proof of Coverage (Entity being listed as the Certificate Holder).

Additional information can be obtained at the Worker's Compensation website: <http://www.wcb.ny.gov/content/main/Employers/Employers.jsp>.

2. Commercial General Liability Insurance with a limit of not less than \$1,000,000 each occurrence. Such insurance shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage, personal and advertising injury, cross liability assumed in a contract (including tort liability of another assumed in a contract).
3. Comprehensive Business Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non owned automobiles.
4. The **Contractor** shall require that any subcontractors hired, carry insurance with the same limits and provisions as provided herein.

AMENDMENTS / EXTENSIONS

- A. The Agreement may be amended and/or extended by mutual written consent of all parties. Amendment forms will be incorporated into this Agreement and will not take effect until approved by all State agencies and final approval by the

New York State Department of Agriculture and Markets

Office of State Comptroller, if applicable. Agreement amendments may be conditioned upon funds being re-appropriated in the State Budget each state fiscal year to the **Department**.

II. PROGRAM SPECIFIC TERMS AND CONDITIONS

ELIGIBLE COSTS

- A. The cost of preparing proposals, project costs incurred prior to the start date of the funding agreement, indirect and overhead, and other New York State Funds may not be considered an eligible cost.
- B. The cash value of in-kind services must be reasonable; unsubstantiated or unreasonable values are subject to adjustment by the Department.
- C. No State funds shall be used toward the landowner's cost for legal or financial advisors for any awarded project.
- D. Awarded funds may be used for any of the following purposes directly related to **Conservation Easement Projects**:
 - i. value of the development rights being acquired, provided such value associated with any perpetual conservation easement is from an appraisal deemed acceptable to the Department.
 - ii. transactional costs acceptable to the Department, provided those are limited to the following –
 - a) title reports (including associated continuation fees until such time that title insurance is purchased);
 - b) title insurance;
 - c) property surveys;
 - d) appraisals;
 - e) easement holder's legal fees to negotiate/close the conservation easement transaction and to review title reports and, as necessary, to prepare title curatives;
 - f) project partner staff time to negotiate/close the conservation easement transaction, manage the preparation/compilation of required deliverables, and locally administer the awarded funding agreement;
 - g) recording fees; and
 - h) easement stewardship fee.

No State funds shall be used toward state or local real estate transfer taxes or toward the landowner's cost for legal or financial advisors.

New York State Department of Agriculture and Markets

E. Awarded funds may be used for any of the following purposes directly related to **Incentive Payment Projects**:

- i. annual incentive payments to the participating landowner, *provided* –
 - The basis of such annual payments shall be 1.5% of “land only” assessed value of subject lands from most recently available final assessment roll following an indexing adjustment to 100% Uniform Percent of Value; and
 - Only in the event of the conveyance of a perpetual conservation easement on the lands subject to the incentive payment agreement during the term of said agreement, any undisbursed balance of annual incentive payments may be disbursed to the participating landowner as satisfaction of protecting the subject lands for the remainder of the incentive payment agreement.
- ii. project administration costs acceptable to the Department, provided those are limited to the following –
 - project partner staff time to negotiate and administer the incentive payment agreement (including its enforcement), manage the preparation/compilation of required deliverables, and locally administer the awarded funding agreement;
 - applicant’s legal fees to negotiate/create the incentive payment agreement; and
 - conducting required annual monitoring visit (whether by applicant, another project sponsor or a consultant retained by the applicant) to lands subject to an incentive payment agreement.

No State funds shall be used toward the landowner’s cost for legal or financial advisors.

LOCAL MATCH REQUIREMENTS

A. The following general requirements apply to **all** proposals:

- Any governmental entity providing a cash contribution must submit a copy of a letter from its governing body acknowledging its cash contribution. The governmental entity must submit a copy of a resolution from its governing body formally obligating its cash match before the State will approve a funding agreement with the successful applicant.
- As applicable, any other entity (including participating landowners) providing a local cash match must provide a letter from an authorized representative formally acknowledging the amount of its contribution.

New York State Department of Agriculture and Markets

- None of the local cash contribution shall be from a State source of financial assistance.
 - Cash and in-kind match must be for items that are eligible costs and may be provided by the applicant or other supporters of the project.
 - Local match may include in-kind contributions, but the amount of in-kind shall be limited to no more than 80% of total administrative costs of the proposed project, or \$25,000, whichever is less.
- B. For any **Conservation Easement Project**, there are particular match stipulations for each of the differing levels of State contribution awarded as noted below.
- (1) Proposals seeking a State contribution of 87.5% of total eligible project costs:
- Landowner shall provide local match contribution of 12.5% of total eligible project costs.
- (2) Proposals seeking a State contribution of **up to** 75% of total eligible project costs:
- Local match contribution shall be at least 25% of total eligible project costs, which must include a cash match of 5% of total project costs or \$5,000, whichever amount is less. However, this local cash match requirement is waived whenever a participating landowner donates the *full value* of development rights for the conservation easement(s) comprising the proposed project.
 - Local cash contribution shall not be from any Federal farmland protection funding source.
 - Local cash contribution may be provided, but only in part, by the participating landowner(s).
- (3) Proposals seeking a State contribution of **up to** 25% of easement purchase price plus eligible transaction costs:
- Local match contribution must cover **all** of the remaining eligible total project costs and may be provided, but only in part, by the participating landowner(s).
 - Applicant must subsequently be awarded Federal farmland protection funding within the funding agreement term. Such Federal farmland protection funding awarded to the applicant shall be deemed part of the required local match contribution.
- C. For any **Incentive Payment Project**, there are particular match stipulations for the State contribution awarded as noted below.
- (1) Proposals seeking a State contribution of **up to** 75% of total eligible project costs:
- Local match contribution shall be at least 25% of eligible total project costs, which must include a cash contribution of at least 25% of the total incentive payment amount to be paid to the participating landowner(s).
 - Local match contributions are **not** eligible from participating landowner(s).

New York State Department of Agriculture and Markets

PAYMENT AND REPORTING

- A. Upon approval of this Agreement by the State, any payment provided to the Contractor under this Agreement shall be subject to authorization by the Division of Budget and will occur according to the applicable payment schedule table beginning on the next page. No reimbursement payments under this Agreement will be made by the **Department** to the **Contractor** unless the **Contractor** provides supporting cost documentation to support how the advance payment funding was spent on the awarded project. For any **Conservation Easement Project** associated with Federal farmland protection monies, no advance payment shall be disbursed by the State until the successful applicant provides proof of a Federal funding agreement to the Department.

After receiving the advance payment from the State as described in Attachment D, the **Contractor** agrees to thereafter fully fund the awarded project and then seek partial reimbursement from the **Department** for eligible project costs. Such reimbursement payments shall be made upon approval by the **Department** and the Comptroller of vouchers executed by an authorized officer of the **Contractor**. The **Contractor** will be entitled to receive reimbursement payments for work and/or services rendered as detailed and described in Attachment C and Attachment D of this Agreement. Claims for reimbursement must be accompanied by such receipts and documents verifying expenditures as may be required by the **Department** and by the Comptroller. Satisfactory documentation shall include, but is not limited to, signed copies of payment vouchers or invoices or canceled checks, and any further documentation as may be required by the **Department** and/or the Comptroller. The **Department** reserves the right, in its sole discretion, to determine if the reimbursement request and accompanying documentation submitted by the **Contractor** is in satisfactory form and substance.

- B. The **Department** will process final payment for this Agreement after it has determined that the project was completed satisfactorily and after the **Department** has received and accepted the final report and all required final close-out payment documentation in accordance with the direction and requirements described in Attachment D.

New York State Department of Agriculture and Markets

Conservation Easement Projects - PAYMENT AND REPORTING SCHEDULE

TIMING	MILESTONES / DELIVERABLES	SCHEDULED PAYMENT ⁹ (State Contribution)
Contract Approval Date	Final approval of funding agreement by New York State.	Advance Payment includes: <ul style="list-style-type: none"> • \$1,500 title report stipend • 50% of cost for project partners' staff time • 50% of cost for Grantee's legal fees
Month 1 to 3	Submission for Preliminary Review: <ul style="list-style-type: none"> • See Attachment A-1 of sample funding agreement for required project deliverables. 	
Month 4 to 5	Department Preliminary Approval of project.	Interim Payment #1 includes reimbursement for incurred costs: <ul style="list-style-type: none"> <li style="width: 50%;">• Appraisal <li style="width: 50%;">• Survey <li style="width: 50%;">• Baseline documentation report <li style="width: 50%;">• Grantee's legal fees <li style="width: 50%;">• Project partners' staff time
Month 6 to 18	Submission of Project File: <ul style="list-style-type: none"> • See Attachment A-1 of sample funding agreement for required project deliverables. 	
- -	Department approval of Project File.	Interim Payment #2 includes: Balance of contract award, less State contribution toward easement stewardship.
120 Calendar Days (After receipt of Interim Payment 2)	Submission of Final Report: <ul style="list-style-type: none"> • See Attachment A-1 of sample funding agreement for required project deliverables. 	
- -	Department approval of Final Report.	Final Payment includes: State contribution toward easement stewardship

⁹ All payments are disbursed on a first approved, first paid basis. All disbursements to successful applicants are as authorized by the NYS Division of the Budget and the NYS Office of State Comptroller. For any **Conservation Easement Project** associated with Federal farmland protection monies, no advance payment shall be disbursed by the State until the successful applicant provides proof of a Federal funding agreement to the Department.

New York State Department of Agriculture and Markets

Incentive Payment Projects - PAYMENT AND REPORTING SCHEDULE

TIMING	MILESTONES / DELIVERABLES	SCHEDULED PAYMENT¹⁰ of State Contribution
Contract Approval Date	Final approval of funding agreement by New York State.	Advance payment shall be 15% of total award.
Month 1 to 4	Submission of Project File <ul style="list-style-type: none"> See Attachment A-1 of sample funding agreement for required project deliverables. 	N/A
Month 5 to 6	Department approval of Project File.	N/A
Duration of Contract	Submission of annual Interim Reports <ul style="list-style-type: none"> See Attachment A-1 of sample funding agreement for required project deliverables. 	N/A
- -	Department approval of annual Interim Report.	Annual Interim Payments includes reimbursement for incurred costs: <ul style="list-style-type: none"> annual landowner incentive payment annual administrative costs annual monitoring site visit expenses
90 Calendar Days (Within expiration of funding agreement OR after early termination of incentive payment agreement)	Submission of Final Report <ul style="list-style-type: none"> See Attachment A-1 of sample funding agreement for required project deliverables. 	N/A
- -	Department approval of Final Report.	Final Payment includes reimbursement of remaining incurred costs: <ul style="list-style-type: none"> annual landowner incentive payment annual administrative costs annual monitoring site visit expenses

¹⁰ All payments are disbursed on a first approved, first paid basis. All disbursements to successful applicants are as authorized by the NYS Division of the Budget and the NYS Office of State Comptroller.

New York State Department of Agriculture and Markets

PROJECT DELIVERABLES

Required deliverables for awarded projects are described in (1) and (2) below.

(1) Conservation Easement Projects

Preliminary Review

All Conservation Easement Projects must receive the Department's preliminary approval before proceeding to compile a complete project file. The project deliverables required for a preliminary review include the following –

- (1) **Title report *plus* title curatives letter** from Grantee attorney explaining how clear title will be ensured for the proposed conservation easement transaction;
- (2) **Draft conservation easement(s)** associated with the proposed project, *provided:*
 - *For **Conservation Easement Projects** receiving an award of 87.5% of total project costs*, the red-lined draft document submitted shall use the Department's 2014 version as its template.
 - *For **Conservation Easement Projects** receiving an award of 25% of easement purchase price *plus* transaction costs*, the draft document submitted will be the version to be submitted for funding disbursement approval from the Federal agency administering the Federal farmland protection grant.
 - *For all other awarded **Conservation Easement Projects***, the red-lined draft document submitted shall be the Grantee's proposed easement into which the Department's required provisions have been incorporated without modifications thereto.
- (3) **Site plan** for each draft conservation easement that has been signed by all owners of the land associated with each draft conservation easement and that has also been signed by a representative of the Grantee.

As part of the preliminary review of the proposed project, the Department's Farmland Protection Program Manager shall conduct a site visit with the Grantee and participating landowner(s) to review the proposed site plan. If the site visit reveals information or landscape conditions that are either inconsistent with the Department's guidance documents or deemed otherwise unacceptable to the Department **and** any such matters cannot be resolved to the satisfaction of the Department, the Department may terminate the funding agreement and withdraw the State award.

Project File

New York State Department of Agriculture and Markets

After the Department has given its preliminary approval of the proposed **Conservation Easement Project**, the local project manager should submit to the **Department** within eighteen (18) months of state approval of the funding agreement the following required project deliverables (referred to as a complete project file):

- (1) **Landowner letter of intent** that has been signed by each owner of the land to be subject to each conservation easement comprising the proposed project;
- (2) **Financial worksheet** (version of which is determined by the value of development rights associated with the conservation easement comprising the proposed project);
- (3) **Appraisal report** (summary or self-contained report);
- (4) **Final draft conservation easement(s)** associated with the proposed project, *provided* each such final draft is an updated red-lined version of the document that received the Department's preliminary approval as noted above;
- (5) **Certification of title curatives** from Grantee attorney *plus*
 - (a) copies of any attachments referenced in the certification,
 - (b) copies of all proposed title curatives,
 - (c) a copy of the cover sheet of commitment for title insurance indicating the amount of proposed coverage, and
 - (d) (only if any new title issues have been discovered during the preparation of the commitment for title insurance that must now also be addressed) a boundary survey of the proposed easement area; and
- (6) (if applicable) **Waiver of preliminary/final notice of intent** that is fully executed by all signatory parties.

Final Report

After the Department approves the proposed **Conservation Easement Project** for disbursement of interim payment #2 (refer to "Conservation Easement Projects - Payment and Reporting Schedule"), a complete final report must be submitted by the local project manager to the **Department** within 120 calendar days of local receipt of interim payment #2. The required project deliverables comprising a final report include the following:

- (1) **Conservation Easement Closing Certification** that has been signed by the local project manager and the Grantee's attorney;
- (2) **Title insurance policy**;
- (3) **Conservation easement(s)** as recorded in the County(ies) in which the subject lands are located; and

New York State Department of Agriculture and Markets

- (4) **Project Closing Statement** spreadsheet *plus* supporting documentation as noted thereon.

(2) Incentive Payment Projects

Project File

A complete project file should be submitted by the local project manager to the **Department** within six (6) months of state approval of the funding agreement. The required project deliverables (referred to as a complete project file) include the following:

- (1) **Landowner letter of intent** that has been signed by each owner of the land to be subject to the incentive payment agreement comprising the proposed project;
- (2) **Draft landowner incentive payment agreement**, *provided* the agreement contains:
 - (a) total amount of incentive payment to be paid to the participating landowner(s);
 - (b) Department's required provisions without modifications thereto;
 - (c) procedure and protocol associated with the annual monitoring site visit to be conducted on the land subject to the proposed incentive payment agreement;
 - (d) early termination provision, but only if such early termination results in the participating landowner (i) conveying a perpetual conservation easement on the lands subject to the incentive payment agreement, or (ii) reimbursing at least the State's contribution toward the incentive payments received;
 - (e) procedure and protocol regarding the successful applicant's recoupment from the participating landowner(s) of at least the State's contribution toward the incentive payment amount paid thereto in the event of early termination of the incentive payment agreement except when early termination is the result of the conveyance of a perpetual conservation easement on the lands subject to the incentive payment agreement;
 - (f) map(s) showing designation of all Prime Soils and all Soils of Statewide Importance for the viable agricultural lands subject to the incentive payment agreement; and
- (3) **Financial worksheet** (version specifically for an **Incentive Payment Project**).

Interim Reports

New York State Department of Agriculture and Markets

After the Department approves the project file for the **Incentive Payment Project**, the first interim disbursement (refer to “Incentive Payment Projects-Payment and Reporting Schedule”) will be initiated. To request the first interim disbursement, the local project manager shall submit to the **Department** the following required project deliverables:

- (1) **Incentive payment agreement** that has been fully executed by all signatory parties; and
- (2) **Claim for Payment** *plus* supporting documentation.

Beginning with the first anniversary of the effective date of the incentive payment agreement and continuing each successive year thereafter throughout the duration of said agreement, the local project manager shall submit within sixty (60) calendar days following each such anniversary date the following required project deliverables:

- (1) Copy of **annual monitoring site visit report** associated with the most recent monitoring site visit, including documentation of continued agricultural use of the lands subject to the incentive payment agreement; and
- (2) **Claim for Payment** *plus* supporting documentation.

Final Report

Not later than ninety (90) calendar days after the expiration of the funding agreement awarded through this RFP or within ninety (90) calendar days of any early termination of the incentive payment agreement, the local project manager shall submit a final report comprised of these required project deliverables:

- (1) Copy of **annual monitoring site visit report** associated with the most recent monitoring site visit, including documentation of continued agricultural use of the lands subject to the incentive payment agreement;
- (2) **Claim for Payment** *plus* supporting documentation; and
- (3) **Project Completion Statement** spreadsheet *plus* supporting documentation as noted thereon.

ENVIRONMENTAL PROTECTION FUND ACKNOWLEDGEMENT

- A. If applicable, in recognition of a portion of the **Department** funds utilized for the work completed under this Agreement, the **Contractor** agrees to acknowledge in any communication to the public, that such funding was provided from the Environmental Protection Fund as administered by the New York State Department of Agriculture and Markets.

NOTIFICATIONS

New York State Department of Agriculture and Markets

Notices to the **Department** shall be addressed to:

David Behm, Farmland Protection Program Manager
New York State Department of Agriculture and Markets
Division of Land and Water Resources
10B Airline Drive
Albany, New York 12235

Other communications to the **Department** regarding the work associated with this Agreement, including required project deliverables, may be directed to David Behm via email (david.behm@agriculture.ny.gov) or telephone (518-485-7729).

The **Contractor's** authorized representative for the implementation of this Agreement is _____ . Notices to the **Contractor** shall be addressed to the primary mailing address that appears on the face page of this Agreement.

_____, New York _____

Other communications to the **Contractor** regarding the work associated with this Agreement, including required deliverables, shall be directed to the authorized representative identified above via email (_____) or telephone (____ - ____ - _____).

APPENDIX B:

This page is a placeholder for the insertion of "Attachment B-1" and "Attachment B-4" (a through c, depending upon the type of project) to the Master Contract.

APPENDIX C:

This page is a placeholder for the insertion of the "Attachment C" to the Master Contract.

APPENDIX D:

This page is a placeholder for the insertion of the "Attachment D" to the Master Contract.

APPENDIX G – AGRICULTURAL AND FARMLAND PROTECTION TECHNIQUES

Agricultural and Farmland Protection Techniques

A. Summary of Alternative Approaches

1. Conservation Easements/ Purchase of Development Rights.....	1
a. Private, voluntary conservation easements	1
b. Public purchase of development rights	1
c. Funding options for local purchase of development rights.....	2
2. Term easement program (“Lease of Development Rights”)	3
3. Zoning and Subdivision Techniques	4
a. Agricultural Protection Zoning District	4
b. Incentive zoning.....	4
c. Conservation Subdivisions (Clustering)	4
d. Farm-Friendly Subdivision Design.....	5
e. Planning Board review of subdivisions	6
f. Regulation of Impacts from Agribusinesses	7
4. Tax Relief Programs	7
5. Business Development Programs	8
a. Business Development Financing.....	8
b. Promotion of Local Farm Products.....	9
c. Technical Assistance for the Development of New Products.....	9
d. Recruit Agricultural Support Businesses	9
6. Promotion and Public Information	9
7. “Right to Farm” Laws.....	10
a. Local “Right to Farm” Law	10
b. Right to Farm Provisions of New York State Agricultural District Law	10
8. Programs to minimize the impact of water and sewer line extensions.....	10
a. Notice of Intent Process	10
b. Lateral Restrictions	11

B. Excerpts from NYS Law

- a. GML Sec 247: Acquisition of Open Spaces and Areas
- b. Town Law Sec. 261-b: Incentive zoning

Agricultural and Farmland Protection Techniques

Several tools and techniques are available to local governments, individual landowners and private organizations to help meet the goal of retaining farmland and encouraging the continued viability of agriculture.

1. Conservation Easements/ Purchase of Development Rights

A conservation easement is a legal document that limits future development on land. Landowners voluntarily participate in easement or purchase of development rights programs. As conservation easements permanently protect land from development, they are a very effective tool for the retention of farmland. Conservation easements may be acquired by a not-for-profit organization such as a land trust, or by a governmental entity through a “purchase of development rights” program.

a. Private, voluntary conservation easements

Landowners may place farmland under a permanent conservation easement to be held and monitored by a private land trust or other non-profit organization. The donation of easements may be helpful to some families in estate planning as the value of the easement can be claimed as a tax deduction.

Landowners may place farmland under a permanent conservation easement to be held and monitored either by a governmental entity or by a private land trust or other non-profit organization. The donation of easements may be helpful to some families in estate planning, as the value of the donated easement can be claimed as a tax deduction. Donation of easements provides permanent protection of farmland and open space at no cost to the town. Landowners would decide voluntarily to donate.

Land trusts often work with landowners to determine whether a conservation easement would be an appropriate way to preserve land. The Genesee Land Trust, based in Rochester, is a private, non-profit land trust that accepts donations of property or development rights and works with individual landowners and community leaders to protect land resources. The Genesee Land Trust works with several towns in Monroe and neighboring counties to provide information to landowners about the option of donating conservation easements.

Land trust staff are often available to speak with landowners about their options regarding the preservation of their properties for continued agricultural or other conservation uses.

b. Public purchase of development rights

Purchase of Development Rights (PDR) is a program which compensates owners of farmland in exchange for an agreement to keep land from being developed. The value of the development rights is calculated as the difference between the value of the land for agricultural purposes and its value for development. A permanent conservation easement typically restricts future development on the parcel to agricultural buildings only. Placing an easement on a property does not affect the ownership of the parcel. The owner may continue to farm the parcel,

Agricultural and Farmland Protection Techniques

and/or sell it. The easement holder, which is either the Town or a private land trust, is responsible for ensuring that the property is not developed.

Although New York State has not accepted or awarded applications for funding for this program in several years, a new round of funding is expected to be announced in late 2013 or early 2014.

When development of a property is limited due to a permanent conservation easement, the assessment on the property must take into consideration the impact of the easement on the value of the property. This may result in reduced property taxes for the owner. However, in practice, properties that are receiving an agricultural use value assessment would continue to be assessed based on the agricultural value rather than the market value of the property.

PDR programs are regarded as fair to landowners, who receive fair market value for the development rights. The property remains privately owned and is assessed at a value that reflects its limited use. Such programs achieve permanent protection of farmland and open space.

New York State's PDR program has provided grants of up to 75% of the cost of purchasing development rights. The landowner or another entity such as the Town may provide the matching funds. Some landowners agree to sell their development rights for less than the appraised amount (known as a "bargain sale"), thereby donating the difference and often claiming a tax deduction for the amount donated.

New York State's program was suspended for several years while its administrators worked with previous grantees to complete easement purchases. The backlog appears to have been addressed and new applications were accepted in 2014.

c. Funding options for local purchase of development rights

Some local governments in New York State have directly purchased development rights to farmland. Examples include the Towns of Webster, Perinton, Penfield, Parma and Pittsford in Monroe County. Funding for the purchase of development rights typically is raised through bonding and requires a public hearing. Typically, a municipality will establish a Capital Reserve Fund that is dedicated to the purchase of land and/or conservation easements (development rights.)

The Town may accept donations of land or easements, or money to be used to purchase land or easements. Federal, State or County grants may be used to purchase farmland or development rights. The Town may also support applications for funding by assisting with upfront costs such as surveys and appraisals.

Capital Reserve Fund

Agricultural and Farmland Protection Techniques

A Capital Reserve Fund is authorized by General Municipal Law Article 11, Section 6-c and allows a municipality to accumulate funds for major purposes over a period of more than one year. If the fund specifies the parcels or interest in parcels to be acquired, a permissive referendum is required to create the fund. If the fund is created for purchase of properties or development rights in general, no permissive referendum is required to create the fund but a permissive referendum will be required before utilizing the funds for a specific purchase. The fund may be financed through annual appropriations.

The Town may issue bonds to finance the acquisition of land and/or development rights, or to finance the establishment of a fund for the purchase of land and/or development rights. If the bond will be financed over a period of more than five years, a permissive referendum is required.

Before using public funds, whether from a Reserve Fund or Bond, to purchase a particular property or development rights, the Town must publicize and hold a public hearing.

Potential Future Funding Sources

Tax incentives to raise funds for purchase of development rights would require authorization from the New York State legislature. Certain counties in New York State (Westchester and Putnam, Long Island) have been authorized to collect a tax on real estate transfers to fund preservation of natural and historic resources. Bills to authorize such a tax statewide have been introduced but not approved by the NYS Legislature. A real estate transfer tax would be most effective in municipalities with very high value real estate and a large quantity of transactions each year.

Private foundations may be a source of funding for purchase of development rights.

Incentive zoning may be used to fund land protection efforts (see description below). (NOTE: The fees required as part of subdivision approval in lieu of park land must be used to support recreation land purchase or programs.)

Other innovative funding sources may have potential, but require further research and possibly authorization by NYS legislation. For example, the use of permit fees for land protection is not likely to be permitted as such fees must be used to support the cost of regulating building activity. The imposition of other fees on development may need to be specifically authorized by the NYS Legislature.

2. Term easement program (“Lease of Development Rights”)

Certain municipalities in New York State administer a voluntary term easement program to encourage landowners to keep farmland and other open space undeveloped for a specified period of time. The easements typically require that the land remain undeveloped or in active farm use. The Town Assessor considers the impact of the easement on the value of the land for tax purposes. As a result, property taxes may be reduced.

Agricultural and Farmland Protection Techniques

Some towns impose a penalty on landowners if the easement is broken or cancelled. For example, the Town of Perinton in Monroe County requires that the property tax savings for the past five years must be repaid. The funds are placed into the Town's Open Space Acquisition Reserve Fund and have been used by Perinton to purchase nearly 800 acres of land and development rights.

3. Zoning and Subdivision Techniques

a. Agricultural Protection Zoning District

Zoning regulations can be used to provide support to agricultural businesses. For example, zoning in designated agricultural areas may allow for a range of businesses to be established in conjunction with a farm operation, including farm-related businesses and home-based businesses.

Some agricultural zoning district regulations limit the number of residential lots that can be created from a "parent" parcel. Regulations may require density averaging or use a "sliding scale" to limit the number of dwellings permitted. The regulations may also specify maximum (as well as minimum) lot sizes for non-farm development.

b. Incentive zoning

Land can be permanently protected by easement as part of an incentive zoning transaction.

Pursuant to NYS Town Law Section 261-b, incentive zoning may be used to encourage the private acquisition of agricultural conservation easements or to collect money toward a public fund to purchase such easements (development rights). The Town would need to specify in its incentive zoning regulations that development rights for the protection of farmland would be an acceptable incentive.

Incentive zoning is fair to the owners of land to be preserved, as a developer must purchase the development rights at fair market value in order to obtain a density incentive. The technique does not diminish the development potential of land to be developed.

The technique is fairly easy for the Town to administer, as the developer and the owner of the farmland or open space arrange the transaction privately. A developer who demonstrates that land will be preserved would be entitled to the density bonus on the property to be developed.

Use of this technique can result in the permanent protection of farmland or open space through a conservation easement at virtually no cost to the Town.

c. Conservation Subdivisions (Clustering)

Land can be permanently protected by easement as part of a conservation subdivision. Conservation subdivisions, also known as clustering, allow residences to be built on smaller lot

Agricultural and Farmland Protection Techniques

sizes than would otherwise be permitted by zoning, provided that the number of units that could be constructed on the parcel with a conventional design is not exceeded.

Typically, an applicant would design a conventional subdivision for the site, with all of the lots meeting the minimum lot size, in order to determine the number of dwelling units that could be accommodated. The conservation features to be protected are delineated next, and the house lots laid out on the remaining lands. An example of a conservation subdivision is provided in Appendix B.

The house lots should be sited in locations that are least suitable for farming, and that offer the most appealing views of open space and natural resources. The subdivision design should incorporate buffers between the new residential development and the remaining farmland. A conservation easement would be placed on the farmland to prevent future development.

d. Farm-Friendly Subdivision Design

The way new residential subdivisions are designed can minimize the potential for conflict. “Farm friendly” design is important even when only one or two new lots are created from a parent parcel. Such considerations include:

- Incorporate buffers between the residences and adjoining farmland. Such buffers should be part of the design of the residential development.
- Avoid disturbing agricultural infrastructure such as access roads and drainage facilities

Agricultural and Farmland Protection Techniques

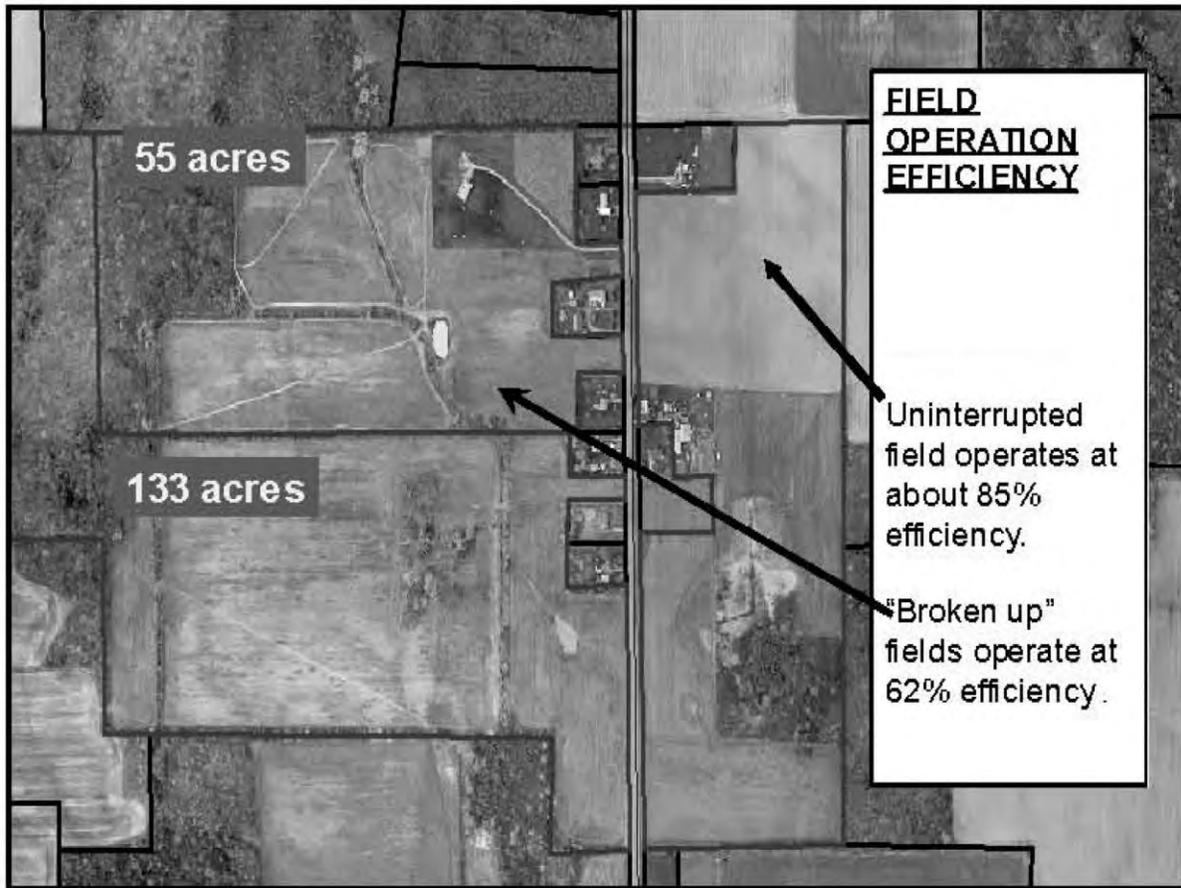


Figure 1. Field Operation Efficiency

e. Planning Board review of subdivisions

The design of subdivisions can also minimize the conversion of high quality farmland by requiring or encouraging development on the least productive portion of the parcel.

Through the subdivision review process, Towns can authorize their Planning Boards to manage the design of new residential development to minimize the potential for conflict. For example, the layout of new house lots can be designed to avoid impacts to efficient farm operations, access roads and drainage facilities, and to maintain buffers between farms and residences.

Planning Board review of the creation of one or more new lots could reduce the potential for new lots to be designed in a manner that is not “farm friendly.” The Town Board would need to modify the Town’s subdivision review law to give the Planning Board the authority to review the creation of one or more new lots. (See Zoning Audit in Appendix B.)

Agricultural and Farmland Protection Techniques

“Conservation subdivisions,” also known as density averaging or clustered subdivisions, can result in the retention of farmland for agricultural use by increasing density on a portion of the parcel. This technique works best when the zoning district requires very low densities of development.

Incorporate buffers into design of non-farm residential development

Through local zoning and subdivision review regulations, the Town Planning Board can encourage or require that new residential development is designed to minimize the potential for conflict between agricultural operations and neighboring farms. For example, new house lots should be sited to ensure that they do not impede efficient farm operations, do not disturb drainage, and maintain buffers between the farm fields and house lots.

f. Regulation of Impacts from Agribusinesses

Zoning regulations can help to prevent or alleviate conflicts with neighbors relating to agribusiness and entertainment uses. The Town may regulate ancillary activities, such as outdoor entertainment, provided that such activities are not determined by the NYS Department of Agriculture & Markets to be agricultural practices. Such regulations should balance the need to maintain the quality of life of residential neighborhoods with the regional economic benefit of agri-tourism businesses.

4. Tax Relief Programs

Farming utilizes large amounts of land but does not demand proportionally large expenditures from local governments. In response to this situation, New York State has established programs to reduce property taxes on farmland that meets certain eligibility requirements.

Agricultural Use Assessments base property taxes on the value of the land as farmland, rather than its value for development. In order to be eligible, the farmland must be used by a farm operation that generates at least \$10,000 a year from a farm operation as defined by New York State Agricultural Law. (See Circular 1150 in Appendix C.) Farms located within a certified Agricultural Districts, as well as farms outside a District that meet certain requirements, may be eligible to receive Agricultural Use Assessments. Agricultural Use Assessment is also available to landowners who rent the property to an eligible farmer.

Agricultural use value property tax assessment typically results in a significant reduction in the amount of taxes paid by the landowner. The use value assessment is set by a formula developed by NYS Department of Agriculture & Markets that is based on soil types. In areas where the land is valuable for development purposes, the agricultural use value will be much lower than the market value, resulting in significantly lower property taxes. However, in areas where farming is the “highest and best use” of the property – where a farmer is likely to pay as much for the land as anyone else - the agricultural use value may be the same as the market value.

Agricultural and Farmland Protection Techniques

While agricultural use assessments are applied automatically to property taxes levied by municipalities and school districts, fire districts must “opt in.” To do so, the governing body needs to pass a resolution agreeing to utilize agricultural use assessments.

- New York State has established the **Farmers School Property Tax Credit** program for eligible farmers to receive refunds of up to 100% of School taxes on up to 350 acres of agricultural land, and 50% of School taxes on acreage in excess of 350 acres. To be eligible for this tax credit, farmers must earn at least 2/3 of their income in excess of \$30,000 from farming. The credit may be claimed in the farmer’s annual NYS tax return.
- Farm worker housing is exempt from property taxes, provided that the facility meets all safety and health standards set by the State building code and the NYS Department of Labor.
- Renovation of a historic barn for continued agricultural use qualifies for a property tax exemption.
- Certain property and services used in agricultural production is exempt from sales tax. Farmers need to complete Form ST-125.

5. Business Development Programs

a. Business Development Financing

The County Industrial Development Agency (IDA) offers financial incentives for industries – including agricultural products processing – that create or retain jobs. Low-interest loans, sales tax exemptions, and payments-in-lieu-of-taxes are available to help finance the purchase of new equipment and/or the expansion of facilities.

Some New York counties have established agricultural economic development revolving loan programs to help create or expand value-added and direct marketing opportunities. Loans of up to \$25,000 may be available for farm stand infrastructure (construction, design development, market analysis, etc.), value-added agricultural product development, training for cheese-making, meat-cutting or other agricultural processing initiatives, training and equipment to ensure food safety and security, and promotional materials for agri-businesses (such as websites, pamphlets, signage, etc.).

The NYS Office for Community Renewal’s CDBG program can also provide grants or loans for the construction of infrastructure to support business diversification or expansion activities that would result in the creation or retention of jobs. In Monroe County, these funds are made available through the CDBG Consortium.

Agricultural and Farmland Protection Techniques

Grants for the installation of renewable energy or energy efficiency improvements are available through NYSERDA and the NYS Department of Agriculture and Markets. (See Appendix J for additional information.)

The NYS Department of Agriculture & Markets periodically offers grants through the NYS Consolidated Funding Application (CFA) process, administered through the Regional Economic Councils. In 2012, up to \$3 million statewide was available for the Agriculture Development Program, which provided grants to assist with construction, expansion or renovation of agricultural facilities or operations relating to the production, processing, warehousing or distribution of NYS crops and livestock. In addition, NYS tax credits were available through the Excelsior Jobs Program for investment in agricultural production and support businesses that create at least 10 new jobs.

b. Promotion of Local Farm Products

Organizations such as Cornell Cooperative Extension are active in promoting farm markets, roadside stands and agri-tourism operations.

Several State and regional programs have been established to promote local products and raise public awareness of the contributions of the agricultural industry. For example, the “Pride of New York” program, administered by the NYS Department of Agriculture and Markets, offers labeling and promotional materials to participating farmers and encourages consumers to purchase products that are produced in New York State.

c. Technical Assistance for the Development of New Products

Potential entrepreneurs can access the resources of the NYS Food Venture Center, which is administered by Cornell University and located in Geneva. Information about the preparation of business plans and small loans are available through Cornell Cooperative Extension (<http://cce.cornell.edu>) and the Small Farms Program (<http://smallfarms.cornell.edu>).

d. Recruit Agricultural Support Businesses

In addition to providing for agricultural support businesses through zoning regulations, the Town, working with County and State officials, can establish a policy that welcomes such businesses to the Town in appropriate locations.

6. Promotion and Public Information

Public education activities undertaken by farmers, municipalities or other agencies can help to raise public awareness of the importance of the agricultural industry to the region’s economy and to help residents understand farm practices.

Some coordinated public outreach efforts are initiated and carried out by farmers. For example, a group of dairy farmers in LeRoy, Genesee County New York, cooperatively place an ad in the local Pennysaver each spring to notify residents about their need to spread manure,

Agricultural and Farmland Protection Techniques

and give phone numbers to call with any questions. This outreach helps to reduce complaints. The farmers are willing, when possible, to schedule manure spreading to avoid holidays or days when neighbors have outdoor events planned.

7. “Right to Farm” Laws

a. Local “Right to Farm” Law

Local “right to farm” laws typically clearly state a municipality’s policy in support of farming, define “generally accepted agricultural practices,” and affirm a farmer’s right to employ such practices. The laws also include a statement that farm practices may include odors, noise and other activities.

Such a law often establishes a local “grievance” procedure to resolve complaints between farmers and non-farm neighbors. A local committee consisting of local farmers as well as non-farming residents, may be formed to hear and resolve complaints. Municipalities may also appoint an existing committee, such as the Planning Board or the Conservation Board, to act as the Grievance Committee.

b. Right to Farm Provisions of New York State Agricultural District Law

The NYS Agricultural Districts Law requires developers to prepare and submit an Agricultural Data Statement when a project may impact farm properties within a County Agricultural District (see forms in Appendix L.) It also includes a requirement that buyers of property within an Agricultural District sign a form that notifies them of potential noise, odors and other impacts associated with agricultural areas. A copy of Agricultural Districts Law is included in Appendix C.

8. Programs to minimize the impact of water and sewer lines extensions into agricultural areas

Tools available to municipalities to minimize the impacts of sewer and water line extensions on agricultural land include the “Notice of Intent” process mandated by the NYS Agricultural Districts Law and restrictions on non-agricultural hook-ups.

a. Notice of Intent Process

Section 305 of the Agricultural Districts law requires local governments, before extending a water or sewer line that would serve non-farm structures within an Agricultural District, to file a preliminary and a final Notice of Intent with the NYS Department of Agriculture and the County Agricultural & Farmland Protection Board. The law states:

Any ... local government ... which intends to construct, or advance a grant, loan, interest subsidy or other funds within a district to construct, ... water or sewer facilities to serve non-farm structures, shall use all practicable means in

Agricultural and Farmland Protection Techniques

undertaking such action to realize the policy and goals set forth in this article, and shall act and choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable minimize or avoid adverse impacts on agriculture in order to sustain a viable farm enterprise or enterprises within the district.

The Notice of Intent (NOI) must set forth:

- A description of the proposed action and its agricultural setting
- The agricultural impact of the proposed action, including short-term and long-term effects
- Any adverse impacts on agriculture that cannot be avoided
- Alternatives to the proposed action
- Any irreversible and irretrievable commitments of agricultural resources which would be involved in the proposed action
- Mitigation measures proposed to minimize the adverse impact of the proposed action on the continuing viability of farms within the district
- Any aspects of the proposed action that would encourage non-farm development

A preliminary notice must be filed before the municipality issues a determination of significance pursuant to the State Environmental Quality Review Act (SEQR). The final notice must be filed at least 65 days prior to the construction or advancement of public funds. The commissioner has 45 days from receipt of the final notice to determine whether the action may have an unreasonably adverse effect on farm viability, and may take an additional 60 days to review the proposed action and issue findings.

The Commissioner of Agriculture may propose reasonable or practical alternative actions that would minimize or avoid the adverse impact of the proposed action on agriculture. The municipality or funding agency may either accept the proposed alternative or certify that other actions have been taken to minimize impacts on agricultural operations.

b. Lateral Restrictions

Often, as an outcome of the Notice of Intent process, a municipality will adopt a resolution that restricts hookups for non-farm structures to a new water or sewer line that extends into an Agricultural District. The restriction on hookups would apply to non-agricultural structures for as long as the property is located within an Agricultural District.

Typical language for such a resolution is as follows:

Lateral Restriction - Conditions on Future Service

Agricultural and Farmland Protection Techniques

The [municipality] imposes the following conditions, as warranted or recommended on the management of water/sewer lines located along [location] within an agricultural district:

(1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within an agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action.

(2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident's property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.

(3) If it can be demonstrated to the Department's satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.

(4) If land is removed from a county adopted, State certified agricultural district, and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.

(5) Hydrants and valve boxes must not be placed directly in agricultural fields.

Agricultural and Farmland Protection Techniques

C. Reference Material

1. NYS General Municipal Law Sec 247: Acquisition of Open Spaces and Areas

NYS General Municipal Law

S 247. Acquisition of open spaces and areas.

1. Definitions. For the purposes of this chapter an "open space" or "open area" is any space or area characterized by (1) natural scenic beauty or, (2) whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources. For purposes of this section natural resources shall include but not be limited to agricultural lands defined as open lands actually used in bona fide agricultural production.

2. The acquisition of interests or rights in real property for the preservation of open spaces and areas shall constitute a public purpose for which public funds may be expended or advanced, and any county, city, town or village after due notice and a public hearing may acquire, by purchase, gift, grant, bequest, devise, lease or otherwise, the fee or any lesser interest, development right, easement, covenant, or other contractual right necessary to achieve the purposes of this chapter, to land within such municipality. In the case of a village the cost of such acquisition of interests or rights may be incurred wholly at the expense of the village, at the expense of the owners of the lands benefited thereby, or partly at the expense of such owners and partly at the expense of the village at large as a local improvement in the manner provided by article twenty-two in the village law entitled local improvements.

3. After acquisition of any such interest pursuant to this act the valuation placed on such an open space or area for purposes of real estate taxation shall take into account and be limited by the limitation on future use of the land.

4. For purposes of this section, any interest acquired pursuant to this section is hereby enforceable by and against the original parties and the successors in interest, heirs and assigns of the original parties, provided that a record of such acquisition is filed in the manner provided by section two hundred ninety-one of the real property law. Such enforceability shall not be defeated because of any subsequent adverse possession, laches, estoppel, waiver, change in character of the surrounding neighborhood or any rule of common law. No general law of the state which operates to defeat the enforcement of any interest in real property shall operate to defeat the enforcement of any acquisition pursuant to this section, unless such general law expressly states the intent to defeat the enforcement of any acquisition pursuant to this section.

Agricultural and Farmland Protection Techniques

2. N.Y. TOWN LAW § 261-b: Incentive zoning; definitions, purpose, conditions, procedures

1. Definitions. As used in this section:

- (a) "Incentives or bonuses" shall mean adjustments to the permissible population density, area, height, open space, use, or other provisions of a zoning ordinance or local law for a specific purpose authorized by the town board.
- (b) "Community benefits or amenities" shall mean open space, housing for persons of low or moderate income, parks, elder care, day care or other specific physical, social or cultural amenities, or cash in lieu thereof, of benefit to the residents of the community authorized by the town board.
- (c) "Incentive zoning" shall mean the system by which specific incentives or bonuses are granted, pursuant to this section, on condition that specific physical, social, or cultural benefits or amenities would inure to the community.

2. Authority and purposes. In addition to existing powers and authorities to regulate by planning or zoning, including authorization to provide for the granting of incentives, or bonuses pursuant to other enabling law, a town board is hereby empowered, as part of a zoning ordinance or local law adopted pursuant to this article, or by local law or ordinance adopted pursuant to other enabling law, to provide for a system of zoning incentives, or bonuses, as the town board deems necessary and appropriate consistent with the purposes and conditions set forth in this section. The purpose of the system of incentive, or bonus, zoning shall be to advance the town's specific physical, cultural and social policies in accordance with the town's comprehensive plan and in coordination with other community planning mechanisms or land use techniques. The system of zoning incentives or bonuses shall be in accordance with a comprehensive plan within the meaning of section two hundred sixty-three of this article. 3. Implementation. A system of zoning incentives or bonuses may be provided subject to the conditions hereinafter set forth.

- (a) The town board shall provide for the system of zoning incentives or bonuses pursuant to this section as part of the zoning ordinance or local law. In providing for such system the board shall follow the procedure for adopting and amending its zoning ordinance or local law, including all provisions for notice and public hearing applicable for changes or amendments to a zoning ordinance or local law.
- (b) Each zoning district in which incentives or bonuses may be awarded under this section shall be designated in the town zoning ordinance or local law and shall be incorporated in any map adopted in connection with such zoning ordinance or local law or amendment thereto.
- (c) Each zoning district in which incentives or bonuses may be authorized shall have been found by the town board, after evaluating the effects of any potential incentives which are possible by virtue of the provision of community amenities, to contain adequate resources, environmental quality and public facilities, including adequate transportation, water supply, waste disposal and fire protection. Further, the town board shall, in designating such districts, determine that there will be no significant

Agricultural and Farmland Protection Techniques

- environmentally damaging consequences and that such incentives or bonuses are compatible with the development otherwise permitted.
- (d) A generic environmental impact statement pursuant to the provisions of 6 NYCRR 617.15 shall be prepared by the town board for any zoning district in which the granting of incentives or bonuses have a significant effect on the environment before any such district is designated, and such statement shall be supplemented from time to time by the town board if there are material changes in circumstances that may result in significant adverse impacts. Any zoning ordinance or local law enacted pursuant to this section shall provide that any applicant for incentives or bonuses shall pay a proportionate share of the cost of preparing such environmental impact statement, and that such charge shall be added to any site-specific charge made pursuant to the provisions of section 8-0109 of the environmental conservation law.
 - (e) The town board shall set forth the procedure by which incentives may be provided to specific lands. Such procedure shall describe:
 - (i) the incentives, or bonuses, which may be granted by the town to the applicant;
 - (ii) the community benefits or amenities which may be accepted from the applicant by the town;
 - (iii) criteria for approval, including methods required for determining the adequacy of community amenities to be accepted from the applicant in exchange for the particular bonus or incentive to be granted to the applicant by the town;
 - (iv) the procedure for obtaining bonuses, including applications and the review process, and the imposition of terms and conditions attached to any approval; and
 - (v) provision for a public hearing, if such public hearing is required as part of a zoning ordinance or local law adopted pursuant to this section and give public notice thereof by the publication in the official newspaper of such hearing at least five days prior to the date thereof.
 - (f) All other requirements of article eight of the environmental conservation law shall be complied with by project sponsors for actions in areas for which a generic environmental impact statement has been prepared including preparation of an environmental assessment form and a supplemental environmental impact statement, if necessary.
 - (g) Prior to the adoption or amendment of the zoning ordinance or local law pursuant to this section to establish a system of zoning incentives or bonuses the town board shall evaluate the impact of the provision of such system of zoning incentives or bonuses upon the potential development of affordable housing gained by the provision of any such incentive or bonus afforded to an applicant or lost in the provision by an applicant of any community amenity to the town. Further, the town board shall determine that there is approximate equivalence between potential affordable housing lost or gained or that the town has or will take reasonable action to compensate for any negative impact upon the availability or potential development of affordable housing caused by the provisions of this section.

Agricultural and Farmland Protection Techniques

- (h) If the town board determines that a suitable community benefit or amenity is not immediately feasible, or otherwise not practical, the board may require, in lieu thereof, a payment to the town of a sum to be determined by the board. If cash is accepted in lieu of other community benefit or amenity, provision shall be made for such sum to be deposited in a trust fund to be used by the town board exclusively for specific community benefits authorized by the town board.
- 4. Invalidations. Nothing in this section shall be construed to invalidate any provision for incentives or bonuses heretofore adopted by any town board.

APPENDIX H – SAMPLE RESOLUTION TO ESTABLISH ADVISORY COMMITTEE

RESOLUTION
Establishing an Agricultural Advisory Committee
Adopted August 16, 2010

WHEREAS, on January 11/ 2010 the Town of Brutus adopted an Agriculture and Farmland Protection Plan; and

WHEREAS, the Brutus Agriculture and Farmland Protection Plan was subsequently reviewed and approved by the Cayuga County Agricultural and Farmland Protection Board and the New York State Department of Agriculture and Markets; and

WHEREAS, the resolution of Adoption approved by the Town Board also established “ an Agricultural Advisory Committee to assist the Town Board and other local agencies implement the recommendations of the Plan and generally advise the Town Board and other local agencies on matters impacting local agriculture; and ...to adopt at subsequent meetings such resolutions as may be necessary to establish the membership of the Agricultural Advisory Committee and facilitate its operations “¹

Now therefore be it

RESOLVED, that the Town Board of the Town of Brutus hereby establishes the

**Purpose, Structure, Operational Parameters, and Membership of the
Town of Brutus Agricultural Advisory Committee**

Section 1 – The purpose of the Agricultural Advisory Committee is to advise the Town Board and other Town agencies on matters pertaining to the preservation, promotion, and ongoing operation of agricultural activity in the Town of Brutus.

Section 2 –

- A. **Committee; Personnel; Appointment; Organization.** There is hereby established in the Town of Brutus a permanent committee to be known and designated as the "Town of Brutus Agricultural Advisory Committee" which shall consist of five (5) residents of the Town of Brutus who are engaged in farming, agri-business, or a vocation related to agriculture; and two (2) residents of the Town of Brutus who shall serve as ex-officio members, one of whom shall be a Town Board member and one who shall be a Planning Board member or alternate member. Ex-officio members shall only be eligible to serve on the committee while they hold the other cited Town office. The members of the said committee first appointed, shall serve for terms as follows: two (2) appointees for one (1) year terms; two (2) appointees for two (2) year terms and one (1) appointee for a three (3) year term. Thereafter, all appointments shall be for terms of three (3) years and vacancies shall be filled for the

¹ RESOLUTION – JANUARY 11, 2010, Approving the Town of Brutus Agriculture and Farmland Protection Plan

unexpired term only. The members shall serve until their respective successors are appointed. The members of the committee shall receive no compensation for their services.

The committee shall organize within thirty (30) days after the appointment of its total membership for the remainder of the then calendar year and thereafter annually and select from among its members a chairperson and such other officers as it may deem necessary. Said committee may establish rules of order and meet at once annually and from time to time as its rules of order might provide. The Agricultural Advisory Committee shall report to the Town Board and to such other Town agencies as may request its assistance.

- B. **Assistance.** The Agricultural Advisory Committee may request technical assistance and/or specialized advise from any resource it may deem appropriate, including but not limited to other local residents; other Town of Brutus officials; Cayuga County Planning,; Cayuga County Cooperative Extension; Cayuga County Soil and Water Conservation; Cayuga County Agriculture and Farmland Protection Board; American Farmland Trust; New York Agricultural Land Trust and NYS Agriculture and Markets. However, no contracts for payment for services or other expenditure of Town funds may be entered into by the Committee.

C. Funds for Committee Operations

As a citizen advisory committee, the Agricultural Advisory Committee may not authorize any expenditure of Town funds. Funds necessary for proper committee operation may be requested by the committee from the Town Board and, in accordance with customary procedures, the Town Board may authorize such funds and approve the expenditure thereof.

Section 3 - Responsibilities of Committee. The responsibilities of the committee shall be as follows:

1. To recommend methods, review proposals, and develop proposals for the implementation of the goals of the Town of Brutus Agriculture and Farmland Protection Plan and, report their findings to the Town Board.
2. To, from time to time, amend and update the Plan as needed and refer such updates and amendments to the Town Board.
3. To monitor local farming activity and determine existing issues facing farmers and those in related endeavors and to recommend reasonable and desirable solutions to the Town Board.
4. To monitor trends in agriculture, and local development so as to identify future issues, which will face farmers and those in related endeavors and to recommend reasonable and desirable solutions to the Town Board.
5. To identify methods whereby the Town Board, County or State governments can encourage existing farmers to continue in active agricultural operation.

6. To, when requested by the Town Board or other agencies engaged in and environmental review of proposed private or public development projects and/or infrastructure projects, provide input regarding the impacts on agriculture of such projects.
7. To recommend to the Town Board, Town Planning Board and/or other agencies techniques that will help preserve large, contiguous and economically viable tracts of agricultural land.
8. To communicate with local farmers that the Agricultural Advisory Committee exists and can offer direction and assistance in many cases, invite their participation in Committee activities, and either directly or through interaction with other government agencies advise them of benefits and protections to which they are entitled.
9. To facilitate the local presentation of educational programs by Cooperative Extension and other experts for farmers for the purposes of improving local farming practices and meeting the challenges the industry faces.
10. To assist in minimizing conflicts between agricultural uses and adjacent and nearby rural residential and commercial activities.
11. To encourage and assist applications to farmland preservation programs including but not limited to the New York State Purchase of Development Rights program, and, when such applications are submitted provide input into the review thereof.
12. To encourage appropriate conservation strategies and agricultural activities.
13. To study and comment on proposals by local, county, state or federal governments that may impact on local farms and farmlands.
14. To recommend to the Town Board reasonable and desirable changes to this listing of responsibilities.
15. To make an annual report to the Town Board setting forth and detailing the activities and operations of the committee during the preceding year.
16. To accomplish any other tasks referred to it by the Town Board or other local agencies having to do with agricultural related activities.