

# Agricultural Conservation Easement Program Guidelines



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## MISSION STATEMENT

*To forever preserve the beautiful farmland  
and productive soils of Lancaster County  
and its rich agricultural heritage; and  
to create a healthy environment for the  
long-term sustainability of the  
agricultural economy and farming as  
a way of life.*

Approved by the State Agricultural Land  
Preservation Board:  
December 16, 2004



## TABLE OF CONTENTS

	<b><u>Page</u></b>
Section I. Introduction .....	1
Section II. Statement of Purpose .....	2
Section III. Publication of the County Program .....	3
Section IV. Lancaster County Planning Map .....	3
Section V. Definitions .....	4
Section VI. Minimum Criteria for Applications .....	7
Section VII. Application Submission Schedule .....	9
Section VIII. Farmland Ranking System .....	9
Section IX. Operational Procedures for Acquiring Easements .....	17
Section X. Special Provisions for Parcels Not Entirely Within an ASA .....	30
Section XI. Local Government Participation .....	31
Section XII. Policies of the Agricultural Preserve Board .....	32
Section XIII. Responsibilities of Landowner .....	37
Section XIV. Subdivision Guidelines .....	40
Section XV. Procedures for Inspecting and Enforcing an Easement.....	51
Section XVI. Participation of Eligible Nonprofit Entities.....	53
Section XVII. Non-Act 43 Provisions.....	54

### ADDENDUM

- A. Resolution Establishing Program
- B. By-Laws
- C. Application
- D. County Agricultural Conservation Easement
- E. Rural Enterprises
- F. Lancaster County Planning Map



# I. INTRODUCTION

Lancaster County is blessed with some of the most productive agricultural land in the nation. The combination of soils, climate, cultural heritage, market proximity, work ethic, and infrastructure for agriculture have contributed to both exceptional productivity and stewardship of the land. Lancaster County is one of the leading agricultural counties in the nation. As the heart of Pennsylvania Dutch country, Lancaster County's agriculture provides a cherished way of life, occupies beautiful landscape, and is a major factor in the County's economic vitality. Much of the growth and development, which has taken place to meet the demands of an expanding population, has occurred on prime agricultural soils, which were once farmland. The conversion of farmland has occurred most extensively in the fertile limestone valley surrounding Lancaster City but has also happened in scattered development in all areas of Lancaster County.

Lancaster County's population is expected to increase to over 550,000 by 2010 compared to 422,000 in 1990. To accommodate these additional people, townships and boroughs have been adopting urban and village growth areas. Out of 41 townships, 39 have adopted various forms of agricultural zoning ordinances to keep development away from areas best suited for agricultural uses. At this time, approximately 320,000 acres are zoned for agriculture; roughly 276,000 are considered to be "effective agricultural zoning", allowing less than or equal to 1 housing unit per 20 acres.

Under the Agricultural Area Security Law (3 P.S. § § 901-915), as amended, the Agricultural Preserve Board must adopt rules and regulations for the administration of a countywide farmland preservation program. These rules and regulations govern the process the Agricultural Preserve Board must follow in order to preserve farmland and have been approved by State Agricultural Land Preservation Board.

Specifically, the Program Guidelines serve to establish the rules, regulations and operational procedures that the Agricultural Preserve Board and the staff must follow when operating a farmland preservation program.

**These Program Guidelines represent the policies and procedures to be used in the County's farmland preservation program as enabled by the following legislation:**

**"ACT 442"** – An Act of 1968 authorizing the Commonwealth of Pennsylvania and the counties thereof to preserve, acquire or hold land for open space uses.

**"ACT"** – The Agricultural Security Area Law, as amended (3 P.S. § § 901-915), this Act is the enabling legislation for the Agricultural Security Areas and subsequent easement purchase provisions.

**"ACE Regulations"** – The regulations relating to agricultural conservation easements, promulgated by the Pennsylvania Department of Agriculture under authority of the Act and published at Title 7 of the Pennsylvania Code, at Chapter 138e and any subsequent amendment thereof.

## **Authorization of Lancaster County Agricultural Preserve Board**

The Lancaster County Board of Commissioners in 1980 appointed a nine member Agricultural Preserve Board (County Board) to develop and administer a voluntary Deed Restriction program to preserve selected areas of the County's best agricultural land under Act 442. The County Commissioners re-established the Agricultural Preserve Board on May 10, 1989, under Resolution No. 54 of 1989, according to the provisions of Pennsylvania Act 43 ("Act") to administer a program to purchase agricultural conservation easements and advise the County Commissioners on other matters involving farmland preservation (See Addendum C.) The Board operates under a set of by-laws (See Addendum A.).

## **II. STATEMENT OF PURPOSE**

### **Objective**

The Agricultural Preserve Board desires to preserve Lancaster County's best agricultural land in a manner, which directs and accommodates growth and development.

### **Purpose**

It is the purpose of this program to protect viable agriculture land by acquiring agricultural conservation easements from landowners who voluntarily apply to the program. Agricultural conservation easements prevent the development or improvement of the land for any purpose other than agricultural production, and allow related agricultural activities. Further, it is the purpose of this program to:

1. Encourage landowners to make a long-term commitment to agriculture by offering them financial incentives and the security to farm.
2. Protect normal farming operations in Agricultural Security Areas from incompatible non-farm uses that may render farming impracticable.
3. Protect farming operations from complaints of public nuisance against normal farming operations.
4. Assure permanent conservation of viable agricultural lands in order to protect the agricultural economy of this Commonwealth.
5. Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property.
6. Maximize agricultural easement purchase funds and protect the investment of taxpayers through wise investments in conservation easement purchases.
7. Purchase agricultural conservation easements in perpetuity.
8. Encourage financial partnerships between State and local governments with nonprofit entities in order to increase the funds available for agricultural conservation easement purchases.

### **III. PUBLICATION OF THE COUNTY PROGRAM**

#### **A. Program Notification**

The County Board will use the following organizations to publicize the conservation easement program:

- Local agricultural organizations
- News media
- Township supervisors
- Township Agricultural Advisory Boards
- Direct mailings

#### **B. Program Information**

An information folder will be available to the public upon request and will include the following materials:

- Lancaster County program guidelines
- Process of preserving farmland handout
- Application form
- Sample Deed of Conservation Easement

The information folder may be requested by contacting the Lancaster County Agricultural Preserve Board at P.O. Box 83480, 50 North Duke St., Lancaster, PA 17608-3480 or calling (717) 299-8355.

The Board is subject to the Sunshine Act (65 P. S. § § 271-286) and the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. § § 66.1-66.4), known as the Right-To-Know Law, relating to the inspection and copying of public records.

### **IV. LANCASTER COUNTY PLANNING MAP**

The official title of this map is the Lancaster County Planning Map (see Addendum F.). The map was prepared in consultation with the Lancaster County Planning Commission and has been submitted to the State Board as part of County Program. It identifies the important agricultural areas of Lancaster County and may be used to locate specific land proposed for easement purchase.

The Lancaster County Planning Map identifies the municipalities within Lancaster County that have established Agricultural Security Areas (ASA) and delineates the approximate boundaries of those ASA's. Additionally, the Map identifies areas in Lancaster County considered farmland of importance and lands where development is occurring or is likely to occur in the next 20 years.

## V. DEFINITIONS

Unless otherwise stated the following definitions apply to words, terms and phrases used in these guidelines.

### Act

The Agricultural Area Security Law (3 P. S. § § 901-915).

### Agreement or Agreement of Sale

A document executed by a landowner and the county board to purchase a specific agricultural conservation easement as part of the county board's recommendation for purchase, and that includes all of the materials referenced and incorporated into the agreement, in accordance with section 14.1(h)(8.2) of the act (3 P. S. § 914.1(h)(8.2)).

### Agricultural Conservation Easement or Easement

An interest in land, less than fee simple, which interest represents the right to prevent the development or improvement of a parcel for a purpose other than agricultural production. The easement may be granted by the owner of the fee simple to a third party or to the Commonwealth, to a county governing body or to a unit of local government. It shall be granted in perpetuity, as the equivalent of covenants running with the land. The exercise or failure to exercise any right granted by the easement will not be deemed to be management or control of activities at the site for purposes of enforcement of the Hazardous Sites Cleanup Act (35 P. S. § § 6020.101-6020.1305).

### Agricultural Production

The production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of the crops, livestock or livestock products if more than 50% of the processed or merchandised products are produced by the farm operator. The term includes use of land, which is devoted to and meets the requirements of and qualifications for payments or other compensation under a soil conservation program under an agreement with an agency of the Federal government.

### Agricultural Security Area

A unit of 250 or more acres of land used for the agricultural production of crops, livestock and livestock products or of viable agricultural land a portion which is used for commercial equine activity, under the ownership of one or more persons and designated as such by the procedures in the act or designated as such under the act of January 19, 1968 (1967 P. L. 992, No. 442) (32 P. S. § § 5001-5012) prior to the February 12, 1989 effective date of the act of December 14, 1988 (P. L. 1202, No. 149), by the governing body of the county or governing body of the municipality in which the agricultural land is located on the basis of criteria and procedures which predate February 12, 1989: provided that an owner of land designated as such under the authority of the act of January 19, 1968 (1967 P. L. 992, No. 442) may withdraw the land from an agricultural security area by providing written notice of withdrawal to the county governing body or governing body of the municipality in which the land is located within 180 days of February 12, 1989.

### Commercial Equine Activity

The following activities where a fee is collected: The boarding of equines, training of equines, the instruction of people in handling, driving or riding equines, the use of equines for riding or driving purposes, the pasturing of equines. The term does not include activity licensed under the Act of December 17, 1981 (P.L. 435, NO. 135), known as the “Race Horse Industry Reform Act.”

### Conservation Plan

A plan describing land management practices which, when completely implemented, will improve and maintain the soil, water and related plant and animal resources of the land. A conservation plan shall include the following:

1. An installation schedule
2. A maintenance program
3. A nutrient management component consisting of a statement of whether a nutrient management plan is required under the Nutrient Management Act (3 P. S. § § 1701-1718) and, if required, confirmation that a plan is in place or will be in place prior to conveyance of the agricultural conservation easement. If a nutrient management plan is not required under the Nutrient Management Act, the nutrient management component shall consist of a description of the amounts and types of nutrients generated on the farmland tract and a description of any current and planned measures or procedures for containment, use, disposal or other disposition of the nutrients described.

### Contiguous Acreage

All portions of one operational unit as described in the deed whether or not the portions are divided by streams, public roads, bridges, and whether or not described as multiple tax parcels, tracts, purparts, or other property identifiers. The term includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.

### County Board

The county agricultural land preservation board as appointed by the county governing body under the act.

### Economic Viability of Farmland for Agricultural Production

The capability of a particular tract of restricted land, other than a tract of 2 acres or less upon which construction and use of the landowner’s principal residence or housing for seasonal or full-time farm employees is permitted under section 14.1(c)(6)(iv) of the act, to meet the criteria in § 138e.16(a) (relating to minimum criteria for applications).

### Eligible Nonprofit Entity

An entity that provides the Lancaster County Agricultural Preserve Board satisfactory proof of all of the following:

1. That the entity is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. Section 501(c)(3)).
2. That the entity has experience acquiring, whether through purchase, donation, or other transfer, an agricultural or other conservation easement.”

### Farmland Tract or Tract

Land constituting all or part of a farm with respect to which easement purchase is proposed. A farmland tract may consist of multiple tracts of land that are identifiable by separate tax parcel numbers, separate deeds or other methods of property identification.

### Grantee

The person or entity to whom an easement is conveyed under the act.

### Harm the Economic Viability of the Farmland for Agricultural Production

To cause a particular tract of restricted land to fail to meet the criteria in § 138e.16(a) or to create, through subdivision, a tract of restricted land, other than a tract of 2 acres or less upon which construction and use of the landowner’s principal residence or housing for seasonal or full-time farm employees is permitted under section 14.1(c)(6)(iv) of the act, that would fail to meet the criteria in § 138e.16(a).

### Land Development

One of the following activities:

1. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving a group of two or more residential buildings, whether proposed initially or cumulatively.
2. A subdivision of land.

### Land Which Has Been Devoted Primarily to Agricultural Use

Acreage which is a part of restricted land and is harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land containing nonresidential structures used for agricultural production, or other acreage immediately available for agricultural production, and which excludes any acreage upon which immediate agricultural production is impracticable due to residential structures and their curtilages, wetlands, soil quality, topography or other natural or manmade features, and which further excludes any tract of 2 acres or less designated as the site upon which the landowner’s principal residence or housing for seasonal or full-time employees is permitted under section 14.1 (c) (6) (iv) of the act.

### Landowner

The person holding legal title to a particular farmland tract.

### Local Government Unit

Any city, borough, township or town or any home rule municipality, optional plan municipality, optional charter municipality or similar general purpose unit of government which may be created or authorized by statute.

### Parcel

A tract of land in its entirety, which is assessed for tax purposes by one county, including any portion of that tract that may be located in a neighboring county. The county responsible for assessing an entire tract, on its own or in conjunction with the Commonwealth or a local government unit, or both, shall be eligible to purchase agricultural conservation easements covering the entire tract.

### Pennsylvania Municipalities Planning Code

53 P. S. § § 10101-11201.

### State Board

The State Agricultural Land Preservation Board.

### Subdivision

The division or re-division of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

### Utility

Any surface, subsurface or aerial transmission medium for electricity, oil, gas, water, or sewage.

## **VI. MINIMUM CRITERIA FOR APPLICATIONS**

All farmland tracts offered for conservation easement sale shall meet the following State and County minimum eligibility criteria:

### **A. State Minimum Requirements**

1. Be one or more of the following:
  - a. Located in an agricultural security area consisting of 500 acres or more including viable agricultural land a portion of which is used for commercial equine activity.
  - b. Bisected by the dividing line between two local government units, having the majority of its viable agricultural land within an agricultural security area of 500 acres or more and the remainder in another local government unit outside of an agricultural security area.

- c. Bisected by the dividing line between the purchasing county and an adjoining county, having the land located in the purchasing county within an agricultural security area of 500 acres or more and the remainder in another county outside of an agricultural security area, and with respect to which one of the following applies:
  - (1) *A mansion house is on the tract and located within the purchasing county.*
  - (2) *When the mansion house on the tract is bisected by the dividing line between the two counties, the landowner has chosen the purchasing county as the situs of assessment for tax purposes.*
  - (3) *When there is no mansion house on the farmland tract, the majority of the tract's viable agricultural land is located within the purchasing county.*
- 2. Be one or more of the following:
  - a. Contiguous acreage of at least 50 acres in size.
  - b. Contiguous acreage of at least 10 acres in size and utilized for a crop unique to the area.
  - c. Contiguous acreage of at least 10 acres in size and contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization," as that term is defined in section 170(h)(3) of the Internal Revenue Code (26 U.S.C.A. § 170(h)(3)).
- 3. Contain at least 50% of soils which are both available for agricultural production and of land capability classes I-IV, as defined by the USDA-NRCS.
- 4. Contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.

**B. County Minimum Requirements** (in addition to the above)

- 1. Be zoned in an effective agricultural zone, as designated by the Lancaster County Planning Commission.
- 2. Be located outside an established Urban or Village Growth Area
- 3. Be one or more of the following:
  - a. Contiguous acreage of at least 50 acres in size.
  - b. Contiguous acreage of at least 10 acres in size and utilized for a crop unique to the area.

4. Donations will be accepted for easement acquisition when the Commonwealth and the County act jointly as co-grantees of the easement.

Additionally, for easement purchases solely funded with County matching funds (County-only), applications will be accepted for farmland tracts containing less than fifty acres but more than ten acres. Other requirements for County-only purchases and donations are found in Section XV, Non-Act 43 Provisions, beginning on page 43.

## **VII. APPLICATION SUBMISSION SCHEDULE**

### **A. Application Submission Deadline**

Applications are accepted year-round from September 2<sup>nd</sup> of the current year through September 1<sup>st</sup> of the following year. The Board will post a notice in local newspapers and the Board's web page in the event that the deadline is extended.

### **B. Applying for Subsequent Ranking Rounds**

Applicants are not required to resubmit applications. Once received, applications will be considered in subsequent ranking rounds under one of the following scenarios:

- An applicant who is not selected for an appraisal in their initial ranking will be included in the list of eligible applicants for subsequent rounds of ranking, based on available funding;
- An applicant who rejects an offer of appraisal deposit may be considered in the next ranking round upon written request by the applicant;
- If fee simple ownership of the farmland tract changes, the new owner may elect to keep the original application and submit a completed signature page.

## **VIII. FARMLAND RANKING SYSTEM**

### **A. Introduction**

In 1988 the Lancaster County Agricultural Preserve Board began using the Farmland Ranking System to rank and prioritize applications for the appraisal of properties meeting the minimum criteria under the Act. The purpose and the goals of the Farmland Ranking System are to:

- Preserve farms that are composed of the most productive soils.
- Preserve farms in contiguous blocks to help achieve critical mass.
- Preserve farms that follow an NRCS conservation plan.
- Preserve farms most likely to be converted to non-agricultural uses

According to the regulations established in Act 43, the Farmland Ranking System must be a "Land Evaluation and Site Assessment" (LESA) system. The LESA system addresses various factors on a property in order to determine the priority order in which the County may appraise and subsequently preserve farms. This system is designed to be objective, fair and easily substantiated. Ranking points

are awarded for meeting specific criteria; with the maximum possible ranking points totaling 100. The ranking is completed annually by the Lancaster County Agricultural Preserve Board and GIS Division of the Lancaster County Information Technology Department. This Farmland Ranking System adopted by the Lancaster County Agricultural Preserve Board on May 22, 2008 and effective as of September 1, 2008.

Ranking points are distributed as follows:

<b>1.</b>	<b>Land Evaluation</b>	<b>40% of Total Score</b>	<b>40 points possible</b>
a.	Soils	40% of Total Score	40 points possible
<b>2.</b>	<b>Site Assessment</b>	<b>60% of Total Score</b>	<b>60 points possible</b>
b.	Development Potential:	12.5% of Total Score	12.5 points possible
c.	Farmland Potential:	22.5% of Total Score	22.5 points possible
d.	Clustering Potential:	25% of Total Score	25 points possible
	<b>Total</b>	<b>100%</b>	<b>100 points possible</b>

## B. Category Description

### 1. Land Evaluation (40% of Total Score)

- a. Soils, 40% of the total score:** An evaluation of the potential productivity of each soil type. The Land Capability Class, Slope Range, Depth, Drainage and Gross Corn Yield are considered to determine the Relative Value of each soil type. Soils that have the highest Relative Value obtain the most points. Soil data is obtained from the USDA, Natural Resources Conservation Service. Scoring reflects the potential productivity of a farm's soils, rated on a scale of 100.

*Farms that follow an NRCS approved conservation plan that reflects the current operation, is submitted with the application and is on schedule for implementation may be evaluated with alternative "bonus" Relative Values. Alternative Relative Values will result in a higher soil score.*

<b>Factor</b>	<b>Points</b>
1. Soil	100.00

### 2. Site Assessment (60% of Total Score, divided into three categories)

- a. Development Potential (12.5% of the total score):** An evaluation of factors that determine the likelihood of conversion to non-agricultural uses.

<b>Factors</b>	<b>Points</b>
1. Extent of Non-Agricultural Use in Area	4.00
2. Proximity to Public Sewer and Water Service	4.00
3. Amount of Road Frontage	24.00
4. Tiered Pricing	68.00

- b. Farmland Potential (22.5% of the total score):** An evaluation of factors that may help distinguish the likelihood of the farm to continue as a successful farming operation.

<b>Factors</b>	<b>Points</b>
1. Size of Farm	60.00
2. Stewardship	17.00
3. Percentage of Harvested Cropland, Pasture and Grazing Land	11.00
4. Percentage of Farm offered for Easement	11.00
5. Historic, Scenic, Environmental Qualities	1.00

- c. Clustering Potential (25% of the total score):** An evaluation of factors indicating the long-term commitment to agriculture in an area and the potential to build contiguous blocks of preserved farmland.

<b>Factors</b>	<b>Points</b>
1. Proximity to a Farm with a Conservation Easement	60.00
2. Percentage of Land Adjacent to the Farm in Ag. Zoning	20.00
3. Proximity to a Farm with an Easement Sale Application	10.00
4. Consistent with County Future Land Use Map	5.00
5. Percentage of Land Adjacent to the Farm in an ASA	5.00

## **C. Factor Description**

### **1. Land Evaluation (40% weight)**

<b>a. Soil</b>	<b>Points</b>
Average relative value of soil on farm offered for easement purchase	100.00

### **2. Site Assessment - Development Potential (12.5% weight)**

<b>a. Extent of Non-Agricultural Use in Area</b>	<b>Points</b>
• Intensive development adjacent or in the immediate vicinity (10 lots or more/commercial, industrial or residential uses)	4.00
• Intensive or extensive scattered development within ½ mile (20 lots or more/commercial, industrial, and residential uses)	3.00
• Scattered non-agricultural development within 1 mile (20 lots or more)	2.00
• No significant non-agricultural development in area	0.00
<b>b. Proximity to Public Sewer and Water Services</b>	
• Existing service area adjacent or within ½ mile	4.00
• Existing or planned service area within 1 mile	2.00
• Existing or planned service area within 2 miles	1.00
• No existing or planned service within 2 miles	0.00
<b>c. Amount of Road Frontage</b>	
• Extensive developable road frontage (more than ½ mile)	24.00
• Developable road frontage (1/4 mile – 1/2 mile)	14.00
• Developable road frontage (1/8 mile – ¼ mile)	4.00
• Limited by lack of road frontage (less than 1/8 mile)	0.00

<b>d. Tiered Pricing</b>	
• Tier 4: will accept 60% or less of easement value	68.00
• Tier 3: will accept 70% of easement value	52.00
• Tier 2: will accept 80% of easement value	36.00
• Tier 1: will accept 90% of easement value	10.00
• Tier 0: will accept 100% of easement value	0.00
*Easement value is the appraised easement value, not to exceed \$4,000/acre.	

### 3. Site Assessment - Farmland Potential (22.5% weight)

<b>a. Size of Farm Offered for Easement Purchase</b>	<b>Points</b>
• 100 acres or more	60.00
• 75 to 99 acres	40.00
• 50 to 74 acres	26.00
• Less than 50 acres	0.00
<b>b. Stewardship of the Land</b>	
▪ NRCS approved conservation plan reflects current operation <i>and</i> submitted with application <i>and</i> implemented 100% according to schedule*	17.00
▪ Conservation plan does not reflect current operation <i>and/or</i> not submitted with application <i>and/or</i> implemented more than 50% and less than 100% according to schedule	8.00
▪ Conservation plan implemented less than 50% according to schedule or no conservation plan	0.00
*Use alternative Relative Values in Land Evaluation	
<b>c. Percentage of Harvested Cropland, Pasture and Grazing land</b>	
• Over 75%	11.00
• 50% - 74%	5.00
• Less than 50%	0.00
<b>d. Percentage of Farm Offered for Easement Purchase</b>	
• 100% of Deeded acreage	11.00
• less than 100% of Deeded acreage	0.00
<b>e. Historic, Scenic, Environmental Qualities</b>	
▪ Features favorable to preservation (significant but undocumented historic features, moderate localized scenic contributions, and/or limited but recognized environmental features favorable to preservation)	1.00
▪ No significant features	0.00

### 4. Site Assessment - Clustering Potential (25% weight)

<b>a. Proximity to a Farm with a Conservation Easement</b>	<b>Points</b>
• Adjacent to two or more easements	60.00
• Adjacent to one easement	50.00

	• Within ½ mile of one easement	40.00
	• Within 1 mile of one easement	20.00
	• More than 1 mile	0.00
<b>b.</b>	<b>Percent of Land Adjacent to the Farm in Agricultural Zoning</b>	
	• 50% or more in Effective Ag. Zoning	20.00
	• 50% or more in Non-Effective Ag. Zoning	10.00
	• Under 50%	0.00
<b>c.</b>	<b>Proximity to a Farm with an Easement Sale Application</b>	
	• Adjacent	10.00
	• Within 1 mile	5.00
	• More than 1 mile	0.00
<b>d.</b>	<b>Consistent with County Future Land Use Map</b>	
	• Within Area planned for Agriculture	5.00
	• Not in Area planned for Agriculture	0.00
<b>e.</b>	<b>Percent of Land Adjacent to the Farm in an Agricultural Security Area</b>	
	• 50% or more	5.00
	• Under 50%	0.00

Approved by the Lancaster County Agricultural Preserve Board on May 22, 2008.  
Approved by the Pennsylvania Agricultural Lands Preservation Board on June 19, 2008

## Relative Values of Lancaster County Soils

Map Unit Symbol	Map Unit Name	Relative Value	Alternative Relative Value	Slope Range	Land Cap. Class	Important Farmland Designation	Depth	Drainage	Gross Corn Yield (bu./ac.)
<b>Group 1</b>									
BdA	bedington silt loam	100	N/A	0-3	1	Prime	Deep	Well Drained	165
BuA	bucks silt loam	100	N/A	0-3	1	Prime	Deep	Well Drained	170
CbA	chester silt loam	100	N/A	0-3	1	Prime	Deep	Well Drained	170
Cm	comus silt loam	100	N/A	0-3	1	Prime	Deep	Well Drained	175
Can	conestoga silt loam	100	N/A	0-3	1	Prime	Deep	Well Drained	170
DbA	duffield silt loam	100	N/A	0-3	1	Prime	Deep	Well Drained	165
EcA	elk silt loam	100	N/A	0-3	1	Prime	Deep	Well Drained	165
HaA	Hagerstown	100	N/A	0-3	1	Prime	Deep	Well Drained	170
HfA	Hollinger silt loam	100	N/A	0-3	1	Prime	Deep	Well Drained	170
LdA	letort silt loam	100	N/A	0-3	1	Prime	Deep	Well Drained	170
<b>Group 2</b>									
	Map Unit Name	Relative Value	Alternative Relative Value	Slope Range	Land Cap. Class	Important Farmland Designation	Depth	Drainage	Gross Corn Yield (bu./ac.)
BdB	bedington silt loam	91	94.3	3-8	2e	Prime	Deep	Well Drained	165
BuB	bucks silt loam	91	94.3	3-8	2e	Prime	Deep	Well Drained	170
CbB	chester silt loam	91	94.3	3-8	2e	Prime	Deep	Well Drained	170
CnB	conestoga silt loam	91	94.3	3-8	2e	Prime	Deep	Well Drained	170
DbB	duffield silt loam	91	94.3	3-8	2e	Prime	Deep	Well Drained	165
EcB	elk silt loam	91	94.3	3-8	2e	Prime	Deep	Well Drained	160
GbB	glenelg silt loam	91	94.3	3-8	2e	Prime	Deep	Well Drained	170
HaB	hagerstown silt loam	91	94.3	3-8	2e	Prime	Deep	Well Drained	170
HfB	Hollinger silt loam	91	94.3	3-8	2e	Prime	Deep	Well Drained	170
LaB	lansdale loam	91	94.3	3-8	2e	Prime	Deep	Well Drained	160
LdB	letort silt loam	91	94.3	3-8	2e	Prime	Deep	Well Drained	170
Lg	linden silt loam	91	94.3	0-3	1	Prime	Deep	Well Drained	150
Ln	lindside silt loam	91	94.3	0-3	2w	Prime	Deep	Moderately Well Drained	160
Ne	nolin silt loam	91	94.3	0-3	1	Prime	Deep	Well Drained	145
Rd	rowland silt loam	91	94.3	0-3	2w	Prime	Deep	MWD-SPD	165
UaB	ungers loam	91	94.3	3-8	2e	Prime	Deep	Well Drained	150
<b>Group 3</b>									
	Map Unit Name	Relative Value	Alternative Relative Value	Slope Range	Land Cap. Class	Important Farmland Designation	Depth	Drainage	Gross Corn Yield (bu./ac.)
BuC	bucks silt loam	81	85	8-15	3e	Statewide	Deep	Well Drained	160
CbC	chester silt loam	81	85	8-15	3e	Statewide	Deep	Well Drained	160
CnC	conestoga silt loam	81	85	8-15	3e	Statewide	Deep	Well Drained	160
GbC	glenelg silt loam	81	85	8-15	3e	Statewide	Deep	Well Drained	160
HfC	Hollinger silt loam	81	85	8-15	3e	Statewide	Deep	Well Drained	160
LdC	letort silt loam	81	85	8-15	3e	Statewide	Deep	Well Drained	160
BdC	bedington silt loam	81	85	8-15	3e	Statewide	Deep	Well Drained	150
HbC	hagerstown silty clay loam	81	85	8-15	3e	Statewide	Deep	Well Drained	150
<b>Group 4</b>									
	Map Unit Name	Relative Value	Alternative Relative Value	Slope Range	Land Cap. Class	Important Farmland Designation	Depth	Drainage	Gross Corn Yield (bu./ac.)
Nd	newark silt loam	76	80.5	0-3	2w	Statewide	Deep	Somewhat Poorly Drained	140
Nc	newark silt loam	76	80.5	0-3	2w	Statewide	Deep	Somewhat Poorly Drained	140
<b>Group 5</b>									
	Map Unit Name	Relative Value	Alternative Relative Value	Slope Range	Land Cap. Class	Important Farmland Designation	Depth	Drainage	Gross Corn Yield (bu./ac.)
EcC	elk silt loam	72	75.1	8-15	3e	Statewide	Deep	Well Drained	140

LaC	lansdale loam	72	75.1	8-15	3e	Statewide	Deep	Well Drained	140
UaC	ungers loam	72	75.1	8-15	3e	Statewide	Deep	Well Drained	140
<b>Group 6</b>		<b>Relative Value</b>	<b>Alternative Relative Value</b>	<b>Slope Range</b>	<b>Land Cap. Class</b>	<b>Important Farmland Designation</b>	<b>Depth</b>	<b>Drainage</b>	<b>Gross Corn Yield (bu./ac.)</b>
AbB	abbottstown silt loam	65	70.1	3-8	3w	Statewide	Deep	Somewhat Poorly Drained	120
BrB	brecknock gravelly silt loam	65	70.1	3-8	2e	Prime	Deep	Well Drained	120
CkA	clarksburg silt loam	65	70.1	0- 5	2w	Prime	Deep	Moderately Well Drained	125
lGeB	Gladstone gravelly silt loam	65	70.1	3-8	2e	Prime	Deep	Well Drained	130
GdB	glenville silt loam	65	70.1	3-8	2e	Prime	MD-D	Somewhat Poorly Drained	125
lJnB	joanna loam	65	70.1	3-8	2e	Prime	Deep	Well Drained	120
LbB	lehigh silt loam	65	70.1	3-8	2w	Prime	Deep	MWD-SPD	120
LbC	lehigh silt loam	65	70.1	8-15	3e	Statewide	Deep	MWD-SPD	115
lLmB	lehigh silt loam	65	70.1	3-8	2w	Prime	Deep	MWD-SPD	95
MaB	manor silt loam	65	70.1	3-8	2e	Prime	Deep	Well Drained	120
lMe	middlebury silt loam	65	70.1	0-3	2w	Prime	Deep	MWD-SPD	120
MdB	mount lucas silt loam	65	70.1	3-8	2e	Prime	Deep	MWD-SPD	135
lMiB	mount lucas silt loam	65	70.1	3-8	2e	Prime	Deep	MWD-SPD	105
lMuB	murrill gravelly loam	65	70.1	3-8	2e	Prime	Deep	Well Drained	120
lNaB	neshaminy silt loam	65	70.1	3-8	2e	Prime	Deep	Well Drained	135
Pa	penlaw silt loam	65	70.1	0-3	3w	Statewide	Deep	Somewhat Poorly Drained	120
RaB	readington silt loam	65	70.1	3-8	2e	Statewide	Deep	Moderately Well Drained	135
<b>Group 7</b>		<b>Relative Value</b>	<b>Alternative Relative Value</b>	<b>Slope Range</b>	<b>Land Cap. Class</b>	<b>Important Farmland Designation</b>	<b>Depth</b>	<b>Drainage</b>	<b>Gross Corn Yield (bu./ac.)</b>
LaD	lansdale loam	64	68.3	15-25	4e	-	Deep	Well Drained	125
BeD	bedington channery silt loam	64	68.3	15-25	4e	-	Deep	Well Drained	135
BuD	bucks silt loam	64	68.3	15-25	4e	-	Deep	Well Drained	140
GbD	glenelg silt loam	64	68.3	15-25	4e	-	Deep	Well Drained	140
HbD	hagerstown silty clay loam	64	68.3	15-30	4e	-	Deep	Well Drained	140
HfD	Hollinger silt loam	64	68.3	15-25	4e	-	Deep	Well Drained	140
UaD	ungers loam	64	68.3	15-25	4e	-	Deep	Well Drained	120
<b>Group 8</b>		<b>Relative Value</b>	<b>Alternative Relative Value</b>	<b>Slope Range</b>	<b>Land Cap. Class</b>	<b>Important Farmland Designation</b>	<b>Depth</b>	<b>Drainage</b>	<b>Gross Corn Yield (bu./ac.)</b>
lNaC	neshaminy silt loam	57	60.2	8-15	3e	Statewide	Deep	Well Drained	125
lGeC	gladstone gravelly silt loam	57	60.2	8-15	3e	Statewide	Deep	Well Drained	120
BrC	brecknock gravelly silt loam	57	60.2	8-15	3e	Statewide	Deep	Well Drained	115
lJnC	joanna loam	57	60.2	8-15	3e	Statewide	Deep	Well Drained	115
MaC	manor silt loam	57	60.2	8-15	3e	Statewide	Deep	Well Drained	115
PeC	pequea silt loam	57	60.2	8-15	3e	Statewide	Deep	Well Drained	115
lDfC	duffield-ryder silt loams	57	60.2	8-15	3e	Statewide	D-MD	Well Drained	113
lMuC	murrill gravelly loam	57	60.2	8-15	3e	Statewide	Deep	Well Drained	110
<b>Group 9</b>		<b>Relative Value</b>	<b>Alternative Relative Value</b>	<b>Slope Range</b>	<b>Land Cap. Class</b>	<b>Important Farmland Designation</b>	<b>Depth</b>	<b>Drainage</b>	<b>Gross Corn Yield (bu./ac.)</b>
Bm	blairton silt loam	53	62.7	0-3	3w	Statewide	MD	MWD-SPD	95
Bo	bowmansville silt loam	53	62.7	0-3	3w	Statewide	Deep	SPD-PD	125
Hg	holly silt loam	53	62.7	0-3	3w	Statewide	Deep	Poorly Drained	125

Group 10		Relative Value	Alternative Relative Value	Slope Range	Land Cap. Class	Important Farmland Designation	Depth	Drainage	Gross Corn Yield (bu./ac.)
1DfD	duffield-ryder silt loams	42	47.1	15-25	4e	-	D-MD	Well Drained	97
1JnD	joanna loam	42	47.1	15-25	4e	-	Deep	Well Drained	100
MaD	manor silt loam	42	47.1	15-25	4e	-	Deep	Well Drained	100
PeD	pequea silt loam	42	47.1	15-25	4e	-	Deep	Well Drained	100
Group 11		Relative Value	Alternative Relative Value	Slope Range	Land Cap. Class	Important Farmland Designation	Depth	Drainage	Gross Corn Yield (bu./ac.)
AsB	abbottstown extremely stony silt loam	0	N/A	36958	7s	-	Deep	Somewhat Poorly Drained	
Ba	baile silt loam	0	N/A	0-3	5w	-	Deep	Poorly Drained	
BsC	brecknock very stony silt loam	0	N/A	37128	6s	-	Deep	Well Drained	
BsB	brecknock very stony silt loam	0	N/A	36958	6s	-	Deep	Well Drained	
BxC	bucks very stony silt loam	0	N/A	37128	6s	-	Deep	Well Drained	
CID	clymer very stony loam	0	N/A	15-25	6s	-	Deep	Well Drained	
ClB	clymer very stony loam	0	N/A	36958	6s	-	Deep	Well Drained	
ClF	clymer very stony loam	0	N/A	25-50	7s	-	Deep	Well Drained	
DAM	Dams	0	N/A	-	-	-			
1EdF	edgemont channery sandy loam	0	N/A	25-60	7s	-	Deep	Well Drained	
1EdD	edgemont channery sandy loam	0	N/A	37128	7s	-	Deep	Well Drained	
1EdB	edgemont channery sandy loam	0	N/A	0- 8	7s	-	Deep	Well Drained	
Eu	elk-urban land complex	0	N/A	0-3	8	-	Deep	Well Drained	
Ff	fluvaquents and udifluvents	0	N/A	0- 2	4w	-	MD-D	SPD-PD	
1GfD	gladstone gravelly silt loam	0	N/A	37128	6s	-	Deep	Well Drained	
1GfF	gladstone gravelly silt loam	0	N/A	25-55	7s	-	Deep	Well Drained	
Hc	hagerstown-urban land complex	0	N/A	-	8	-	Deep	Well Drained	
1JpD	joanna loam	0	N/A	37128	7s	-	Deep	Well Drained	
1JpB	joanna loam	0	N/A	0- 8	7s	-	Deep	Well Drained	
1JpF	joanna loam	0	N/A	25-60	7s	-	Deep	Well Drained	
MbD	manor very stony silt loam	0	N/A	15-25	6s	-	Deep	Well Drained	
MbB	manor very stony silt loam	0	N/A	36958	6s	-	Deep	Well Drained	
MbF	manor very stony silt loam	0	N/A	25-60	7s	-	Deep	Well Drained	
MeB	mount lucas very stony silt loam	0	N/A	36958	6s	-	Deep	MWD-SPD	
1NhD	neshaminy gravelly silt loam	0	N/A	37128	7s	-	Deep	Well Drained	
1NhB	neshaminy gravelly silt loam	0	N/A	0- 8	7s	-	Deep	Well Drained	
PeE	pequea silt loam	0	N/A	25-50	7e	-	Deep	Well Drained	
Qu	Pits	0	N/A	-	8	-			
RbB	readington extremely stony silt loam	0	N/A	36958	7s	-	Deep	Moderately Well Drained	
Rc	rock outcrop	0	N/A	-	8	-			
1ToA	towhee silt loam	0	N/A	0-3	4w	-	Deep	Poorly Drained	
Ud	Udorthents	0	N/A	0-25	4s	-			
UbD	ungers extremely stony loam	0	N/A	37128	7s	-	Deep	Well Drained	
UbE	ungers extremely stony loam	0	N/A	25-50	7s	-	Deep	Well Drained	
UbB	ungers extremely stony loam	0	N/A	36958	7s	-	Deep	Well Drained	
Uc	urban land	0	N/A	-	8	-			
WbB	watchung extremely stony silt loam	0	N/A	0- 8	7s	-	Deep	Poorly Drained	
W	Water	0	N/A	-	-	-			

## **IX. OPERATIONAL PROCEDURES FOR ACQUIRING CONSERVATION EASEMENTS**

### **A. Summary of Procedures**

These are the major actions required to preserve an eligible farm by purchasing an agricultural conservation easement under provisions of the Act:

1. Landowner submits an application.
2. County Board evaluates the application
3. County Board ranks all applications meeting minimum criteria
4. County Board authorizes an appraisal to applicants based on descending order of farmland ranking score, contingent on available funds.
5. County Board establishes an easement value and purchase price.
6. County Board offers to purchase an agricultural conservation easement.
7. Upon acceptance of the offer, the County Board prepares an application for State Board approval and/or approval by the Lancaster County Board of County Commissioners.
8. Lancaster County Board of County Commissioners and/or State Board approves the application
9. Settlement occurs on the agricultural conservation easement.

### **B. Application**

The landowner voluntarily submits an easement application to the County Board. The County Board will accept all applications that meet the minimum criteria established for the program. Applications shall be required for each farmland tract offered for easement purchase and shall consist of a completed application form, locational maps, copy of deed, and soils and crops reports.

The County Board shall develop and make available to a county resident an application form which requires the following information:

1. The printed name, address, telephone number and signature of all owners of the farmland tract.
2. The county, municipality, and agricultural security area in which the farmland tract is located and the book and page where recorded at County Recorder of Deeds.
3. The total acreage of the farm as shown on the deed or instruments of record.
4. The number of acres in the farmland tract proposed for easement purchase.

5. The street address of the farm, and directions from the nearest State route.
6. The most current deed reference book, volume and page-or other reference to the place of record of the deed. In the case of multiple deeds, numbers for all the deeds shall be provided.
7. County tax map numbers, including tax parcel number, or account number of each parcel.
8. The date of the conservation plan, if any, which has been approved by the county conservation district or county board.
9. The date of any nutrient management plan.
10. The name, address and telephone number of the person to be contacted to view the farmland tract.

The County Board shall provide both of the following locational maps with the application:

1. A United States Geological Survey topographical map or a portion of the map showing the location of the farmland tract, with the farmland tract boundaries clearly and correctly delineated and showing the location of acreage being excepted from the easement.
2. Tax map or official map used for tax assessment purposes showing the farmland tract with all tax parcel numbers clearly indicated.

The County Board shall provide a soils report and a color-coded soils map for the farmland tract proposed for easement purchase. The soils report shall also contain a list of soil mapping unit names, symbols and land capability classes on the farmland tract.

Class	Acres Of Cropland	Other	Total Acres
Class I			
Class II			
Class III			
Class IV			
Class V-VIII			
Total			

The soils map shall use as a base soil survey maps published by the USDA-NRCS or provide the soils map in digital form in an appropriate scale acceptable to the Department. The soils map shall color code soil types as follows:

Land capability class I = Green  
Land capability class II = Yellow  
Land capability class III = Red  
Land capability class IV = Blue  
Land capability class V-VIII = Uncolored  
Wetlands = Cross-hatch, or shown on a separate map

The applicant shall provide an overview of the farm operation that includes livestock and crop production data for the farmland tract for the most recent crop year that comparable statistics are available from the Pennsylvania Agricultural Statistics Service as follows:

Commodity	Acres Grown	Yield Per Acre
1.		
2.		
3.		

The applicant shall also describe the type of farming operation and state the gross income from the entire farm operation. If the land is rented and the applicant cannot determine the gross income, then the potential gross income that could be generated should be stated.

### C. Evaluation of Application

1. The County Board shall review the application to determine if it is complete and meets the minimum criteria in Section VI
2. If the application is complete and the minimum criteria are met, an agent or member of the County Board shall view the farmland tract and discuss the Program with the applicant.
3. The County Board shall evaluate applications which meet the minimum criteria received prior to September 1<sup>st</sup> and rank them according to the county farmland ranking system. The County Board shall then issue appraisals in descending order of the farmland ranking score, contingent on available funding.
4. All applications that have not been appraised will be re-ranked annually.
5. All properties considered for easement purchase will be evaluated in compliance with the Act regarding soil quality, likelihood of conversion, proximity to other eased lands, land stewardship and fair and equitable procedures.

### D. Appraisal

1. An appraisal deposit of \$750.00, or some other reasonable figure as determined by the Board, will be required of any applicant for each application approved for an appraisal. The number of appraisals is determined by the amount of funds available to the Program. The appraisal deposit will be refundable if the applicant sells the easement to the County Board under the terms of the original offer by the Board.

2. An appraisal of market value and farmland value shall be based on an analysis of comparable sales, and shall be conducted in accordance with standards in the most recent edition of the *Uniform Standards of Professional Appraisal Practice*, published by the Appraisal Standards Board of the Appraisal Foundation. If an appraiser cannot practicably conduct an appraisal based on an analysis of comparable sales, the appraiser may conduct an appraisal using another methodology only if that methodology is an acceptable methodology under the *Uniform Standards of Professional Appraisal Practice* and the appraisal report clearly describes the information considered, the appraisal procedures followed and the reasoning that supports the analyses, opinions and conclusions. Existing zoning classification shall not be a factor in determining either non-agricultural or agricultural values.
  - a. The value of a building or other improvements on the farmland tract may not be considered in determining the easement value. The value of the building or other improvements shall be listed separately in the appraisal report.
  - b. The appraiser shall be advised that conservation easements are perpetual. The perpetual nature of the easement shall take precedent over any agricultural zoning status.
  - c. The appraiser shall be a State-certified general real estate appraiser who is qualified to appraise a property for easement purchase. Appraisers shall be selected by the Agricultural Preserve Board (or by the landowner for a second appraisal) on the basis of experience, expertise, and professional designation.
  - d. The appraiser shall supply a minimum of three copies of a narrative report which contains the following information and is in the following format:
    - (1) Introduction:
      - (i) A letter of transmittal.
      - (ii) The appraiser's certificate of value as to market value, farmland value and easement value.
      - (ii) A table of contents.
      - (iii) A summary of salient facts and conclusions.
      - (iv) The purpose of the appraisal.
      - (v) The definitions, including definitions of market value, farmland value and easement value.
    - (2) Description of property:
      - (i) Neighborhood description.
      - (ii) Description of appraised property.
      - (iii) Legal description.
      - (iv) Property data and zoning.
      - (v) Description of improvements.
      - (vi) Color photos of subject property's fields and improvements.
      - (vii) Tax map showing the subject property and its relationship to neighboring properties.

- (viii) Legible sketch or aerial photograph of subject property showing boundaries, roads, driveways, building locations, rights of way and land use.
- (ix) Location map
- (x) Soils map showing property boundaries.

(3) *Analyses and conclusions:*

- (i) An analysis of highest and best use.
- (ii) The valuation methodology: market value.
- (iii) Comparable sales data.
- (iv) Adjustment grid.
- (v) Locational map of comparable sales
- (vi) Market value estimate.
- (vii) Valuation methodology: farmland value.
- (viii) Comparable sales data.
- (ix) Adjustment grid.
- (x) Locational map of comparable sales
- (xi) Farmland value estimate.
- (xii) Easement value.
- (xii) Professional qualifications and a copy of the appraiser's current certification.

3. The appraiser shall supply information concerning comparable sales as follows:

- a. At least three comparable sales shall be used for estimating market value and at least three comparable sales shall be used for estimating farmland value in an appraisal. If the appraiser cannot obtain sufficient comparable sales data within the same county as the subject farmland tract, the appraiser may use comparable sales from other counties, with the approval of the county board. The use of comparable sales which require adjustment of 50% or more is permitted only with the approval of the county board.
- b. Pertinent data for each comparable sale used in the preparation of the appraisal shall be stated in the appraisal report, including the date of sale, the purchase price, zoning, road frontage in feet (for determining market value) and soil mapping units (for determining farmland value). The appraisal shall include an analysis comparing the pertinent data for each comparable sale to the subject farmland tract. This analysis shall be in the form of a narrative statement of the information considered and the reasoning that supports the analyses, opinions and conclusions, and an adjustment grid assigning, when practicable and within the Uniform Standards of Professional Appraisal Practice referenced in subsection (b), approximate dollar values to adjustment shown on the adjustment grid.
- c. The location of each market value comparable sale used in the appraisal report shall be shown accurately on a comparable sales map depicting the entire county in which the comparable sale is located, and shall be sufficiently identified and described so it may be located easily. If the comparable sales map depicts the county in which the property that is the subject of the appraisal is located, that

property shall also be sufficiently identified and described so it may be located easily.

- d. The location of each farmland value comparable sale used in the appraisal report shall be shown accurately on a comparable sales map depicting the entire county in which the comparable sale is located, and shall be sufficiently identified and described so it may be located easily. If the comparable sales map depicts the county in which the property that is the subject of the appraisal is located, that property shall also be sufficiently identified and described so it may be located easily. If a farmland value comparable sales map and a market value comparable sales map would depict the same county, they may be combined in a single map.
- e. For comparable sales used to estimate the farmland value, the appraiser may use sales of land that are confined to agricultural use because of agricultural conservation easements or other legal restrictions or physical impairments that make the land valuable only for agricultural use. Comparable sales shall be in primarily agricultural use. Data may also be gathered from farm real estate markets when farms have no apparent developmental value.
- f. The appraiser shall set forth the reasons the farmland comparable sales are confined primarily to agricultural use. Examples of these reasons include:
  - (1) *The farmland tract has public or private land use restrictions.*
  - (2) *Farmland tract is within a flood plain or a wetland (in whole or in part).*
  - (3) *The farmland tract is landlocked, subject to additional easements, subject to restrictive zoning or has other physical attributes which limit its developmental capability.*
- g. The appraiser shall provide at least one original and two copies of each report to the county board. The original of each report and all copies shall be bound with rigid covers.
- h. The appraisal shall include the entire acreage offered for easement sale. If, following completion of the appraisal, acreage is added to or deleted from the proposed easement sale for any reason, the appraisal shall be revised accordingly or the appraiser shall agree in writing to the use of a per acre value to account for the change in easement value resulting from such a change in acreage.
- i. If acreage is voluntarily withheld from the easement sale by the landowner through subdivision accomplished in accordance with the Pennsylvania Municipalities Planning Code, the appraiser shall, in making the estimate of agricultural conservation easement value, take into account any increase in the value of the subdivided acreage because of the placement of the easement on the remaining farmland.

## E. Points Based Appraisals

*For use only with County only funds not matched or shared with State funds based on the Act*

1. The Agricultural Preserve Board may elect to utilize a Points Based Appraisal System when utilizing County funding other than those funds associated under the Act. A points based appraisal system is a numerical method for determining an easement value. This system awards points for certain attributes of a farm that reflect development potential. The total points are multiplied by a dollar value (associated with the various regions within the County) to determine the per acre easement value.
2. Development factors to be considered may include, but not be limited to: road frontage, size, soils, proximity to public water & sewer, suitability of soils for on-lot septic, well depth and proximity to a growth area. The development factors as well as the regional dollar multiplier shall be re-evaluated each year. Sample Points Based Appraisal Models are available from the Agricultural Preserve Board.
3. The Points Based Appraisal System is a useful tool to expedite easement offers and also as a gauge for the Agricultural Preserve Board members when reviewing traditional appraisal in order to determine an easement offer.

## F. Easement Value and Purchase Price

1. The County Board will only consider purchasing perpetual conservation easements. The value of an easement for the purpose of making an offer to purchase an easement shall be the difference between the market value and the farmland value contained in the County Board's appraisal report.
2. The purchase price offered for the purchase of an easement under 7 PA Code Chapter § 138e.66(b) shall not exceed but may be less than the value of the easement.
3. The County Board may establish an upper limit per acre for the purchase of conservation easements at the beginning of each calendar year. The easement purchase price shall be based on a per acre figure.

## G. Offer to Purchase by County Board

1. An offer to purchase an easement shall be based on one or more appraisal reports prepared according to the requirements above.
2. In determining whether to offer to purchase an easement following receipt of the county appraisal report, the county board shall consider the following:
  - a. Evaluation according to the Farmland Ranking System.
  - b. Consistency with Lancaster County Planning map of priority agricultural areas.
  - c. Cost relative to total allocations and appropriations.

- d. Proximity to other land subject to agricultural easements.
3. Any offer to purchase a conservation easement must exclude the land where the current use is potentially hazardous, clearly not part of a normal farming practice, or present a possible liability to the easement grantee.
4. If the county board determines to offer to purchase an easement on the farmland tract, the Board director or another a representative of the county board, shall meet with the applicant to review the county appraisal report. An offer to purchase an easement shall be submitted to the applicant in writing and be accompanied by the county appraisal report.

## H. Landowners Response to Offer

Within 30 days of receipt of the written offer from the county board, an applicant may do one of the following:

1. Accept the offer, in which case the County Board and the applicant shall enter into an agreement of sale. The agreement of sale shall be conditioned upon the approval of the State Board and be subject to the ability of the applicant to provide good title to the premises, free of encumbrances such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interest and other encumbrances which would adversely impact the county and Commonwealth's interest in the farmland tract.
2. Reject the offer and advise the county board that the application is withdrawn.
3. Advise the county board that the applicant is retaining, at the applicant's expense, an independent State-certified general real estate appraiser to determine the easement value. The appraiser shall be qualified, and the appraisal shall be completed in accordance with this Section. The appraisal shall be submitted to the county board within 120 days of receipt of the county board's offer to purchase. Upon completion, three copies of the applicant's appraisal shall be submitted to the county board. The applicant's decision to obtain an independent appraisal under this paragraph does not constitute a rejection of the county board's offer. The county board's offer shall remain open unless increased by the county board or rejected by the applicant.

If the applicant retains an independent appraiser, the easement value and the County Board's response to the offer shall be in conformance with ACE Regulation, §138e.66. Offer of Purchase

## I. Agreement of Sale

1. An agreement of sale shall be in a form provided by the State Board. Agreement of Sales may be structured as:
  - a. A joint purchase by the State and the County;
  - b. A joint purchase by the State, County and a municipality;
  - c. A joint purchase by the County and a municipality;

- d. An individual purchase by either the State or the County;
- e. State and municipality or
- f. Municipality only

The County Board reserves the right to decide how the agreement of sale will be structured.

- 2. The Agreement of Sale shall specify the method of payment. The method of payment for an agricultural conservation easement may be made in a lump sum, in installments or in another lawful manner of payment. The County Board will establish an interest rate bi-annually in January and June after consultation with the County Treasurer, County Controller's Office and two financial institutions. In addition, to receiving the entire easement payment at settlement in a lump sum, these other methods are available at the option of the applicant with consent by the County Board:
  - a. Installment sales with a payment period of 5 years or less. Installment sales in which the final payment for the easement purchase is to be made no longer than 5 years from the date the agreement of sale is fully executed are subject to the following requirements:
    - 1. Purchases may be made in the name of the Commonwealth, County Board, jointly by the Commonwealth and the County Board, and/or County Board and a municipality;
    - 2. The installment payment terms, including the dates of payments, interest, and payment amounts shall be negotiated between the landowner and the County Board and shall be stated in the agreement of sale.
  - b. Installment sales with a payment period of more than 5 years. Installment sales in which the final payment for the easement purchase is to be made more than 5 years from the date the agreement of sale is fully executed are subject to the following provisions:
    - 1. Purchases may be made in the name of the Commonwealth, County Board or jointly by the Commonwealth and the County;
    - 2. The County Board may provide the agreement of sale for purchases made under this subsection;
    - 3. The installment payment terms, including the dates of payments, and payment amounts shall be negotiated between the landowner and the county board and shall be stated in the agreement of sale;
    - 4. The State's share of the easement purchase price, exclusive of interest, shall be transferred to the county board for deposit into an interest bearing irrevocable escrow account or deposit in another manner provided by law.

- c. Installment sales deferring the payment of principal for up to 30 years. Installment sales (IPA) in which payment of principal is deferred to the end of a specific period of up to 30 years from the date the contract of sale is fully executed are subject to the following provisions:
  - 1. Purchases may be made in the name of the Commonwealth, County Board jointly by the Commonwealth and the County Board, and/or County Board and a municipality;
  - 2. The County Board may provide the agreement of sale for purchases made under this subsection;
  - 3. The installment payment terms shall be negotiated between the landowner and the county board. These terms shall include the amount of cash (if any) to be received at closing, the interest rate, the period over which interest is to be paid and the point at which principal is to be paid;
  - 4. Costs associated with an IPA will be negotiated with the County Board and the landowner.
- d. Like-Kind Exchange or 1031 Exchange. The Landowner may elect to defer capital gains if the consideration from the easement sale is exchanged solely for “like-kind” property, as provided under Section 1031 of the Internal Revenue Code. The like-kind property cannot be a primary residence but must be held of trade, business or for investment. Landowners must seek the assistance of legal expertise, at their own expense, to structure this type of transaction.
- e. Tax Escrow Account. The landowner may elect to have the Agricultural Preserve Board escrow all or a portion of the easement proceeds in an interest bearing tax escrow account. Disbursements of annual interest are made to the landowner at least 30 days prior to local property tax due dates. These payments must be completed in a 5-year period.

The Lancaster County Commissioners shall approve all Agreements of Sale. Agreements of Sale shall be conditional upon the approval of the State Board when State funds are to be used in whole or in part to purchase the easement. Holders of liens, mortgages, or other interests in the property must subordinate their interests or have their interests satisfied at or prior to closing before County and/or State funds can be used to purchase an easement on the property. Subordination Agreements or Releases for such interest in the land must be submitted to the Agricultural Preserve Board prior to the approval date.

## J. Requirements of the Agricultural Conservation Easement

The owners of the subject farmland tract shall execute a deed conveying the easement. See Addendum E. This deed shall include the provisions of 7 PA Code Chapter 138e.241 (relating to deed clauses).

- 1. The deed shall be in recordable form and contain:

- a. A legal description setting forth the metes and bounds of the farmland tract subject to the easement.
  - b. At least one course and distance referencing affixed marker or monument of a type commonly placed in the field by a surveyor. Fixed markers may include iron pins, pk nails, spikes, concrete monuments or stones.
2. The legal description may not contain a closure error greater than 1 foot per 200 linear feet in the survey.
3. The farmland tract on which an easement is to be purchased shall be surveyed unless the legal description contained in the deed recorded in the land records of Lancaster County in which the farmland tract is located satisfies the requirements of subsections (1) and (2). A survey required by this subsection shall meet the survey requirements listed in this section.
4. For purchase made entirely with County Funds, the County shall be the sole grantee. For purchases made entirely with State Funds, the Commonwealth of Pennsylvania shall be the sole grantee. For purchases made entirely with Municipality Funds, the Municipality shall be the sole grantee.
5. For purchases made using a combination of funds from State, County or an authorized third party, the grantees shall be the Commonwealth of Pennsylvania, the County of Lancaster and the authorized third party, providing the funds under joint ownership as defined in the Act.
6. Neither the Commonwealth, the County nor an authorized third party, may sell, convey, extinguish, lease, encumber, restrict, or otherwise dispose of their interest in the easement without the consent of the other.
7. Upon the sale, conveyance, extinguishments, lease, encumbrance, or other disposition of the easement, the Commonwealth, the County of Lancaster and an authorized third party shall receive a pro rata share of the proceeds based upon their respective contributions to the purchase price.
8. A copy of the Deed of Easement may be submitted to the State Board for approval. The State Board prior to execution and delivery shall approve all instruments and documents for the purchase of easements.

## K. Title Issues

1. The Agricultural Preserve Board shall issue a title commitment. The resulting title commitment will provide critical information about the property, such as liens, encumbrances, judgments, graveyards, Agricultural Security Area confirmation, mineral right sale(s), and amount insured. A copy of this title commitment will be provided to State Board upon submission of its recommendation for an easement purchase funded in part or in whole with State Funds.

2. All encumbrances (including but not limited to: liens, mortgages and judgments) against the property must be subordinated, satisfied or removed. Clear title must be provided before a title insurance policy can be issued and easement conveyed
3. The county board shall provide the following to the State Board upon submission of its recommendation for the purchase of an easement:
  - a. A title insurance commitment.
  - b. Copies of all recorded or unrecorded documents listed on the title insurance commitment as exceptions to the title insurance policy.
4. At settlement, the county board shall provide a title insurance policy issued by a title insurance company authorized to conduct business in this Commonwealth by the Insurance Department. A marked up title commitment may serve as a policy until the final policy is issued. The amount of title insurance coverage shall equal or exceed the higher of the following amounts:
  - a. The difference between the appraised market value and the appraised farmland value, as described in § 138e.65(a) (relating to easement value and purchase price).
  - b. The difference between the agricultural value and the nonagricultural value, as described in § 138e.66(c)(3) (relating to offer of purchase by county board), if the values are used to calculate the easement value. At settlement for a state or joint easement purchase, the County Board shall provide a title insurance policy issued by a title insurance company authorized to conduct business in the Commonwealth of Pennsylvania by the Pennsylvania Department of Insurance. The cost of such title insurance shall be a cost incident to the easement purchase and is a reimbursable expense from a County's allocation under the Act.
5. For easement purchases utilizing the Installment Purchase Agreement (I.P.A.) program, the County Board at settlement shall provide an opinion of counsel that the County's obligations to make installment payments of principal and tax-exempt interest over time are legal, valid, and binding. And that such payments are a general obligation of the County for which its full faith, credit, and taxing power are pledged. Interest paid by the County is exempt from federal and Commonwealth of Pennsylvania income taxes.

## **L. Requirements of the Legal Description /Survey**

### **1. General Requirement:**

If a survey of land being considered for agricultural conservation easement purchase is required (the legal description contains a closure error greater than 1 foot per 200 linear feet) or is otherwise required to determine metes and bounds of any right-of-way or other interests in the land, the survey shall indicate that it has a closure error of not greater than 1 foot per 10,000 linear feet in the survey, and shall otherwise comply with the boundary survey measurement standards published by the Pennsylvania Society of Land Surveyors in its "Manual of Practice for Professional Land Surveyors in the Commonwealth of Pennsylvania," adopted July 10, 1998, or its most current successor document.

2. Other Requirements:

*A survey shall also contain the following:*

- a. A recordable legal description setting forth the metes, bounds, monumentation, exceptions, easements and rights-of-way with respect to the farmland tract or other subject of the survey.
- b. A copy of the final boundary survey in digital electronic format that complies with the conservation easement Geographic Information System (GIS) technical standards maintained in the guidebook prepared by the Department in accordance with section 14.1(a)(3)(xv) of the Act (3 P. S. § 914.1(a)(3)(xv)). The digital format shall show the bearings and distances between each monument and contain the northing and easting of each monument.
- c. Coordinates of at least two ground control points located sequentially along the boundary survey, with latitude and longitude expressed in decimal degrees with an accuracy of 6 recorded decimal places. These coordinates shall be based on the “North American Datum of 1983,” or its most current successor document, and shall be obtained through field observation or verification of datum.
- d. A paper copy of the plotted final survey map from the digital file showing the course bearings and distances and other annotations and symbols as maintained in the guidebook prepared by the Department in accordance with section 14.1(a)(3)(xv) of the Act.

3. Monumentation:

The surveyor shall establish monumentation for at least the two ground control points required under subsection (b)(3). This monumentation shall consist of permanent, concrete markers of substantial length and width containing ferrous or other materials detectable by an electromagnetic locator. The identity of the surveyor who places a monument shall be affixed or marked upon the monument so that it can be ascertained by inspection of the monument in the field.

4. Costs:

If the results of a title search indicate that a survey is necessary, it will be issued and paid for by the County Board. If the landowner has elected to exclude acreage from the easement and/or there is a graveyard on the property or some other commercial business that must be excluded, it shall be the landowner’s responsibility to provide a legal description that meets the aforementioned standards.

## M. Easement Purchase Recommendations/Submission Requirements

1. County Commissioners: Each recommendation for easement purchases with State funds, County funds or a combination of funds shall be presented to the County Commissioners at a regularly scheduled public meeting. It is possible that this information will be recorded by local news media.

2. State Board: Each recommendation for easement purchases with State funds, State and County funds or State, County and a local government unit funds will be submitted to the State Board accompanied by a summary report including a statement of costs and all other prescribed information and documentation as identified in accordance with 7 PA Code Chapter 138e.69-70.
3. Letters of Notification: Letters of notification for easement purchases will be sent to adjoining landowners of preserved farms via certified mail in the manner in accordance with 7 PA Code Chapter 138e.71.

#### **N. State Board Approval**

A complete application and recommendation is submitted to the Bureau of Farmland Preservation for review. Upon review and approval, the application is scheduled for the next State Board meeting to receive State Board approval in accordance with 7 PA Code Chapter 138e.921(b).

#### **O. Settlement**

The County Board will schedule settlement after receipt of State and/or County funds with the landowner, Title Company representative, County solicitor, and a representative of the County or County Board. The County Board will confirm that all listed title insurance exceptions have been addressed and resolved prior to the purchase of the agricultural conservation easement. The settlement will be held at the office of the County Board or Title Company representative. The County Board shall record the deed of agricultural conservation easement and any other documents (such as subordination documents, satisfaction pieces and releases) at the appropriate recorder of deeds' office after settlement.

### **X. SPECIAL PROVISIONS FOR PARCELS NOT ENTIRELY WITHIN AN AGRICULTURAL SECURITY AREA**

#### **A. Parcels Straddling Township Boundaries**

The County Board may recommend the purchase of an agricultural conservation easement on a parcel, a portion of which is not within an Agricultural Security Area, if all of the following occur:

1. The Agricultural Conservation Easement would be purchased by the County solely or jointly with either the State or local government unit, or both.
2. The land is part of a parcel of farmland that is transected by the dividing line between two local government units, with the portion within one local government unit being in an agricultural security area of 500 or more acres and the portion within the other local government unit not being within an agricultural security area.
3. The majority of the parcel's viable agricultural land is located within an ASA of 500 acres or more.

## **B. Parcels Straddling County Boundaries**

The County Board may recommend the purchase of an agricultural conservation easement on a parcel, a portion of which is not within an Agricultural Security Area, if all of the following occur:

1. The Agricultural Conservation Easement would be purchased by the County solely or jointly with the Commonwealth or local government unit, or both.
2. The land is part of a parcel that is transected by the dividing line between Lancaster County and an adjoining county, with the portion within Lancaster County being in an agricultural security area of 500 or more acres and the portion within the other local government unit not being within an agricultural security area.
3. At least one of the following conditions must be met:
  - a. The main dwelling (“mansion house”) is located on the parcel and the house is located entirely within Lancaster County with the local government unit that has an agricultural security area.
  - b. The main dwelling (“mansion house”) is located on the parcel, on the dividing line between Lancaster County and an adjoining county, and the owner of the parcel has chosen Lancaster County, with the local government unit that has an agricultural security area, as the house site for tax assessment purposes.
  - c. There is no main dwelling (“mansion house”) and the majority of the parcel’s viable agricultural land is located within Lancaster County with the local government unit that has an agricultural security area.

## **C. Recording Responsibilities**

Upon the purchase of an agricultural conservation easement as described above, the portion of the parcel that was not part of an agricultural security area immediately becomes part of the agricultural security area covering the rest of the parcel. Lancaster County will take the appropriate steps to ensure that the township in which the ASA existed meets its responsibility under the Act as amended for recording, filing and notification.

# **XI. LOCAL GOVERNMENT UNIT PARTICIPATION**

A local government unit, that has an Agricultural Security Area, may preserve farmland through the purchase of agricultural conservation easements in the following manner, so long as all other conditions are met as prescribed by the Act as amended and as outlined in the ACE Regulations for local government unit participation:

1. Local government unit, in conjunction with the County Board, may participate with the State Board in the purchase of agricultural conservation easements;
2. Local government unit shall recommend to the County Board the purchase by the county and the local government unit as a joint agricultural conservation easement purchase;

3. Local government unit shall recommend to the Agricultural Preserve Board the purchase by the local government unit and the Commonwealth as a joint agricultural conservation easement purchase;
4. Local government unit may purchase an easement, provided that:
  - a. The property is located within an agricultural security area consisting of 500 acres or more or the agricultural conservation easement purchased is a joint purchase with either Lancaster County or both Lancaster County and the Commonwealth pursuant to the criteria set for the purchase of easements across local government unit boundaries and across county boundaries, including any portion of an easement extending into an adjoining county.
  - b. The Deed of Agricultural Conservation Easement is at least as restrictive as the Deed of Agricultural Conservation Easement prescribed by the State board for easement purchases by the Commonwealth.
  - c. The Local government unit shall participate with the Agricultural Preserve Board in complying with recording the Deed of Agricultural Conservation Easement.
5. The Agricultural Preserve Board shall be responsible for recording the Deed of Agricultural Conservation Easement. The Agricultural Preserve Board shall submit a certified copy of the Deed of Agricultural Conservation Easement within 30 days after recording and shall attach to the certified copy a description of the farmland.
6. The Local government unit may incur debt for the purchase of agricultural easements.

## **XII. POLICIES OF THE AGRICULTURAL PRESERVE BOARD**

**All Policies effective beginning for the 2001 Ranking Round, except as otherwise noted**

### **AGRICULTURAL SECURITY AREAS**

The Lancaster County Agricultural Preserve Board shall support established Agricultural Security Areas, specifically with regards to normal agricultural activities and uses, conducted in a lawful manner as well as customary farm operations and activities including normal noise, dust manure and other odors, the use of agricultural chemicals and nighttime farm operations.

The Lancaster County Agricultural Preserve Board will promote, by whatever means available, the protection of the continued agricultural use of land in Agricultural Security Areas from incompatible County, State and Federally funded capital projects which are not planned at the time of establishment of Agricultural Security Areas and additions thereto which would result in the extensive, direct or indirect conversion of farmland resources.

### **AGRICULTURAL ZONING**

An easement application must be re-zoned to agriculture prior to the appraisal being initiated.

### APPRAISAL

Landowners are required to submit an appraisal deposit fee is \$750 per appraisal unless otherwise changed by the Agricultural Preserve Board. The appraisal deposit fee is refundable if the applicant accepts an easement offer under the terms of the original offer by the Board. The deposit is forfeited if the applicant undertakes a second appraisal, or declines the easement offer. If an appraisal is over one year old the Board may at their discretion require an update, which would be funded by the landowner, unless the cost of the update is reimbursable by the State.

### CRP/CREP

Conservation Reserve Program/ Conservation Reserve Enhancement Program – The State Agricultural Land Preservation Board approved and authorized on July 13, 2000 the use of any conservation practice under CRP/CREP as not violating the deed of agricultural conservation easement with respect to the restricted land provided the conservation plan as revised allows for the implementation of any such conservation practice. However, land enrolled in CRP/CREP on an applicant's property will not be included in the calculation of tillable land or pasture for the purposes of meeting the minimum criteria.

### DEFINITION OF AGRICULTURAL ZONING

The County Board, in consultation with the Lancaster County Planning Commissioner, will review agricultural zoning of all municipalities in the County to determine if the minimum density for the zone results in effective protection for normal farming operations. The Board considers zoning with a minimum of a 1 lot per 20 acre standard to be "effective." A-2 Agricultural Districts shall not be considered "effective" Agricultural Zoning as they do not meet the 1 to 20 acre standard. This definition is applicable to applications beginning in calendar year 2002.

Per the Agricultural Preserve Board's review and recommendation, the following Townships were determined to not have acceptable Agricultural Zoning: Brecknock, Paradise and Sadsbury.

### EASEMENT OFFERS

The Board may negotiate bargain sale offers with landowners.

### ELIGIBLE NONPROFIT ENTITY PARTICIPATION

The Lancaster County Agricultural Preserve Board encourages eligible nonprofit entity participation in the Agricultural Conservation Easement Program and will work with eligible nonprofit entities to preserve farmland in a manner that is complimentary to the Easement Program.

### EMINENT DOMAIN/CONDEMNATION POLICY

Condemnations by public bodies of land encumbered by agricultural preservation easements for purposes not expressly permitted in the Deed of Easement (relating to utility lines for water, sewage, electric, telephone, coal by underground mining methods, gas, oil, or oil products) are governed under Section 913 of the Act. However, the Board will work with landowners and governmental agencies all parties to prevent or minimize the loss of land devoted to agricultural activities at a preserved tract. In conjunction with the County, the Board may, at its discretion, participate in proceedings before State Agricultural Lands Condemnation Approval Board (ALCAB) and/or other reviewing governmental agencies and participate pursuant to the governing law as the Board may elect.

For conservation easements acquired under the authority of Act 442 only, the Board shall object to 1) any condemnation that results in loss of land devoted to agricultural activities at a preserved tract, except for road widening purposes and utility lines for water, sewer, electric, and telephone; 2) condemnation not along road frontage of a preserved tract; and 3) condemnation of a preserved tract in the nature of a private road condemnation.

This policy shall apply solely to the Board. This Policy shall not apply to, and shall not be deemed a policy of the Lancaster County Commissioners. All rights that the County may have under the laws of the Commonwealth of Pennsylvania, including those under 3 P.S. subsection 913(b), are expressly reserved to the County. This Policy shall be deemed a Board policy only, and not (necessarily) a policy of the County Commissioners.

Nothing herein shall be deemed to constitute a waiver or relinquishment of any right the Board or County may have to just compensation as a result of any condemnation (by virtue of 3 P.S. subsection 914(c) (5) or otherwise).

#### GIFT OF EASEMENT TO CHARITY/ESTATE & TAX PLANNING & PROPERTY EXCHANGES

The Board may work with landowners to provide additional time, where appropriate to provide, for the aforementioned.

#### GROWTH AREAS

No application will be accepted on a farm that is inside an adopted Urban or Village Growth Area.

#### LAND WITHHOLDING

If a landowner opts to withhold a portion of his/her property from the easement, the land must be identified on a map with submission of the application and comment briefly on the purpose of the exclusion. The Board may reduce the easement offer pending the size, location and nature of the exclusion.

#### LOT WITHHOLDING

At any time *subsequent* to submission of an easement application or immediately prior to, during or after the appraisal, an applicant opts to subdivide one lot (one acre or the smallest permitted residential lot size, per the municipality's zoning ordinance) the Board has the discretionary authority to reduce the easement offer by 10%. If the landowner subdivides two lots the Board has the discretionary authority to reduce the easement offer by 25%. If the landowner subdivides off three lots the Board may reject the application or withdraw an offer if one has been made. If the lot(s) are already subdivided prior to applying this policy will not apply.

#### MINIMUM CRITERIA

All applications that meet the Minimum Criteria will be accepted.

#### NON-INTERVENTION IN MUNICIPAL ZONING MATTERS

The Lancaster County Agricultural Preserve Board and staff fully respect the autonomy of Lancaster County municipalities in zoning decisions and intend not to intervene in zoning map amendments or zoning ordinance text amendments. The Agricultural Preserve Board and staff may, however, continue to provide technical assistance and information concerning agricultural land preservation techniques and incentives to municipalities and landowner upon request.

### SUBDIVISION v. LAND DEVELOPMENT PLAN

There may be cases whereby a landowner desires and/or the APB encourages a preserved farm landowner to pursue a Land Development Plan rather than traditional subdivision.

### SURVEY

The Agricultural Preserve Board will issue a survey and pay for the cost if the property or any exclusion thereof does not meet the State's standard precision of 1 in 200. Any survey must meet the standards set forth in 7 PA Code Section 138e.73. The Agricultural Preserve Board shall require the landowner to provide a legal description that meets the same standards of any land to be excluded from the easement.

All cemeteries and graveyards will be excluded from easements. The costs of such survey work will be born by the applicant. Furthermore, depending on deed language, such as future graveyard rights to heirs & assigns, the landowner may be encouraged to survey an additional expansion area, not to exceed 50% unless otherwise agreed upon by the landowner and the Board.

### TOWNSHIP PARTICIPATION

The Agricultural Preserve Board encourages Township participation in the program and will work with Townships to preserve farmland in a manner that is complimentary to the Easement Program.

### TRANSFERRABLE DEVELOPMENT RIGHTS (TDRs)

The Agricultural Preserve Board will not hold TDRs; however, the County Board does encourage that TDRs be transferred to the Lancaster Farmland Trust or some other non-profit agency who support the preservation of farmland.

### URGENT SITUATIONS

The Board may consider preserving a farm sooner than the ranking indicates if the farm is subject to an urgent situation. The farm should score over 80 points and must be a current applicant to be considered.

The Board has the discretionary authority to preserve a farm out of ranking order if there is potential to leverage additional funding, such as federal, township, or a private contribution. If a landowner cannot provide clear title, or some other circumstance arises whereby the landowner is unwilling or unable to settle on the Deed of Easement, the landowner shall reimburse the Board for the cost of any survey work that the Board has born.

### DEED RESTRICTIONS LIMITING AGRICULTURAL ISSUES

This Board believes it is the intent of the Lancaster County farm preservation program and the Agricultural Area Security Law to preserve farms in perpetuity not only for the benefit of the current farmer who owns the farm, but also for the farming community as a whole and all farmers, including future farmers to whom the preserved land will someday be passed down. The Board desires to make known its belief and enact policies relating to both farms for which preservation applications have been or will be submitted to APB, and as to the farms already preserved and which become preserved in the future.

#### a. *Applications to Preserve a Farm.*

It is the opinion of the Board that farms for preservation should potentially allow for all types of farming and agricultural activity as the then-owning farmer may wish to undertake, including as to types of farming that currently may be out of favor, uneconomical, or not yet developed or practiced. Farms should not be encumbered by deed restrictions that would limit the type,

manner or extent of agricultural uses, methods and structures allowed on a farm.

Accordingly, it is the policy of this Board: (1) to encourage landowners not to so deed restrict or otherwise restrict any farm or land submitted for application to APB; (2) that such restrictions shall generally be deemed to be contrary to the purposes and intent of the Lancaster County agricultural preservation program and the Agricultural Area Security Law and its regulations; and (3) to not accept for preservation any land encumbered by deed restrictions and other legal arrangements that would purport to limit the type, manner or extent of agricultural uses, methods and structures that owners of a farm might desire.

By way of illustration and not limitation, the following are examples of the kinds of deed restrictions and arrangements that this Board would generally oppose on land for which application to preserve is submitted:

1. Prohibiting specified types agricultural uses (for example, all Concentrated Animal Feeding Operations), farming methods (for example, applications of specified types of pesticides) or structures (for example, all poultry, hog, dairy and other livestock-related facilities) altogether from all portions of a farm;
2. Limiting the type, manner or extent of such uses or methods, or the locations of such structures, to particular portions of a farm;
3. Restricting a farm to a specific type or types of agricultural production (for example, crop farming only, or horse farming only, or no poultry houses, etc.); and
4. Restricting the type, manner or extent of agricultural structures that may be built upon a under an ACE and applicable law.

b. **Currently Preserved Farms and those Preserved in the Future.**

The Board believes it is potentially detrimental to allow current owners of preserved farms to record further deed restrictions or propound other legal arrangements that would restrict or limit the type, manner or extent of agricultural uses, methods and structures upon a preserved farm. Indeed, such restrictions or arrangements may themselves violate the terms and intent of an ACE and the Agricultural Area Security Law and its regulations.

Accordingly, it is the policy of this Board to oppose on preserved farms: (1) all deed restrictions and other legal arrangements that would purport to limit the type, manner or extent of agricultural uses, methods and structures allowed by an ACE that future owners of preserved farms may desire (see examples 1-4 of Part A, above); (2) Restrictions as to the type, manner or extent of Rural Enterprises that may be conducted on a preserved farm in manner contrary to the arrangement set forth in a particular ACE or available under the Act and applicable program guidelines; and (3) Restrictions on or relinquishing of subdivision or land development rights in manner contrary to the arrangement set forth in a particular ACE.

As to both farms for application and preserved farms, the Board acknowledges that in certain specific situations, it might be appropriate for some kind of deed restriction to exist in addition to an ACE on a preserved farm, but the Board believes that such situations must be addressed carefully and the Board's advice and consent should be obtained prior to application for

preservation and/or preparation and recording of such restrictions, as applicable.

This policy is intended to apply only to landowner imposed deed restrictions and other landowner imposed legal arrangements where the landowner voluntarily and of his own initiative restricts the time, manner and extent of agricultural use of farmland; this policy is not intended to relate to restrictions in the nature of regulatory restrictions (subdivision plan notes, etc.) arising from customary zoning, subdivision and land development requirements or proceedings.

### **XIII. RESPONSIBILITIES OF LANDOWNER**

#### **A. Permitted Acts**

During the term of the easement, the restricted land shall be used solely for agricultural production or other uses permitted by the Act.

#### **B. Conservation Plan**

1. To preserve the soil resources and agricultural viability of the preserved farm, the County Board shall require the landowner of the preserved farm to acquire and implement a conservation plan approved by the Lancaster County Conservation District or the County Board prior to or at the closing of the easement purchase on the subject property. The landowner is responsible for keeping the conservation plan current and implemented and shall update it after ten years or whenever there is a significant change to the farm operation, whichever occurs sooner.
2. In addition to the requirements established by the Lancaster County Conservation District or the County Board, the conservation plan shall require that:
  - a. The use of the land for agricultural production, such as growing sod, nursery stock, ornamental trees and shrubs does not remove excessive soil from the restricted land.
  - b. The excavation of soil, sand, gravel, stone or other materials for use in agricultural production on the restricted land is conducted in a location and manner that preserves the economic viability of the restricted land for agricultural production.
  - c. The mining of minerals is conducted only through the use of methods authorized in the Act.

#### **C. Residential Structures**

1. Construction of one additional residential structure:

In addition to the structures existing on the restricted land on the date of the granting of the ACE, one additional residential structure may be constructed on the restricted land if all of the following apply:

- a. The construction of the residential structure has been reviewed and approved in accordance with section (I) of these Subdivision and Land Development Guidelines.
- b. The residential structure is constructed and used as the landowner's principal residence or for the purpose of providing necessary housing for seasonal or full-time farm employees; and,
- c. No other residential structure has been constructed on the restricted land at any time since the granting of the ACE; and,
- d. The residential structure and its curtilage, including its driveway, occupy no more than two acres of the restricted land, and is located in such a manner that will not negatively impact the use of the remainder of the restricted land for agricultural production.

2. Replacement of residential structure(s):

The replacement of a residential structure(s) existing on the restricted land at the date of the granting of the ACE is permitted if the existing residential structure is razed or removed and the replacement residential structure is erected within the curtilage of the residential structure it replaces.

3. Renovation or modification of residential structure(s):

The renovation or modification of an existing residential structure, or an addition to an existing residential structure is permitted if it would not increase the curtilage of the residential structure.

4. Conversion of existing non-residential structure to use as a residential structure:

The conversion of an existing non-residential structure or any portion of an existing non-residential structure, to use as a residential structure is permitted if all of the following apply:

- a. The conversion of the existing non-residential structure to use as a residential structure has been reviewed and approved in accordance with section (I) of these Subdivision and Land Development Guidelines.
- b. No other residential structure has been constructed on the restricted land at any time since the granting of the ACE; and,
- c. The owner of the restricted land agrees that such conversion shall be considered the right to construct one additional residential structure on the restricted land under subsection E(1), above, as permitted by the Act, Regulations, ACE and these Subdivision and Land Development Guidelines.

5. Reservation of right to construct after Subdivision:

If the restricted land is subdivided prior to the construction of a residential structure, the landowner shall do the following in conjunction with the landowner's subdivision plan and resulting deeds:

- a. Inform the County Board of the specific subdivided tract with respect to which the right to construct and use such a residential structure is reserved.
- b. Ensure that the subdivision plan and the resulting deed to the subdivided tract with respect to which the right to construct and use the residential structure is reserved includes a note from section (I)(7) of these Subdivision and Land Development Guidelines that clearly sets forth the reservation of this right.
- c. Ensure that the subdivision plan and the resulting deed to the remaining tract recites that no additional residential structure may be constructed on the remaining subdivided tract.

D. Change in Ownership

1. All properties restricted with an agricultural conservation easement shall set forth the language of the easement restrictions verbatim whenever the ownership in the property is conveyed or transferred to another person.
2. Within 30 days of a change in ownership of the restricted land, the prior owner shall notify the County Board of the name and address of the new owner, provide a copy of the deed, provide a statement of the price per acre or portion thereof involved in the transfer and a reference to the volume and page in which the transfer has been recorded by the County Recorder of Deeds.

## **XIV. SUBDIVISION AND SUBDIVISION GUIDELINES**

Prepared by: Lancaster County Agricultural Preserve Board

Return to: Lancaster County Agricultural Preserve Board

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**Page: 1 of 11**  
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### **Subdivision and Land Development Guidelines For Land Subject to an Agricultural Conservation Easement**

## **Lancaster County Agricultural Preserve Board**

### **Subdivision and Land Development Guidelines For Land Subject to an Agricultural Conservation Easement**

- A. Intent**
- B. Authority**
- C. Applicability**
- D. Definitions**
- E. Residential Structures**
- F. Residential Subdivision**
- G. Agricultural Subdivision**
- H. Lot Add-On**
- I. Review Procedure**
- J. Right to Relinquish**

#### **A. Intent**

These Subdivision and Land Development Guidelines are intended to preserve as much farmland as possible in integral tracts and to promote viable agricultural enterprises. All land development of restricted land shall require review and approval by the Lancaster County Agricultural Preserve Board. The County Board, shall evaluate all applications submitted under these guidelines pursuant to the terms of the ACE, the Act, the Regulations, these guidelines and the County Board's Program Guidelines, as permitted by law.

#### **B. Authority**

The authority for the provisions and requirements of these Subdivision and Land Development Guidelines is granted by the Agricultural Area Security Law (3 P. S. § 901—915), as amended.

#### **C. Applicability**

These Subdivision and Land Development Guidelines apply to all ACE's acquired after July 2, 2009, except sections H, Lot Add-on, the provisions of which shall apply to all ACE's acquired since August 16, 1989, including ACE's subject to the 1995 Subdivision Guidelines of the Lancaster County Agricultural Preserve Board.

#### **D. Definitions**

*1995 Subdivision Guidelines of the Lancaster County Agricultural Preserve Board* – The Subdivision Guidelines adopted by the Agricultural Preserve Board on February 24, 1995 and recorded in the Lancaster County Recorder of Deeds Office on November 1, 1995, in Deed Book 4788, Page 637, as amended by the Corrective Subdivision Guidelines of September 27, 2001, and recorded in the Lancaster County Recorder of Deeds Office on April 23, 2001 as Document No. 5070013.

*ACE* - An Agricultural Conservation Easement held solely by the State or County, or jointly by any combination of the State, County, Local Government Unit or an Eligible Nonprofit Entity, that is acquired according to the provisions of the Act.

*Act* -The Agricultural Area Security Law (3 P. S. § § 901—915), as amended.

*Add-on Lot* – A tract of 10 or more contiguous gross acres of restricted land which is subdivided from one farmland tract and simultaneously added-on to another restricted land farmland tract by the conveyance of a Deed of Merger.

*Agricultural production* - The production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than 50% of such processed or merchandised products are produced by the farm operator. The term includes use of land which is devoted to and meets the requirements of and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government.

*Contiguous acreage* - All portions of one operational unit as described in the deed whether or not the portions are divided by streams, public roads, bridges, and whether or not described as multiple tax parcels, tracts, purparts, or other property identifiers. The term includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.

*County Board* - The Lancaster County Agricultural Preserve Board as appointed by the county governing body under the act.

*Curtilage* - The area surrounding a residential structure used for a yard, driveway, on lot sewerage system or other nonagricultural purposes.

*Deed of Merger* - A deed which, when recorded, clarifies that the premises are only one lot, and are subject to regulations as one lot, and which shall contain a condition and restriction in substantially the following form:

“BY THIS CONVEYANCE Grantors and Grantees, being the same parties, intend that Tract No. 1 and Tract No. 2 herein described shall constitute a single lot and shall for all purposes be joined and treated as a single property. It is the further intention of the Grantors and Grantees that neither tract may be conveyed individually and that Grantors and Grantees relinquish any right to do so in the future, intending for all intents and purposes that the tracts shall hereafter be merged and shall constitute a single property.”

*Economic viability of farmland for agricultural production* - The capability of a particular parcel of restricted land, other than a parcel of 2 acres or less upon which construction and use of the landowner’s principal residence or housing for seasonal or full-time farm employees is permitted under section 14.1(c)(6)(iv) of the act (3 P. S. § 914.1(c)(6)(iv)), to meet the criteria in § 138e.16(a) (relating to minimum criteria for applications).

*Farmland tract or tract* - Land constituting all or part of a farm with respect to which easement purchase is proposed. A farmland tract may consist of multiple tracts of land that are identifiable by separate tax parcel numbers, separate deeds or other methods of property identification.

*Harm the economic viability of the farmland for agricultural production* - To cause a particular parcel of restricted land to fail to meet the criteria in § 138e.16(a) or to create, through subdivision, a parcel of restricted land, other than a parcel of 2 acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted under section 14.1(c)(6)(iv) of the act, that would fail to meet the criteria in § 138e.16(a).

*Immediate family member* - A brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father or mother of the landowner.

*Land Development* – Any of the following activities:

- A. The construction of additional buildings or structures, including the construction of an additional residential structure, as permitted by the Act.
- B. A Subdivision.
- C. A Lot Add-On.
- D. "Land Development" shall not include:
  - 1) The conversion of an existing single-family residential structure into multiple residential units, or
  - 2) The construction or use of any building or other structure for agricultural production.

*Land which has been devoted primarily to agricultural use* - Acreage which is a part of restricted land and is harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land containing nonresidential structures used for agricultural production, or other acreage immediately available for agricultural production, and which excludes any acreage upon which immediate agricultural production is impracticable due to residential structures and their curtilage, wetlands, soil quality, topography or other natural or manmade features, and which further excludes any tract of 2 acres or less designated as the site upon which the landowner's principal residence or housing for seasonal or full-time employees is permitted under section 14.1(c)(6)(iv) of the act.

*Lot* - A designated parcel, tract, or area of land established by a plat or otherwise permitted by law to be used, developed, or built upon as a unit.

*Lot Add-on* - A subdivision, the purpose of which is to increase the lot area of an existing tract of restricted land by at least 10 contiguous gross acres of restricted land.

*Pennsylvania Municipalities Planning Code* - 53 P. S. § § 10101—11201.

*Receiving Lot* - A tract of restricted land, which through the process of a Lot Add-on, is increased in lot area by not less than 10 contiguous gross acres of restricted land.

*Regulations* - the Agricultural Conservation Easement Purchase Program regulations promulgated under authority of the Agricultural Area Security Law (Act of June 30, 1981, P.L. 128, No. 43) (3 P.S. §§ 901-915) at 7 Pa. Code Chapter 138e.

*Restricted land* - Land which is subject to the terms of an agricultural conservation easement acquired under the Act.

*Reviewing Agencies* – The Lancaster County Planning Commission and all Grantee’s of the ACE.

*Sending Lot* - A tract of restricted land, which through the process of a Lot Add-on, is reduced in lot area to not less than 75 contiguous gross acres of restricted land.

*State Board* - The State Agricultural Land Preservation Board.

*Subdivision* - The division or re-division of one lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building, or lot development. For the purposes of these Subdivision Guidelines, subdivision shall be further defined as:

- A. *Residential Subdivision*: The subdivision of one lot of not more than two gross acres (“residential lot”) for the purpose of the construction of a principal residence for the landowner or an immediate family member.
- B. *Agricultural Subdivision*: The Subdivision of the restricted land into two lots where each resulting lot is not less than 75 gross acres of restricted land and each is to be used for agricultural production.

#### **E. Residential Structures**

##### **(1) Construction of one additional residential structure:**

In addition to the structures existing on the restricted land on the date of the granting of the ACE, one additional residential structure may be constructed on the restricted land if all of the following apply:

- (a) The construction of the residential structure has been reviewed and approved in accordance with section (I) of these Subdivision and Land Development Guidelines.
- (b) The residential structure is constructed and used as the landowner’s principal residence or for the purpose of providing necessary housing for seasonal or full-time farm employees; and,
- (c) No other residential structure has been constructed on the restricted land at any time since the granting of the ACE; and,
- (d) The residential structure and its curtilage, including its driveway, occupy no more than two acres of the restricted land, and is located in such a manner that will not negatively impact the use of the remainder of the restricted land for agricultural production.

##### **(2) Replacement of residential structure(s):**

The replacement of a residential structure(s) existing on the restricted land at the date of the granting of the ACE is permitted if the existing residential structure is razed or removed and the replacement residential structure is erected within the curtilage of the residential structure it replaces.

(3) Renovation or modification of residential structure(s):

The renovation or modification of an existing residential structure, or an addition to an existing residential structure is permitted if it would not increase the curtilage of the residential structure.

(4) Conversion of existing non-residential structure to use as a residential structure:

The conversion of an existing non-residential structure or any portion of an existing non-residential structure, to use as a residential structure is permitted if all of the following apply:

- (a) The conversion of the existing non-residential structure to use as a residential structure has been reviewed and approved in accordance with section (I) of these Subdivision and Land Development Guidelines.
- (b) No other residential structure has been constructed on the restricted land at any time since the granting of the ACE; and,
- (c) The owner of the restricted land agrees that such conversion shall be considered the right to construct one additional residential structure on the restricted land under subsection E(1), above, as permitted by the Act, Regulations, ACE and these Subdivision and Land Development Guidelines.

(5) Reservation of right to construct after Subdivision:

If the restricted land is subdivided prior to the construction of a residential structure, the landowner shall do the following in conjunction with the landowner's subdivision plan and resulting deeds:

- (a) Inform the County Board of the specific subdivided tract with respect to which the right to construct and use such a residential structure is reserved.
- (b) Ensure that the subdivision plan and the resulting deed to the subdivided tract with respect to which the right to construct and use the residential structure is reserved includes a note from section (I)(7) of these Subdivision and Land Development Guidelines that clearly sets forth the reservation of this right.
- (c) Ensure that the subdivision plan and the resulting deed to the remaining tract recites that no additional residential structure may be constructed on the remaining subdivided tract.

**F. Residential Subdivision**

The subdivision of one residential lot from the restricted land for the purpose of the construction of a principal residence for the landowner or an immediate family member is permitted, if all of the following apply:

- (1) The residential subdivision has been reviewed and approved in accordance with section (I) of these Subdivision and Land Development Guidelines; and,

- (2) Except for the residential lot and the remainder of the parent tract, no other lot of less than 75 contiguous acres of restricted land results from the residential subdivision; and,
- (3) The residential lot is not more than two gross acres and is inclusive of the residential structure and its curtilage, wholly including the driveway and public road right-of-way, and is located in such a manner that will not negatively impact the use of the remainder of the restricted land for agricultural production; and,
- (4) The subdivision will not result in more than two lots of restricted land; and,
- (5) The subdivision will not harm the economic viability of the restricted land for agricultural production; and,
- (6) The subdivision is consistent with and complies with the ACE, the Act, the Regulations and these Guidelines, the County Board's Program Guidelines, and other applicable law; and,
- (7) The subdivision conforms to County and Municipal planning, zoning and subdivision requirements; and,
- (8) The subdivision has been reviewed and recommended for approval by the Lancaster County Planning Commission, the appropriate Township Planning Board and the Townships Board of Supervisors, pursuant to the Pennsylvania Municipalities Planning Code (Act170), as amended; and,
- (9) Once the restricted land has been subdivided, the resultant lots may not be further subdivided except as may be allowed by Section H, if applicable; and,
- (10) The resultant lots shall continue to be subject to the terms of the original ACE. The ACE and applicable Subdivision and Land Development Guidelines must be recited verbatim in the deed for all subdivided and remaining parcels.

#### **G. Agricultural Subdivision**

The subdivision of the restricted land into two lots to be used for agricultural production is permitted, provided that all of the following apply:

- (1) The agricultural subdivision has been reviewed and approved in accordance with section (I) of these Subdivision and Land Development Guidelines; and,
- (2) The subdivision does not result in any lot of less than 75 contiguous gross acres of restricted land; and,
- (3) The subdivision will not harm the economic viability of the restricted land for agricultural production and will not negatively impact the use of the restricted land for agricultural production; and,
- (4) The subdivision will not result in more than two lots of restricted land; and,
- (5) The subdivision will not convert land which has been primarily devoted to agricultural use to some other use; and,

- (6) The subdivision is consistent with and complies with the ACE, the Act, the Regulations and these Guidelines, the County Board's Program Guidelines, and other applicable law; and,
- (7) The subdivision conforms to County and Municipal planning, zoning and subdivision requirements. The subdivision has been reviewed and recommended for approval by the Lancaster County Planning Commission, the appropriate Township Planning Board and the Townships Board of Supervisors, pursuant to the Pennsylvania Municipalities Planning Code (Act170), as amended; and,
- (8) Once the restricted land has been subdivided, the resultant lots may not be further subdivided, except as may be allowed by Section H, if applicable; and,
- (9) The resultant lots shall continue to be subject to the terms of the original ACE. The ACE and applicable Subdivision and Land Development Guidelines must be recited verbatim in the deed for all subdivided and remaining parcels.

#### **H. Lot Add-On**

The lot add-on of restricted land to other restricted land is permitted, provided that all of the following apply:

- (1) The lot add-on has been reviewed and approved in accordance with section (I) of these Subdivision and Land Development Guidelines; and,
- (2) The lot add-on does not result in a Sending Lot or a Receiving Lot containing less than 75 contiguous gross acres of restricted land; except that:
  - (a) A lot add-on resulting in a Sending Lot of less than 75 contiguous gross acres of restricted land, but more than or equal to 50 contiguous gross acres of restricted land may be permitted only if the Sending Lot is subject to the 1995 Subdivision and Land Development Guidelines of the Lancaster County Agricultural Preserve Board, (i.e. was preserved prior to   [date of recording of these Guidelines]  , 2009; and,
  - (b) A lot add-on resulting in a Receiving Lot of less than 75 contiguous gross acres of restricted land may only be permitted if the Receiving Lot is less than 75 contiguous gross acres of restricted land, but more than 10 contiguous gross acres of restricted land prior to the lot add-on; and,
- (3) The Add-on Lot is not less than 10 contiguous gross acres; and,
- (4) The Add-on Lot does not have the legal right to be separately conveyed as or to exist as a stand-alone parcel and is conveyed by Deed of Merger to an adjacent restricted land farmland tract; and,
- (5) The lot add-on will not harm the economic viability of the restricted land for agricultural production; and,
- (6) The lot add-on will not convert land which has been primarily devoted to agricultural use to some other use; and,

- (7) The lot add-on is consistent with and complies with the ACE, the Act, the Regulations and these Guidelines, the County Board's Program Guidelines, and other applicable law; and,
- (8) The lot add-on conforms to County and Municipal planning, zoning and subdivision requirements; and,
- (9) The lot add-on has been reviewed and recommended for approval by the Lancaster County Planning Commission, the appropriate Township Planning Board and the Townships Board of Supervisors, pursuant to the Pennsylvania Municipalities Planning Code (Act170), as amended; and
- (10)The resultant lots shall continue to be subject to the terms of the original ACE. The ACE and applicable Subdivision and Land Development Guidelines must be recited verbatim in the deed for all subdivided and remaining parcels.

#### **I. Review Procedure**

All land development of the restricted land shall require review and approval as follows:

- (1) The applicant(s) shall submit the following information to the Lancaster County Agricultural Preserve Board:
  - (a) An application for land development signed by the landowner(s) requesting the review and explaining the reasons for the proposed land development.
  - (b) A demonstration based on crop and animal production and capacity that the economic potential of the restricted land for agricultural production will not be diminished as a result of the proposed land development.
  - (c) Evidence that the proposed lot configuration and/or location of the proposed residential structure and its driveway will not negatively impact the use of the restricted land for agricultural production.
  - (d) Size and soils information for the proposed parcels, which information should be obtained from the Lancaster County Conservation District or Natural Resources Conservation Service Office.
- (2) The applicant(s) shall have the burden of demonstrating, by clear and convincing evidence, that the criteria set out in these Subdivision Guidelines, as well as the requirements of the ACE, the Act, the Regulations, the County Board's Program Guidelines, and other applicable law, have been satisfied. If the applicant fails to do so, the Board shall deny the application.
- (3) Upon receipt of the application, the County Board shall forward notification thereof to the Reviewing Agencies.
- (4) The Reviewing Agencies shall have 60 days from receipt of such notification to review, comment and make recommendations on the proposed application to the County Board.

- (5) After reviewing the application and any comments and recommendations submitted by the Reviewing Agencies, the County Board shall approve or deny the application to subdivide within 120 days after the date of its filing unless the time is extended by agreement of the landowner. If within 45 days of receipt of such letter, the County Board fails to take such action, the application shall be deemed approved by the County Board.
- (6) If the application for the land development of the restricted land is approved by the County Board, a copy of the application, along with the comments and recommendations of the Lancaster County Planning Commission, shall be forwarded to the State Board for review and approval or disapproval. When reviewing an application to subdivide land subject to an agricultural conservation ACE, the State Board shall consider only whether the application complies with the conditions under which land development is permitted by the approved County program. The State Board shall notify the County Board of its decision regarding the application.
- (7) If the application for the land development of the restricted land is approved by the County Board, the following plan notes shall be included on all applicable subdivision plan(s), lot add-on plan(s), sewage module(s), deed(s) or other recordable documents for all resultant parcels:
  - (a) "NOTICE: Lancaster County records indicate that an Agricultural Conservation Easement ("ACE") has been granted to the \_\_ Grantee \_\_ to agriculturally preserve all or a portion of the real property depicted on this plan. The ACE was recorded in the Lancaster County Recorder of Deeds on \_\_[date] \_\_, to document number \_\_[doc ID]\_\_ [or Book \_\_\_\_, and Page \_\_\_\_]. As set forth more specifically in the ACE, the ACE is intended to prevent the development, improvement or use of the land for any purpose other than agricultural production or customary incidental uses and operations. Subdivision and/or land development of such agriculturally preserved land must be reviewed and approved by the Lancaster County Agricultural Preserve Board, and will be evaluated based on the terms of the ACE and Pennsylvania law, including the Agricultural Area Security Law, its regulations, the County Program and any other legal authority or policies lawfully in effect. Any transfer of agriculturally preserved real property shall include within the transfer deed a verbatim recitation of the applicable ACE restrictions. A transferor of agriculturally preserved real property, at least ten (10) days prior to the transfer of title, shall notify the Lancaster County Agricultural Preserve Board of the transfer and shall provide to the Board with all required transfer-related information."
  - (b) "The additional residential structure permitted by the Agricultural Conservation Easement is hereby assigned to Lot No. \_\_\_\_. Notwithstanding the replacement of this additional residential structure on Lot No. \_\_\_\_, or the replacement of the existing residential structure on Lot No. \_\_\_\_, no further residential structures are permitted."
  - (c) "Agricultural Nuisance Disclaimer - Land within the agricultural district are located within area where land is used for agricultural production. Owners, residents, and other users of this property may be subjected to inconveniences, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations including but not limited to noise, odors, dust, and the operation of machinery of any kind including aircraft, the storage and disposal of manure, the application of fertilizers and soil amendments. Owners,

occupants, and users of this property should be prepared to accept such inconveniences, discomfort, and the possibility of injury from normal agricultural operations, and are hereby put on official notice that section 4 of the Pennsylvania Act 133 of 1982, "The Right to Farm Law", may bar them from obtaining a legal judgment against such normal agricultural operations used in a prudent manner."

- (8) If the application to subdivide is rejected by the County Board, the application shall be returned to the landowner with a written statement of the reasons for such rejection. Within 30 days after the receipt of the statement of rejection, the landowner may appeal the rejection in accordance with 2 Pa. C.C. Ch. 5, Subch. B (relating to practice and procedure of local agencies) and Ch. 7 Subch. B (relating to judicial review of local agency action).

#### **J. Right to Relinquish**

- (1) Any of the rights conferred by Sections G and H, above, may be relinquished and extinguished by the owner of the land subject to the ACE by recording, in the Office of the Lancaster County Recorder of Deeds, an affidavit evidencing the intent to relinquish and extinguish.

## **XV. PROCEDURES FOR INSPECTING AND ENFORCING AN EASEMENT**

### **A. Responsibility**

The County Board shall have the primary responsibility for inspecting restricted land and enforcing the terms of an easement. The State Board or its designee will have the right to inspect restricted land and enforce an easement on its own behalf or in conjunction with the county board. The eligible nonprofit entity shall have the right to inspect and enforce an easement in conjunction with the Lancaster County Agricultural Preserve Board, provided that the eligible nonprofit entity is a grantee of the agricultural conservation easement.

### **B. Inspections**

1. The County Board shall inspect all restricted land within the County at least annually to determine compliance with the applicable deed of easement. The first inspection shall be completed within 1 year of the date of easement sale, and shall be included in the annual report no later than the first annual report following that 1-year period.
2. Written notice of an inspection to be conducted shall be mailed by certified mail to the owner at least 10 days prior to the inspection.
3. An inspection conducted shall be performed between the hours of 8 a.m. and 5 p.m. on a weekday that is not a legal holiday recognized by the Commonwealth, or a date and time agreeable to the County and the landowner.
4. Within 10 days of conducting an inspection the County Board shall prepare a written inspection report setting forth the following information:
  - a. The identification of the land inspected.
  - b. The name of the owner of the farmland at the time the easement was inspected.
  - c. A description of modifications in the number, type, location or use of any structures on the land since the date of the filing of the deed of easement.
  - d. A description of the conservation practices being observed on the restricted land.
  - e. A statement of whether the provisions of the deed of easement are being observed.
  - f. A statement indicating whether a structure permitted under section 14.1(c)(6)(iv) of the Act has been constructed on the restricted land and, if such a structure has been constructed, the month and year construction was completed and a description of the structure and its location on the land.

5. A copy of the inspection report shall be mailed by certified mail to the owner.
6. The County Board and the State Board may inspect the restricted land, jointly or severally, without prior notice if they have reasonable cause to believe that any provision of the easement has been or is being violated.

### C. Annual Report

The County Board shall file the following with the State Board by March 1 of each year a copy of inspection reports for inspections conducted during the prior year and compile an annual report, which summarizes the number of inspections, violations detected, violations resolved and the circumstances surrounding any unresolved violations.

### D. Enforcement

The County Board shall enforce the terms of each easement purchased within the county under the Act, whether it be a State or County purchase or a joint purchase with a local government unit and/or an eligible nonprofit entity.

1. The State Board may enforce the terms of State or jointly purchased easements.
2. The right of the State Board to enforce the terms of an easement may be exercised either jointly with the County Board or by the State Board acting on its own behalf.

### E. Notification to Owner

1. Within 10 days of the discovery of a violation of the terms of an easement, the County Board shall send written notice of the violation to the owner of the restricted land, the county governing body and the State Board.
2. The written notice required by this section shall be sent by certified mail and shall set forth the following information:
  - a. A copy of the inspection report.
  - b. A copy of the deed of easement.
  - c. A description of the action or condition, which constitutes the alleged violation.
  - d. A statement of the measures necessary to correct the alleged violation.

### F. Enforcement Actions

Sixty days after the mailing of a notice of violation under 7 PA Code Chapter 138e.205, the County Board shall commence and prosecute an action in the Court of Common Pleas of the county in which the restricted land is located seeking an order requiring correction of the violation, enjoining further violation of the terms of the easement, and other appropriate relief, unless the County Board does one of the following:

1. Determines with the State Board that the violation has been corrected.
2. Completes the following requirements:
  - a. Determines that the owner of the restricted land has commenced the necessary corrective measures, or determines that the necessary corrective measures cannot reasonably be completed within the 60-day period described in this subsection.
  - b. Establishes a period not to exceed 1 year within which the corrective measures shall be completed.

The County Board shall commence and prosecute the enforcement action described in subsection (a) if the violation is not corrected within the time established under the subsection above (2)(b).

The owner of the restricted land shall bear the costs associated with the correction of a violation of the easement, including:

1. Costs of work required and materials used to correct the violation.
2. Administrative costs incurred by the County Board and the State Board.
3. Court costs and reasonable attorneys' fees incurred by the County Board and the State Board in enforcing the easement.

If the County Board fails to institute and prosecute a timely enforcement action, the State Board may institute the action and recover costs incurred, including reasonable attorneys' fees, from the County Board or the owner of the restricted land, or both.

## **XVI. PARTICIPATION OF ELIGIBLE NONPROFIT ENTITIES**

An eligible nonprofit entity may participate with the Lancaster County Agricultural Preserve Board to preserve farmland through the purchase of agricultural conservation easements in the following manner:

1. The eligible nonprofit entity provides the Lancaster County Agricultural Preserve Board satisfactory proof of all of the following:
  - a. That the entity is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. Section 501(c)(3)).
  - b. That the entity has experience acquiring, whether through purchase, donation, or other transfer, an agricultural or other conservation easement.
2. The eligible nonprofit provides the Lancaster County Agricultural Preserve Board with the organization's Mission Statement, Strategic Plan, minimum criteria and/or property requirements, and copy of an Annual Report as documentation and certification of the organization's eligibility.

3. The eligible nonprofit entity provides a letter of request to participate with the Lancaster County Agricultural Preserve Board in the purchase of agricultural conservation easements. The letter should be signed by the President of the nonprofit organization.
4. The County shall always be a grantee in the purchase of agricultural conservation easement with a nonprofit entity. An agricultural conservation easement may be purchased jointly with an eligible nonprofit entity in the following grantee configurations:  
  
County jointly with eligible nonprofit entity;  
County jointly with eligible nonprofit entity and local government unit;  
County jointly with eligible nonprofit entity and Commonwealth of Pennsylvania.
5. The County Agricultural Preserve Board shall be responsible for recording the Deed of Agricultural Conservation Easement, shall perform all post notification requirements of the ACE Regulations, and shall submit copy of the recorded Deed of Agricultural Conservation Easement to the eligible nonprofit entity and grantor of the easement within 30 days after recording.
6. Additionally, all other conditions must be met as prescribed by the Act as amended and as outlined in the ACE Regulations for eligible nonprofit entity participation.

## **XVII. NON-ACT 43 PROVISIONS**

### **County - Only Funded Easements**

Lancaster County, through the Agricultural Preserve Board and with the approval of the Lancaster County Board of Commissioners, intends to acquire perpetual agricultural conservation easements using Count-only funding. Acceptance of conservation easements will be determined by the County Board using the minimum eligibility criteria established by the County Board

1. Description. A conservation easement is a legally binding document, which is filed in the Office of the Recorder of Deeds, forever restricting the property to agricultural and directly associated uses, and for which compensation may be paid (*see Addendum D*). The Agricultural Conservation Easement is held by the County of Lancaster in perpetuity and the enforcement of deed restrictions is the responsibility of the County as contained in the easement document (in accordance with 7 Pa. Code Chapter 138e.204. The Lancaster County Agricultural Preserve Board, acting on behalf of the Lancaster County Board of Commissioners, may accept voluntary donations or bequest of conservation easements as perpetual easements in gross.
2. All properties offered for conservation easement donation must meet the following minimum eligibility criteria:

#### **Within an Agricultural Security Area**

1. The farm property must be at least ten acres in size and,
2. Be in agricultural and open space use, and
3. Be zoned for agricultural

4. Cannot be located within an established Growth Area.
5. Shall be within a duly recorded Agricultural Security Area of at least 500 acres or more in size.
6. Contains the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.

Outside of an Agricultural Security Area

1. The Agricultural Preserve Board will consider each offer on a case by-case basis, considering the properties consistency with current and future land uses, and
2. The farm property must be at least 25 acres in size, and
3. Be in agricultural and open space use, and
4. Be zoned for agriculture
5. Primarily consist of productive agricultural soils (USDA soil capability classes I, II and III.) and,
6. Cannot be located within an established Growth Area.

## Right of First Refusal Agreements

### A. Intent

Lancaster County intends to secure, on a voluntary basis, Right of First Refusal Agreements (R.F.R) on qualified farms located in established ASAs. The agreement is intended to provide for the limited possibility of permanent preservation of farm, through County fee-simple acquisition and subsequent placement of a perpetual conservation easement and resale as preserved farmland, only if the ownership and use of the farm is jeopardized.

### B. Description

The Right Of First Refusal Agreement is an instrument, which is recorded with a property deed in the land records and is to be effective concurrent with the ownership of the signer(s) of the agreement and to be renewed by immediate family members who may be come successive owners.

In the event that all or a portion of the property may be sold to someone other than an immediate family member, developed or subdivided for non-agricultural purposes, notification by the landowner to the Lancaster County Agricultural Preserve Board will be required. Within 90 days of notification, Lancaster County may exercise the Right Of First Refusal by acquiring the property in fee simple at a price, which is equal to any bona fide offer plus \$1.00, which has been tendered to the landowner, or the appraised fair market value if an offer has not been tendered.

### C. Minimum Eligibility Requirements

The following criteria are prerequisite to land being eligible for R.F.R Agreements:

1. The land must be located in an established ASA within Lancaster County. Where farm properties are divided by an ASA boundary, the entire property may be considered to meet the criteria.
2. The property must be at least ten (10) acres in size and be in agricultural and open space use.

3. The property must not be located in an established Growth Area.

D. Sample Right Of First Refusal Agreement (available upon request)

E. Procedures to Exercise Right of First Refusal

1. Initiation of Agreement: Only a landowner of qualified land in an Agricultural Security Area may initiate a Right of First Refusal Agreement.
2. Acceptance of Agreement: The Agricultural Preserve Board shall review proposed agreements and make a recommendation for acceptance or rejection to the Lancaster County Board Of Commissioners. If accepted, the Board of Commissioners and the Chairman of the Agricultural Preserve Board shall sign the agreement.
3. Recordation of Agreement: The agreement shall be recorded in the Office of the Recorder of Deeds. Any cost of recordation will be the responsibility of the Agricultural Preserve Board.
4. Notification Requirement: The landowner must notify the Agricultural Preserve Board in writing if a bona fide offer is received to purchase all or part of the farm or at least thirty (30) days prior to submitting any development proposal to the Township, if the landowner proposes non-agricultural development or subdivision of his farm.
5. Notification Receipt and Action: Upon receipt of a notification, the Agricultural Preserve Board shall within sixty (60) days:
  - a. Review the notification and circumstances of possible sale or development of the property.
  - b. Determine the extent to which continued agricultural use is jeopardized.
  - c. Determine the availability of funds for purchase.
  - d. Initiate an appraisal of fair market value and agricultural use value of the property if favorable toward exercising the R.F.R. Agreement.
6. Purchase: Within ninety (90) days of notification, a fee-simple purchase of the property shall be subject to an affirmative recommendation by the Agricultural Preserve Board and approval by the Lancaster County Board of Commissioners.
7. Offer to Landowner or Prospective Purchaser: An assignable offer to buy shall be communicated to the landowner or prospective purchaser as the case may be, at a price which exceeds any bona fide offer received by one dollar (\$1.00) or the appraised fair market value, if no offer has been made.
8. Assignment of Rights: Lancaster County may assign its purchase rights without limitation.
9. Settlement: Settlement shall be conducted at a time and place that is mutually suitable to the parties.

10. Conservation Easement: Upon settlement, the County shall place and record a conservation easement on the subject property limiting its use in perpetuity to agricultural and directly associated uses.
11. Resale: The property, as restricted, shall be sold at a public sale in the manner prescribed by law. The proceeds from the sale of the property shall replenish the Agricultural Land Preservation Fund.
12. Interim Lease: If the subject property is not sold within a reasonable period, it may be leased for one (1) year. In any event, however, the property must be resold, as restricted, within two (2) years of the purchase by the County and any sale shall not interfere with the terms of the lease.

## Purchase and Resale

### A. Intent

Lancaster County may, as a last resort preservation measure, acquire farms located in established ASAs on a competitive basis in the open market. The intent of this measure is to purchase, preserve and then resell the farm to the highest bidder. The purchase and resale method is intended to be limited to those farms which are offered for sale, on which development pressure or the prospect of a change of the use of the property are very high and whose location and productive capability are such that the property's continued agricultural use is important to the continued agricultural viability of the area.

### B. Minimum Eligibility Requirements

The following criteria are prerequisite to the land being eligible for purchase and resale:

1. The land **must** be located in an established Agricultural Security Area within Lancaster County. Where a farm property is divided by an Agricultural Security Area boundary, the entire property may be considered to meet this criterion.
2. The property must be at least ten (10) acres in size and be in agricultural and open space use.
3. The property must not be located in an established Growth Area.

## Monitoring the Farmland Market

The Agricultural Preserve Board shall monitor the market availability of qualified land in ASAs through direct contacts with landowners, references from members of the Agricultural Preserve Board, public sale notices, and real estate advertisements.

### A. Procedures

1. Purchase Action: When a qualified farm is on the market, the Agricultural Preserve Board may:
  - a. Review the circumstances of the impending sale of the property.
  - b. Determine the extent to which conversion would contribute the adverse impacts on the viability of the ASA.

- c. Determine the availability of funds for purchase.
  - d. Initiate an appraisal of fair market value and agricultural use value of the property, if circumstances are favorable to purchase.
2. Purchase: A decision to pursue purchase of the property shall be subject to an affirmative recommendation by the Agricultural Preserve Board and approval by Lancaster County Board of Commissioners.
  3. Offer to Landowner: An assignment offer to buy shall be communicated to the landowner - a price that may not exceed the appraised fair market value.
  4. Assignment of Rights: Lancaster County may assign its rights without limitation.
  5. Settlement: If the offer is accepted, settlement shall be conducted at a time and place, which is mutually suitable to the parties. Settlement costs, taxes, insurance, and any required survey costs shall be divided between buyer and seller as agreed.
  6. Conservation Easement: Upon settlement, the County shall place and have recorded a conservation easement on the subject property limiting its use in perpetuity to agricultural and directly associated uses.
  7. Resale: The property, as restricted, shall be sold at a public sale in the manner prescribed by law. If the Agricultural Preserve Board does not receive a public sale bid or offer, reflecting at least current agricultural use value at the public sale, it may schedule subsequent public sales until a price is received which reflects at least the current agricultural use value. The proceeds from the resale of property shall replenish the Agricultural Land Preservation Fund.
  8. Interim Lease: If the subject property is not sold within a reasonable period, it may be leased for one (1) year. In any event, however, the property must be resold, as restricted, within two (2) years of purchase by the County and any sale shall not interfere with the terms of the lease.

## Agricultural Land Preservation

### A. Intent

There is established in the Lancaster County Agricultural Land Preservation Fund, a public capital fund. Fund sources may include both public and private funds. Public expenditures of the fund shall be limited to the costs of agricultural property interests and directly associated costs of the conservation easement program. The Fund may not be utilized for operating expenses of the Agricultural Preserve Board. The Lancaster County Agricultural Preserve Board administers the Fund.

### B. Fund Sources

1. Public: Public funding sources may include governmental general appropriations, tax revenues, and proceeds from the sale of bonds for the purpose of agricultural land preservation, and grants and transfers from governmental sources. Municipal, County, Commonwealth, and Federal funding are encouraged. Municipal public funds may be earmarked or used exclusively within the respective municipality.

2. Private: Private funding sources may include gifts, donations, bequests, fund raising proceeds, grants and transfers of money, or property from private sources.
3. Interest: The Agricultural Land Preservation Fund shall be invested and interest shall accrue to the Fund.

C. Fund Source Accounts

1. Upon receipt of public funds from County, State and/or Federal governmental sources, funds shall be placed in a “*Countywide Account*”.
2. Upon receipt of public funds from Municipal sources, funds shall be placed in a “*Targeted Account*” to be allocated for expenditure only in the Agricultural Security Area of the respective Township.
3. Upon receipt of funds from private sources, funds shall be placed in either the “*Countywide Account*” or a “*Targeted Account*” depending upon the declared wishes of the donor. For the purpose of source allocations, Targeted Accounts may include accounts targeted to a designated Agricultural Security Area (s) or to the Agricultural Security Area in a specified Township. Upon the recommendation of the Lancaster County Agricultural Preserve Board and approval by the Lancaster County Board Of Commissioners, a Targeted Account applicable to the specified farm property within an Agricultural Security Area may be established.

D. Public Expenditures

1. All public expenditures from the Lancaster County Agricultural Land Preservation Fund are subject to approval by the Agricultural Preserve Board and the Board of County Commissioners and will be made in accordance with approved disbursement procedures.
2. The State Agricultural Land Preservation Board shall also approve any purchase of conservation easement using State funds or joint State, Township funds and County funds.
3. Expenditures shall be limited to interests in qualified agricultural land and associated costs within designated ASAs.
4. The annual appropriation to the Lancaster County Agricultural Land Preservation Fund by the County Commissioners shall be available for the calendar year in which the appropriation was made and or the subsequent calendar year.
5. The annual State allocation for easement purchases in Lancaster County shall be available for the calendar year in which the allocation was made and for the subsequent calendar year, if needed.



# ADDENDUM



# Addendum A

## Resolution Establishing Program

### RESOLUTION NO. 54 OF 1989

On motion of Commissioner Fischer, seconded by Commissioner Brenneman;

WHEREAS, The Board of County Commissioners of Lancaster County recognizes that Lancaster County will sustain its share of future growth and that this growth should be accommodated with a minimum conversion of prime agricultural land most appropriate for continued agricultural use; and

WHEREAS, The County of Lancaster leads the State of Pennsylvania in many areas of agricultural production and ranks high nationally; and

WHEREAS, 56% of the soils in Lancaster County are rated either Class I or Class II, which are prime soils for farming; and

WHEREAS, It has been determined that substantial amounts of these prime soils are lost from agricultural production each year; and

WHEREAS, Agricultural products contribute substantially to the economy and cultural character of Lancaster County; and

WHEREAS, The Board of Commissioners has made a commitment to the preservation of such agricultural land by the appointment of the nine-member Agricultural Preserve Board to advise the County of Lancaster on the administration of a conservation easement program to preserve agricultural land as authorized by State laws Act 442 of 1968 and Act 43 of 1981; and

WHEREAS, It is stated policy of the Commonwealth of Pennsylvania, through amendments to Act 43 of 1981, known as Act 149 of 1988, to conserve and protect agricultural lands and to encourage the development and improvement of its agricultural lands for the production of food and other agricultural products.

"continued"

NOW, THEREFORE, BE IT RESOLVED BY THE LANCASTER COUNTY BOARD OF COMMISSIONERS,

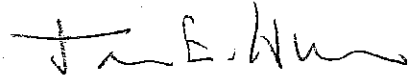
That the Agricultural Preserve Board is hereby reestablished and authorized to perform the duties and responsibilities authorized by Pennsylvania Act 149 of 1988, as amended; and

BE IT FURTHER RESOLVED, That the Agricultural Preserve Board shall continue to advise the County of Lancaster in the same capacities as authorized by Resolution No. 74 of 1980 of the Board of Commissioners of Lancaster County and that this resolution shall not abrogate any duties or responsibilities given to the Agricultural Preserve Board by the 1980 resolution; and

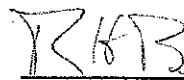
BE IT FURTHER RESOLVED, That the members of said Agricultural Preserve Board shall be as follows and shall serve existing terms whose expiration dates are amended as follows as required by State law:

Amos H. Funk (farmer)	May 31, 1992
Aaron Z. Stauffer (farmer)	May 31, 1992
David S. Fisher (farmer)	May 31, 1992
M. Jane Balmer (farmer)	May 31, 1992
Edward C. Goodhart III (township official)	May 31, 1991
William H. Forrey (building contractor)	May 31, 1990
James E. Huber (other)	May 31, 1990
Lawrence H. Skromme (other)	May 31, 1990
Paul B. Whipple (other)	May 31, 1990

Motion passed unanimously.



JAMES E. HUBER, Chairman



R. H. BRENNEMAN, Vice-Chairman



BRAD S. FISCHER

BOARD OF COUNTY COMMISSIONERS  
LANCASTER COUNTY, PENNSYLVANIA

I, Doris S. Kiehl, Chief Clerk to the County of Lancaster, Pennsylvania, do hereby affirm that Resolution No. 54 of 1989 was passed unanimously by the Lancaster County Board of Commissioners on the 10th day of May, 1989.

ATTEST:



DORIS S. KIEHL  
CHIEF CLERK

# Addendum B

## By-Laws

### Revised By-Laws

July 25, 2002 unanimously approved on a motion by Dennis Drager, seconded by Richard Hurst.

### Article I

#### **NAME**

The name of this organization shall be the Agricultural Preserve Board, hereinafter referred to as "the Board."

### Article II

#### **ORGANIZATION AND PURPOSE**

The Board was established by the Lancaster County Board of Commissioners by their Resolution No. 74 of 1980. The Board was reestablished by the Lancaster County Board of Commissioners by Resolution No. 54 of 1989. The Board's purpose is to develop and administer a deed restriction program to preserve agricultural land in Lancaster County. The Board is advisory to the Lancaster County Board of Commissioners, with the Commissioners taking all formal action to approve agricultural conservation easements for the County.

### Article III

#### **MEMBERSHIP**

##### **SECTION 301-MEMBERS**

The Board shall consist of nine voting members, including one County Commissioner, at least four active farmers, at least one member of the governing body of a township or borough located within the County, and at least one commercial, industrial or residential contractor. The number of farmers shall constitute one less the majority of the Board. The Board membership of the member of the governing body of a township or borough shall be deemed vacant upon vacancy in, or the expiration of the term of the township or borough office to which the member was elected

##### **SECTION 302-APPOINTMENT OF MEMBERS**

Members of the Board shall be appointed by the Lancaster County Board of Commissioners. The Chairman of the County Commissioners shall designate annually one member of the Board to serve as chairman of the Board. Initial appointments shall be for three-year terms for the farmer members, two years for the member of the governing body of a township or borough board member and the initial term for all other members shall be one year. Thereafter, the term of all members shall be three years.

##### **SECTION 303-ATTENDANCE OF MEMBERS**

Board members are expected to attend at least sixty percent of all Board meetings. Any member with poorer attendance is expected to resign; if such member does not resign, the matter shall be referred to the County Commissioners for action.

## ARTICLE IV

### **OFFICERS**

#### **SECTION 401-TITLES and ROLES of OFFICERS**

The officers of the Board shall consist of a Chairman, a Vice Chairman and a Secretary. The Chairman shall preside at all meetings of the Board and shall have the duties normally conferred by parliamentary usage of such officers. The Vice Chairman shall act for the Chairman in his absence.

#### **SECTION 402-ELECTION AND TERMS OF OFFICE**

The Chairman shall be appointed by the Chairman of the County Commissioners annually. Other officers shall be elected annually by the Board in April, from among nominations made from the floor. Any vacancy shall be filled at the next Board meeting for the remainder of the one-year term of the vacated officer position.

#### **SECTION 403-REMOVAL OF OFFICERS**

Officers can be removed for just cause from their office by a majority vote of all Board members.

## ARTICLE V

### **MEETINGS**

#### **SECTION 501-MEETING TIMES**

Regular monthly meetings will be established each December of the preceding year or at other times designated by the Board. Special meetings shall be held at the call of the Chairman. The annual meeting for election of officers shall be held in April.

#### **SECTION 502-CONDUCT OF MEETINGS**

All Board meetings shall be open to the public in accordance with Pennsylvania Act 175 of 1974 as amended.

#### **SECTION 503-QUORUM**

A majority of the Board members shall constitute a quorum for the conduct of business. Members need not be present to participate. All current statutes will be followed.

## ARTICLE VI

### **COMMITTEES**

#### **SECTION 601-COMMITTEE APPOINTMENTS**

The Chairman may appoint such committees as are desirable for accomplishing the purpose of the Board.

## ARTICLE VII

### **STAFF**

#### **SECTION 701-STAFF**

The Board may employ such staff as is budgeted by the Lancaster County Board of Commissioners and approved by the Lancaster County Salary Board and as approved by the Lancaster County Agricultural Preserve Board. Such staff members shall be Lancaster County employees; they shall follow Lancaster County personnel policies and be entitled to Lancaster County employee benefits.

## ARTICLE VIII

### **FINANCES**

#### **SECTION 801-BUDGET**

The Board shall operate within a budget as approved annually by the Lancaster County Board of Commissioners, as recommended by the Lancaster County Agricultural Preserve Board.

#### **SECTION 802-BOARD MEMBER REIMBURSEMENT**

Board members may be reimbursed for expenses incurred in the course of their service on the Board.

## ARTICLE IX

### **AMENDMENTS**

These By-Laws may be amended at a Board meeting by a majority vote of the entire membership of the Board, providing such amendments, along with a notice of the date of the meeting, shall have been circulated to all Board members at least two weeks prior to the meeting.

## ARTICLE X

### **ETHICS**

#### **SECTION 1001-APPLICABLE LAW**

All members and employees of the County Board shall comply with the provisions of the Public Official and Employee Ethics Law, 65, P.S. § § 401-413.



# Addendum C

## Application

For Office use only

File Number \_\_\_\_\_

Townships \_\_\_\_\_

Regions \_\_\_\_\_

Application Reviewed by: 1. \_\_\_\_\_ 2. \_\_\_\_\_

Initial Ranking Year \_\_\_\_\_

Date Received \_\_\_\_\_



## Agricultural Preserve Board Conservation Easement Application

[Due by September 1<sup>st</sup>]

The undersigned landowner(s) is applying to convey a perpetual agricultural land conservation easement to the Lancaster County Agricultural Preservation Board (APB). Qualifying (i.e., meeting minimum criteria as described in APB Program Guidelines) lands identified on this application will be processed as one easement. Multiple applications must be used when the landowner(s) intends to convey more than one easement or when tracts of land are not contiguous. Additional applications and/or recorded documents may be obtained by accessing the County's website: [www.co.lancaster.pa.us](http://www.co.lancaster.pa.us).

### Landowner Personal Information

Landowner Name(s): \_\_\_\_\_

Who will be the contact person regarding this application?

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

D/B/A (if different): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Best time to phone: \_\_\_\_\_ Best time to visit: \_\_\_\_\_

Are you a: ☐ Corporation\* ☐ Partnership\*\* ☐ Sole Proprietorship

If Corporation, identify State of Incorporation: \_\_\_\_\_

***\*Submit Articles of Incorporation with application. \*\*Submit copy of Partnership Agreement with application.***

Is your township planning to contribute funding to preserve your farm? ☐ Yes ☐ No

According to the APB's ranking system, applications received from applicants who are willing to accept less than the appraised value of the easement, not to exceed \$4,000/acre, will rank higher.

What portion of the appraised value of the easement (not to exceed \$4,000/acre) are you willing to accept?

☐ 100% ☐ 90% ☐ 80% ☐ 70% ☐ 60% ☐ 50% or less\*

*The difference between the easement purchase price and the appraised easement value may be used as a federal income tax charitable gift deduction. Consult an experienced tax advisor/attorney.*

*\*Applications from applicants offering to accept 50% or less of the easement value will be evaluated according to the criteria established in the APB Program Guidelines (Dec. 16, 2004 rev., as amended), Section XII.*

Payment method options can be found in the APB Program Guidelines, Section IX .I .2.

Please answer the following questions to describe the land that you are proposing to be covered by ONE easement. Space is provided to describe up to two parcels of land. If you have reason to include more than two parcels of land in one easement, you may photocopy this page to describe the additional parcel(s).

## Property Information

1 In total, how many parcels of land do you want preserved under one easement? \_\_\_\_\_

2 Street address of the land proposed for preservation: \_\_\_\_\_  
 \_\_\_\_\_

3 Account number (13 digits) (required):

4 Tax parcel ID (map/block/lot) (optional):

5 Assessed (GIS) acreage:

6 Deed book & page or Document ID#:

7 Deed acreage:

Parcel # \_\_\_\_\_ of \_\_\_\_\_

Parcel # \_\_\_\_\_ of \_\_\_\_\_

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Submit two copies of your recorded deed along with this application.*

8 Bare Land?

☐ Yes ☐ No

☐ Yes ☐ No

9 How many acres do you want to preserve?

\_\_\_\_\_

\_\_\_\_\_

*If you plan to preserve less than 100% of the deeded acreage, the survey work for excluded land will be your responsibility. In addition, you must submit a map that identifies the location of the area to be omitted from the easement.*

10 What township(s) is your land located in?

\_\_\_\_\_

\_\_\_\_\_

11 What township(s) is your land assessed in?

\_\_\_\_\_

\_\_\_\_\_

12 What is the current zoning of your land?

\_\_\_\_\_

\_\_\_\_\_

*APB will not proceed with an appraisal and subsequent preservation steps if your farmland is not zoned for agriculture and/or the zoning is not considered effective ag zoning by the APB.*

13 Is your land located in a designated growth area?

☐ Yes ☐ No

☐ Yes ☐ No

*APB will not preserve farms that are located within designated growth areas.*

14 Is your land part of an Agricultural Security Area?

☐ Yes ☐ No

☐ Yes ☐ No

If yes, what township(s)?

\_\_\_\_\_

\_\_\_\_\_

15 Book & page or Document ID of the recorded ASA Affidavit/Declaration(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

16 Is there a cemetery on the property?

☐ Yes ☐ No

☐ Yes ☐ No

If yes, is it your family cemetery?

☐ Yes ☐ No

☐ Yes ☐ No

## Overview of Farm Operation

**17** Type of farming operation: \_\_\_\_\_

### Crops Grown on Land Proposed for Easement Sale for the Past Two Growing Seasons

Growing Season 1 / Year _____		Growing Season 2 / Year _____	
Crops	Acres	Crops	Acres
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
1) Total Cropland: _____		1) Total Cropland: _____	
2) Total Pasture Land: _____		2) Total Pasture Land: _____	
3) Total Other Land (woods, bldgs., etc.): _____		3) Total Other Land (woods, bldgs., etc.): _____	
Total Land Proposed for Preservation: _____		Total Land Proposed for Preservation: _____	
(Sum of 1, 2, & 3) _____		(Sum of 1, 2, & 3) _____	

**19** List types of livestock on the farm

	Number
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**20** Contact Information of tenant farmer, if applicable:

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

**21** Based on Act 38 of 2006, are you required to have a Nutrient Management Plan? ☐ Yes ☐ No

**22** Date of Nutrient Management Plan, if applicable (mm/dd/yyyy): \_\_\_\_/\_\_\_\_/\_\_\_\_

**23** How many acres of the land that is proposed for preservation is enrolled in CRP/CREP (Conservation Reserve Program/Conservation Reserve Enhancement Program)? And, what is the contract period?

Acres \_\_\_\_\_ Contract Period (mm/dd/yyyy): \_\_\_\_/\_\_\_\_/\_\_\_\_ thru \_\_\_\_/\_\_\_\_/\_\_\_\_

**24** Do you have a Conservation Plan for the land which is identified in this application? ☐ Yes ☐ No

*If yes, please provide a copy with this application.*

**25** When was the Plan last updated (mm/dd/yyyy)? \_\_\_\_/\_\_\_\_/\_\_\_\_

**26** Was the Plan developed (or updated) in conjunction with the current farming operation? ☐ Yes ☐ No

**27** Is the implementation of the Plan on schedule? ☐ Yes ☐ No

**28** According to the implementation schedule, what percentage of the plan is implemented? \_\_\_\_\_

**29** Are you enclosing a copy of the Plan with this application? ☐ Yes ☐ No

If you answered "No" to question number 24, 26, or 29, please complete the last page of this application to initiate one or more of the following actions: a) authorize the District Conservationist to release a copy of your most current conservation plan to the Lancaster County Agricultural Preserve Board, b) request assistance to update an existing plan, c) request assistance to develop a new plan.

- 30** Who should be contacted to view the farm? \_\_\_\_\_
- 31** What are the directions to your farm from the nearest State route? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 32** Are there any businesses other than agricultural production on the farm? ☐ Yes ☐ No  
 If Yes, describe: \_\_\_\_\_  
 \_\_\_\_\_
- 33** Has your farm been designated as a Century Farm? ☐ Yes ☐ No  
 If yes, when (mm/dd/yyyy)? \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_
- 34** Please specify any specific historic features (documented or undocumented) regarding the property proposed for preservation:  
 (If documented, please submit a copy of documentation.) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 35** Please specify any scenic and/or environmental features favorable to preservation regarding the property proposed for preservation:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 36** Are there any mortgages or liens against the property that was previously described in this application? ☐ Yes ☐ No

*I/We, do hereby verify that I/We have reviewed the application. I/We further verify that the application correctly and accurately depicts the condition of the land and that such statements are true and correct to the best of my/our knowledge, information, and belief. These statements are being given by me/us to induce official action on the part of the Lancaster County Agricultural Preserve Board, its agents, officers, servants, and employees. I/We understand that any false statements made herein are being made subject to the penalties of 18 P.A.C.S. Section 4904 relating to unsworn falsification to authorities.*

_____ Print Name	_____ Signature	_____ Date
_____ Print Name	_____ Signature	_____ Date
_____ Print Name	_____ Signature	_____ Date
_____ Print Name	_____ Signature	_____ Date

Return completed application to the **Agricultural Preserve Board**, 150 North Queen Street, Suite 325, Lancaster, PA 17603 **by September 1st**. Call (717) 299-8355 if you have questions about the preservation program/process, or would like assistance to complete the application.

For APB Office use only

Date received by APB: \_\_\_\_\_ Date LCCD notified: \_\_\_\_\_ C-Plan Req. # \_\_\_\_\_

District Conservationist  
Natural Resources Conservation Service  
Farm & Home Center  
1383 Arcadia Road, Room 200  
Lancaster, PA 17601

Dear District Conservationist,

The Lancaster County Agricultural Preserve Board (APB) requires landowners of farms proposed for preservation to acquire and implement (on schedule) a Conservation Plan prior to, or at the closing of the easement purchase on the subject property. Thereafter, landowners of preserved farms are responsible for keeping the Conservation Plan current and implemented, updating the plan whenever there is a significant change to the farm operation, and/or conservation practices.

The purpose of this letter is to initiate the following action(s) related to the parcels of land listed below:

- ☐ Please provide a signed copy of my most current conservation plan to the APB.
- ☐ Please update the existing plan to reflect the current farming operation and provide a signed copy to the APB.
- ☐ Please develop a new conservation plan and provide a signed copy to the APB.

The parcel number(s) of the property being considered for preservation, or that is already preserved is

# \_\_\_\_\_ # \_\_\_\_\_  
# \_\_\_\_\_ # \_\_\_\_\_  
# \_\_\_\_\_ # \_\_\_\_\_

If you need additional information regarding the current farming operation and practices please contact:

\_\_\_\_\_ at \_\_\_\_\_.

You may contact me at \_\_\_\_\_.

Sincerely,

_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Print Name		_____ Print Name	

**Note to Landowner:** Please return this signed letter to the APB who will forward a copy to the Lancaster County Conservation District.

To be completed by APB:

File number: \_\_\_\_\_ Anticipated Settlement Date: \_\_\_\_\_  
Acq. #: \_\_\_\_\_ Settlement Date: \_\_\_\_\_



“Prepared By”

“Return To”

UPI#

## Addendum D



### DEED OF AGRICULTURAL CONSERVATION EASEMENT TO THE COUNTY OF LANCASTER, AGRICULTURAL PRESERVE BOARD

This Deed of Agricultural Conservation Easement in the nature of a Restriction on the use of land for the purpose of preserving productive agricultural land is made this       day of       , 20       , by and between (hereafter “**Grantor**”), and the **Lancaster County Agricultural Preserve Board**, its successor, nominee or assign, an agency of Lancaster County, a third class county, created and organized under the laws of the Commonwealth of Pennsylvania, with its offices at 150 North Queen Street, Suite 325, Lancaster, Pennsylvania 17603 (hereafter “**Grantee**”).

WHEREAS; Grantor is the owner in fee of a farm located in       Township, Lancaster County, Pennsylvania, more fully described in a deed recorded in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, in Document I.D.#(s):       , or Tax Account Number(s)

The property subject to this Grant of Easement consists of       acres on which is located dwelling unit(s) and further described in Exhibit “A”; and

WHEREAS; the value of this Grant of Easement is defrayed by consideration to the Grantor of       or \$       ; and

WHEREAS; the Legislature of the Commonwealth of Pennsylvania (hereafter “Legislature”) authorizes the Commonwealth of Pennsylvania and counties thereof to preserve, acquire, or hold lands for open space uses, and to preserve land in or acquire land for open space uses, which specifically include farmland; and that actions pursuant to these purposes are for public health, safety, and general welfare of the citizens of the Commonwealth and for the promotion of sound land development by preserving suitable open spaces; and

WHEREAS; the Legislature has declared the public open space benefits result from the protection and conservation of farmland including the protection of scenic areas for public visual enjoyment from public rights-of-way; that the conservation and protection of agricultural lands as valued natural and ecological resources provide needed open spaces for clean air as well as for aesthetic purposes; and that public benefit will result from the conservation, protection, development and improvement of agricultural lands for the production of food and other agricultural products; and

WHEREAS; Grantee has declared that the preservation of prime agricultural land is vital to the public interest of the County, the region, and the nation through its economic, environmental, cultural and productive benefits; and

WHEREAS; Grantor desires and intends that the agricultural and open space character of the Property be preserved, protected, and maintained; and

WHEREAS; Grantor, as owner in fee of the Property, intends to identify and preserve the agricultural and open space values of the Property; and

WHEREAS; Grantor desires and intends to transfer those rights to the Grantee in perpetuity; and

WHEREAS; Grantee is a public agency of the County of Lancaster, qualified under Pennsylvania Acts and Internal Revenue Code, whose primary purposes are the preservation and protection of land in its agricultural and open space condition; and

WHEREAS; Grantee agrees by acquiring this Grant of Easement to honor and defend the intentions of Grantor stated herein and to preserve and protect in perpetuity the agricultural and open space values of the Property for the benefit of this generation and the generations to come.

NOW THEREFORE; in consideration of the sum of \_\_\_\_\_, (\$ \_\_\_\_\_), the receipt and sufficiency of which is hereby acknowledged, Grantor does voluntarily grant, bargain and sell, and convey to the Grantee, its successors and assigns, and Grantee voluntarily accepts, an agricultural conservation easement in the subject land, under and subject to the Act and the following terms and conditions:

### **DEED RESTRICTIONS**

1. **Permitted Acts** - During the term of the agricultural conservation easement conveyed herein, the subject land shall be used solely for the production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than fifty percent of such processed or merchandised products are produced on the subject land (hereinafter "agricultural production"). For purpose of this Deed, "crops, livestock and livestock products" include, but are not limited to:
  - (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, onions and mushrooms;
  - (d) Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers;
  - (e) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs;
  - (f) Timber, wood and other wood products derived from trees; and
  - (g) Aquatic plants and animals and their by-products.

- (h) Commercial Equine Activity including boarding of equine, training of equine, the instruction of people in handling, driving or riding equines, the use of equines for riding or driving purposes, the pasturing of equines all of where a fee is collected. THE TERM DOES NOT INCLUDE ACTIVITY LICENSED UNDER THE ACT OF DECEMBER 17, 1981 (P.L. 435, NO. 135), KNOWN AS THE "RACE HORSE INDUSTRY REFORM ACT."

Except as permitted in this Deed, neither Grantor nor his agents, heirs, executors, administrators, successors and assigns, nor any person, partnership, corporation or other entity claiming title under or through Grantor, or his agents, shall suffer, permit, or perform any activity on the subject land other than agricultural production.

- 2. **Construction of Buildings and Other Structures** - The construction or use of any building or other structure on the subject land other than as existing on the date of the delivery of this Deed is prohibited except that:

- (a) The erection of fences for agricultural production or commercial equine activities and protection of watercourses such as lakes, streams, springs and reservoirs is permitted.
- (b) The construction of one additional residential structure is permitted if;
  - (i) The construction and use of the residential structure is limited to providing housing for persons employed in farming the subject land on a seasonal or full-time basis,
  - (ii) No other residential structure has been constructed on the restricted land at any time since the delivery of the Deed,
  - (iii) The residential structure and its curtilage occupy no more than two acres of the subject land, and
  - (iv) The location of the residential structure and its driveway will not significantly harm the economic viability of the subject land for agricultural production.
- (c) The construction or use of any building or other structure for agricultural production or commercial equine activities is permitted.
- (d) The replacement of a residential structure existing on the restricted land on the date of the granting of the easement is permitted.

- 3. **Rural Enterprise** - Customary part-time or off-season minor or rural enterprises and activities which are provided for in the County Agricultural Conservation Easement Purchase Program approved by the State Board are permitted.

- 4. **Subdivision** - If the subject land is subdivided, the Deeds to all of the subdivided parcels shall state on which of the subdivided parcels the residential structure permitted by this Deed may be constructed. Deeds to all other parcels shall recite that no additional residential structure is permitted. The property is subject to the Subdivision Guidelines of the County of Lancaster Agricultural Preserve Board Program, as approved by the County Agricultural Preserve Board on May 28, 2009 and the State Agricultural Land Preservation on June 11, 2009 and recorded in Deed Book & Page/Document I.D.# 5794737 which are incorporated herein by reference and made a part hereof.

5. **Merger of Tracts** – If more than one tract, then the Grantor, for himself, his heirs, successors and assigns, hereby surrenders his right that the subject land may ever be subdivided, except in conformity with the terms of the Lancaster County Subdivision Guidelines which are recorded in Deed Book 5794737. The subject land may be conveyed in less than its entirety (i.e., less than all tracts as described at one time to one Grantee) only if such conveyance is preceded by a duly recorded subdivision plan in accordance and compliance with such guidelines and other applicable provisions of law. The subject land is hereby deemed to be one (1) parcel that must be conveyed as one (1) parcel (except for any allowed subdivision as set forth above), even though described in more than one (1) tract in current legal description(s). This covenant shall run with the land and be enforceable by Grantee hereto and its successors and assigns.
6. **Utilities** - The granting of rights-of-way by the Grantor, his heirs, executors, administrators, successors and assigns, or any person, partnership, corporation or other entity claiming title under or through Grantor in and through the subject land for the installation, transportation, or use of, lines for water, sewage, electric, telephone, coal by underground mining methods, gas, oil or oil products is permitted. The term “granting of rights-of-way” includes the right to construct or install such lines. The construction or installation of utility lines other than of the type stated in this paragraph is prohibited on the subject land.
7. **Mining** - The granting of leases, assignments or other conveyances or the issuing of permits, licenses or other authorization for the exploration, development, storage or removal of coal by underground mining methods, oil and gas by the owner of the subject land or the owner of the underlying coal by underground mining methods, oil and gas or the owner of the rights to develop the underlying coal by underground mining methods,
- oil and gas, or the development of appurtenant facilities related to the removal of coal by underground mining methods, oil or gas development or activities incident to the removal or development of such minerals is permitted.
8. **Soil and Water Conservation** - All agricultural production on the subject land shall be conducted in accordance with a conservation plan approved by the County Conservation District or the County Board. Such plan shall be updated upon any change in the basic type of agricultural production or commercial equine activity being conducted on the subject land. In addition to the requirements established by the County Conservation District or the County Board the conservation plan shall include an installment schedule and maintenance program and a nutrient management component which, when completely implemented, will improve and maintain the soil, water and related plant and animal resources of the land and shall require that:
- (a) The use of the land for growing sod, nursery stock ornamental trees, and shrubs does not remove excessive soil from the subject land, and
  - (b) The excavation of soil, sand, gravel, stone or other materials for use in agricultural production or commercial equine activities on the land is conducted in a location and manner that preserves the viability of the subject land for agricultural production or commercial equine activity.

As part of the settlement documents, the executed Conservation Plan Agreement shall be recorded with the Deed of Easement at the County Recorder of Deeds.

9. **Responsibilities of Grantor Not Affected** - Except as specified herein, this Deed does not impose any legal or other responsibility on the Grantee, its successors or assigns. Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the subject land and all improvements erected thereon. Grantor shall continue to be solely responsible for the maintenance of the subject land and all improvements erected thereon. Grantor acknowledges that Grantee have no knowledge or notice of any hazardous waste stored on or under the subject land. Grantee's exercise or failure to exercise any right conferred by the agricultural conservation easement shall not be deemed to be management or control of activities on the subject land for purposes of enforcement of the Act of October 18, 1988, (P.L. 756, No. 108), known as the Hazardous Sites Cleanup Act.

Grantor, his heirs, executors, administrators, successors or assigns agree to hold harmless, indemnify and defend Grantee, its successors or assigns from and against all liabilities and expenses arising from or in any way connected with all claims, damages, losses, costs or expenses, including reasonable attorneys fees, resulting from a violation or alleged violation of any State or Federal environmental statute or regulation including, but not limited to, statutes or regulations concerning the storage or disposal of hazardous or toxic chemicals or materials.

10. **Enforcement** - Annually, Grantee, its successors, assigns or designees shall have the right to enter the subject land for the purpose of inspecting to determine whether the provisions of this Deed are being observed. Written notice of such annual inspection shall be mailed to the Grantor, his heirs, executors, administrators, successors or assigns at least ten days prior to such inspection. The annual inspection shall be conducted between the hours of 8 a.m. and 5 p.m. on a weekday that is not a legal holiday recognized by the Commonwealth of Pennsylvania or at a date and time agreeable to the county and the landowner.

Grantee, its successors, assigns or designees shall also have the right to inspect the subject land at any time, without prior notice, if Grantee have reasonable cause to believe the provisions of this Deed have been or are being violated.

Grantor acknowledges that any violation of the terms of this Deed shall entitle Grantee, its successors, assigns or designees to obtain an injunction against such violation from a court of competent jurisdiction along with an order requiring Grantor, his heirs, executors, administrators, successors or assigns to restore the subject land to the condition it was in prior to the violation, and recover any costs or damages incurred including reasonable attorney's fees. Such relief may be sought jointly, severally, or serially.

11. **Duration of Easement** - The agricultural conservation easement created by this Deed shall be a covenant running with the land and shall be effective in perpetuity. Every provision of this Deed applicable to Grantor shall apply to Grantor's heirs, executors, administrators, successors, assigns, agents, and any person, partnership, corporation or other entity claiming title under or through Grantor.
12. **Conveyance or Transfer of the Subject Land** - Grantor, his heirs, executors, administrators, successors or assigns, and any person, partnership, corporation, or other entity claiming title under or through Grantor, shall notify Grantee in writing of any conveyance or transfer of ownership of the subject land. Such notification shall set forth the name, address and telephone number of the Grantor and the party or parties to whom ownership of the subject land has been conveyed or transferred. This obligation shall apply to any change in ownership of the subject land.

The restrictions set forth in this Deed shall be included in any Deed purporting to convey or transfer an ownership interest in the subject land.

13. **Applicability** - Every provision of this Deed applicable to Grantor shall apply to Grantor's heirs, executors, administrators, successors, assigns, agents, and any person, partnership, corporation or other entity claiming title under or through Grantor.
14. **Interpretation** - This Deed shall be interpreted under the laws of the Commonwealth of Pennsylvania. For purposes of interpretation, no party to this Deed shall be considered to be the drafter of the Deed. All provisions of this Deed are intended, and shall be interpreted, to effectuate the intent of the General Assembly of the Commonwealth of Pennsylvania as expressed in Section 2 of the Act.

To have and to hold this Deed of Agricultural Conservation Easement unto the Grantees, their successors and assigns in perpetuity.

AND the Grantor, for himself, his heirs, executors, administrators, successors and assigns do specially warrant the agricultural conservation easement hereby granted.

### **GENERAL PROVISIONS**

1. No right of public access is provided for, nor will result from, the recordation of these restrictions.
2. If the easement is taken, in whole or in part, by the exercise of the power of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law.
3. Grantor agrees to include verbatim the "Deed Restrictions" and "General Provisions" sections of this easement in any deed or other legal instrument by which they convey, in any manner, themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest.

**Conveyance or Transfer of the Subject Land** - Grantor, his heirs, executors, administrators, successors or assigns, and any person, partnership, corporation, or other entity claiming title under or through Grantor, shall notify Grantee in writing of any conveyance or transfer of ownership of the subject land. Such notification shall set forth the name, address and telephone number of the Grantor and the party or parties to whom ownership of the subject land has been conveyed or transferred. This obligation shall apply to any change of ownership of the subject land. Grantor further agrees to give written notice to Grantee of any conveyance of any interest or of a subdivision permitted herein at least ten (10) days prior to the date of such transfer or subdivision.

The restrictions set forth in this Deed shall be included in any Deed purporting to convey or transfer an ownership interest in the subject land.

4. Grantee shall record this instrument in timely fashion in the official record of Lancaster County, Pennsylvania, and may re-record it any time as may be required to preserve its rights in this easement.
5. This Grant of Easement in the nature of a restriction is intended to be an easement in gross so as to qualify for a Qualified Conservation Contribution under the applicable provisions of the Internal Revenue Code.
6. If any provisions of this easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this easement, or the applications of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

7. To have and to hold this Deed of Agricultural Conservation Easement unto the Grantee, its successors and assigns in perpetuity.

And the Grantor, for himself, his heirs, executors, administrators, successors and assigns does specially warrant the agricultural conservation easement hereby granted.

IN WITNESS WHEREOF, the undersigned have duly executed this Deed on the day first written above.

WITNESS:

GRANTOR:

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Signature

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COMMONWEALTH OF PENNSYLVANIA

)

) SS:

COUNTY OF LANCASTER

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ON THIS, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public,  
personally appeared \_\_\_\_\_

\_\_\_\_\_ known to me (or satisfactorily  
proven) to be the person or persons whose names are subscribed to the within instrument acknowledged that  
he/she/they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial seal.

\_\_\_\_\_  
Notary Public





# Addendum E

## Permitted Rural Enterprises

The Agricultural Area Security Law, 3 P.S. § 901 et seq., requires that an Agricultural Conservation Easement shall not prevent customary part-time or off-season minor or rural enterprises and activities (hereafter, "Rural Enterprises") which are provided for in the county Agricultural Conservation Purchase Program approved by the State Board. 3 P.S. § 914(c)(6)(v). The following is a list of those Rural Enterprises approved by the Lancaster County Agricultural Preserve Board:

1. The production of energy from renewable sources (for example: wind, solar, hydropower, geothermal, biomass or animal waste) and equipment and structures associated with the production of energy, so long as the landowner complies with all of the following: (1) "Energy Rural Enterprises" shall remain incidental to the agricultural use and character of the farm; (2) energy generated by "Energy Rural Enterprises" shall be available for use on the farm; (3) the retail sale of energy generated by "Energy Rural Enterprises" is permitted; (4) the construction of any permanent equipment or structures associated with the production of energy shall be located within the curtilage of existing farm buildings; (5) the total site coverage of all "Energy Rural Enterprise" on the Property, including all parking, loading and other areas necessary for such "Energy Rural Enterprises," shall be limited to two percent of the area of the Property;
2. Structures and facilities associated with irrigation, farm pond impoundment, and soil and water conservation, including, but not limited to, wetland development or restoration, wildlife wetland habitat management, wildlife upland habitat management, and riparian forest buffer management used for erosion and sediment control and water quality improvement. The State Board approved and authorized on July 13, 2000 the use of any conservation practices under CRP/CREP as not violating the deed of agricultural conservation easement with respect to the restricted land provided the conservation plan as revised allows for the implementation of any such conservation practice;
3. The accommodation of tourists and visitors within principally family residential and/or agricultural structures of the Property otherwise permitted under the law so long as the accommodation of tourists and visitors remains incidental to the agricultural use and character of the Property;
4. Regulated hunting operations and the production and stocking of game birds so long as these uses remain incidental to the agricultural use and character of the Property;
5. No-Impact Farm-Based Businesses. For this purpose, a No-Impact Farm-Based Business shall be defined as follows: A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling or agricultural structure and which involves no customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with agricultural use. The business or commercial activity must satisfy the following requirements: (1) The business activity shall be compatible with the agricultural use of the property and surrounding agricultural uses; (2) The business shall employ no employees other than family members residing in the dwelling; (3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature; (4) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights; (5) The business activity may not use any equipment or process which creates noise, vibration, glare,

fumes, odors or electrical or electronic interference, including with radio or television reception, which is not normally associated with agricultural use in the neighborhood; (6) The business activity may not generate any solid waste or sewage discharge in volume or type which is not normally associated with residential use in the neighborhood; (7) The business activity shall be conducted only within a dwelling or agricultural structure and may not occupy more than 25% of the floor area; and (8) The business may not involve any illegal activity.

6. The production and sale by persons in residence of agricultural and/or home occupation goods (for example, flowers/plants, jellies/jams, juices/beverages, bakery items, cheese products, gift items, meats, arts/crafts, bulk foods), so long as the landowner complies with all of the following: (1) the Rural Enterprise shall remain incidental to the agricultural use and character of the farm; (2) the total site coverage of the Rural Enterprise, including all parking, loading and other areas necessary for such Rural Enterprise, shall be limited to one-half of one percent of the area of the Property.
7. Agricultural-related services or activities associated with customary part-time or off-season minor or rural enterprises and activities that are incidental to agricultural production (for example: woodworking, welding, harness shops, kennels, manufacturing, processing and storage of agricultural supplies and equipment, and processing, storage and retail marketing of crops, livestock and livestock products). These activities are permissible so long as the landowner complies with all of the following: (1) the Rural Enterprise shall remain incidental to the agricultural use and character of the farm; (2) the Rural Enterprise shall be located within the curtilage of the existing residential or agricultural structures; (3) the total site coverage of the Rural Enterprise, including all parking, loading and other areas necessary for such Rural Enterprise, shall be limited to one-half of one percent of the area of the Property; (4) no new excavation, paving, graveling, construction of permanent non-agricultural structures or other activities that would diminish the productive capacity of the soils are permitted in connection with such activities; and (5) before commencing a Rural Enterprise under this section, the landowner shall obtain approval of the Lancaster County Agricultural Preserve Board, who may make the approval conditional in order to protect farmland and otherwise allowed under applicable law, including without limitation the Agricultural Area Security Area law, its regulations, the governing agricultural conservation easement, zoning ordinance requirements, and other applicable law.
8. When more than one Rural Enterprise permitted by paragraphs 6 or 7, above, exist on the Property, the total site coverage of all such rural enterprises, except those permitted by paragraph 1, above, relating to the production of energy, shall be limited to one-half of one percent of the area of the Property.
9. The installation of communication antennae structures along with associated equipment and structures shall be permitted so long as the landowner complies with all of the following: (1) the Rural Enterprise shall remain incidental to the agricultural use and character of the farm; (2) the communication antennae is located on an existing structure; (3) the installation or construction of any permanent non-agricultural equipment or structures associated with such communications antennae shall be located at the base and within the curtilage of the existing structure supporting the communications antennae.
10. Other similar uses that support the local agricultural economy and the economic viability of preserved farms, upon approval by the Lancaster County Agricultural Preserve Board who may make the approval conditional in order to protect farmland and otherwise allowed under applicable law, including without limitation the Agricultural Area Security Area law, its regulations, the governing agricultural conservation easement, zoning ordinance requirements, and other applicable law.

# Addendum F

## Lancaster County Planning Map

