

# ADAMS COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM



Adams County Agricultural Land  
Preservation Board  
670 Old Harrisburg Rd, Suite 100  
Gettysburg, PA 17325  
717-337-5859  
[www.adamscounty.us](http://www.adamscounty.us)

## **Adams County Agricultural Land Preservation Program**

Adopted January 1990  
Recertified October 1997  
Recertified August 2004  
Recertified December 2011  
Recertified August 2018  
Updated 2019

### **Cover Photo**

Aerial photograph taken by Loy Elliot  
Fall 2010

### **Cover Art**

Artist Mary Shank, a past employee of the Adams County Conservation District, depicts several treasures of the County; its farms, orchards and the battlefields.

# CONTACT INFORMATION

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## County Commissioners

Randy L. Phiel, Chair  
James E. Martin  
Marty Karstetter Qually

## County Solicitor

Molly R. Mudd, Esquire

## Board Members

Craig Yingling, Chair  
Deborah Kammerer, Vice Chair

David Boyer	George Taughinbaugh
Chad Collie	Doyle Waybright
Wayne Smith	David Wenk

1 vacant position

## Advisory Agencies

Adams County Office of Planning and Development  
USDA - Natural Resource Conservation Service  
Adams County Conservation District  
Adams County Tax Services Office

## **General Information**

### **LAWS AND REGULATIONS**

**Act 43 of 1981 - Agricultural Security Area Law, as amended**

**Agricultural Conservation Easement Purchase Program Regulations - Chapter 138e**

**PA Department of Agriculture – A Guide to Farmland Preservation**

*Please contact our office for copies of these publications, or you may access online at:*

[www.agriculture.pa.gov](http://www.agriculture.pa.gov)

**Go to:** Plants, Land & Water – Farmland Preservation - Easement Purchase

### **PROGRAM GUIDELINES**

*Please contact our office for a copy of the Program Guidelines, or you may access online at:*

[www.adamscounty.us](http://www.adamscounty.us)

**Go to:** Administration – Planning and Development – Programs – Agricultural Land Preservation Program

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# Office of the Adams County Commissioners

Gettysburg, PA 17325 • (717) 334-6781

Commissioners: Thomas L. Collins, Robert W. Klunk, Catherine W. Cowan  
Solicitor: John R. White; Chief Clerk: Brenda J. Constable

## RESOLUTION

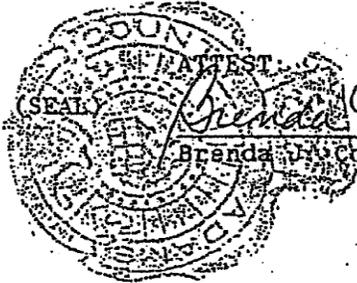
WHEREAS, the County of Adams, Pennsylvania desires and intends to participate in a County farmland preservation program (the "Program") under the Agricultural Area Security Law (the "Act"); and

WHEREAS, on even date herewith, the Adams County Commissioners have appointed the members of the Adams County Agricultural Land Preservation Board (the "Board"); and

WHEREAS, the Adams County Commissioners desire and intend to authorize the Board to administer the Program.

NOW, THEREFORE, BE IT RESOLVED, and it is hereby resolved by the County of Adams, Pennsylvania, by its duly elected and incumbent Board of County Commissioners, that, pursuant to Section 914.1(b) [3 P.S. §914.1(b)] of the Act, the Board is hereby authorized and directed to administer the Program on behalf of the said County in accordance with the provisions of the Act and regulations promulgated thereunder.

IN WITNESS WHEREOF, the present Resolution has been duly adopted by unanimous vote this 10th day of January, 1990.



*Brenda J. Constable*  
Brenda J. Constable, Chief Clerk

COUNTY OF ADAMS  
ADAMS COUNTY COMMISSIONERS

BY: *Thomas L. Collins*  
Thomas L. Collins, Chairman

*Robert W. Klunk*  
Robert W. Klunk

*Catherine W. Cowan*  
Catherine W. Cowan





# Office of the Adams County Commissioners

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Commissioners: Thomas L. Collins, Robert W. Klunk, Catherine W. Cowan  
Solicitor: John R. White; Chief Clerk: Brenda J. Constable

## CERTIFICATE

I, the undersigned, the duly appointed and incumbent Chief Clerk of The County of Adams, Pennsylvania (the "County"), hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by majority vote of the Board of County Commissioners of the County, at a public meeting duly convened according to law and held on January 10, 1990; that said Resolution has been duly recorded in the minutes of the Board of County Commissioners of the County; and that said Resolution remains in full force and effect as of this date.

IN WITNESS WHEREOF, I affix my hand and seal of the County this 10th day of January, 1990.



*Brenda J. Constable*  
Brenda J. Constable, Chief Clerk



## II. STATEMENT OF PURPOSE

The Adams County Agricultural Land Preservation Board (Board) was established by the Adams County Board of Commissioners, dated January 10, 1990, pursuant to authority granted by Pennsylvania Act 43 of 1981 (7 Pa. Code Section 138.1) as amended, and by Act 149 of 1988 (3 PS Section 901 et. seq.) The purpose of the Board is to administer the Agricultural Conservation Easement Program for Adams County.

It is the policy of the Commonwealth to conserve and protect agricultural lands. A sound Statewide Farmland Preservation Program will assure that farmers in this Commonwealth have sufficient agricultural lands to provide farm products for the people of this Commonwealth and the Nation.

Agricultural Conservation Easements restrict and limit the conversion of farmland to nonagricultural use. Easements may be purchased when they are offered voluntarily by the landowner and shall be purchased only in perpetuity.

To that end, the Board will act so as to:

1. Protect viable agricultural lands by acquiring Agricultural Conservation Easements which prevent the development or improvement of the land for any purpose other than agricultural production.
2. Encourage landowners to make a long-term commitment to agriculture by offering them financial incentives and security of land use.
3. Protect normal farming operations in Agricultural Security Areas from incompatible non-farmland uses that may render farming impracticable.
4. Protect farming operations from complaints of public nuisance against normal farming operations.
5. Assure conservation of viable agricultural lands in order to protect the agricultural economy of this Commonwealth.
6. Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property.
7. Maximize agricultural easement purchase funds that protect the investment of taxpayers in Agricultural Conservation Easements.
8. Concentrate resources in a manner that will ensure the purchase of easements for the protection of the largest amount of farmland possible.
9. Execute all agreements of other documents necessary to affect the purchase of such Agricultural Conservation Easements in the name of Adams County and/or the Commonwealth of Pennsylvania.
10. Encourage financial partnerships between State and local governments with nonprofit entities in order to increase the funds available for Agricultural Conservation Easement purchases.
11. Preserve the County's prime agricultural lands for continued production as recommended by the Land Use and Agricultural Resources Conservation elements of the Adams County Comprehensive Plan and comparable other related Community Plans.
12. Comply with Act 138 of 1998, and the Agricultural Security Area Law (Act 43 of 1981 as amended) regarding local government unit participation to purchase Agricultural Conservation Easements, incorporated herein by reference.

All Conservation Easement applications and other documentation shall be done in accordance with the model formats included in the State Guidebook and any future revisions thereto.

### III. BOARD MEMBERSHIP INFORMATION

#### **Board Membership Configuration:**

<u>Number of Members (9)</u>	<u>Occupation</u>	<u>Initial Term</u>
Four (4)	Farmers	3 Years
One (1)	Local Governing Body	2 Years
One (1)	Contractor	1 Year
Three (3)	Citizens	1 Year

Reappointment shall be for a period of three (3) years for all members. **(See: Appendix A)**

## **IV. BY-LAWS OF ADAMS COUNTY AGRICULTURAL LAND PRESERVATION BOARD**

### **ARTICLE I - Name:**

The name of this (non-profit) organization shall be the Adams County Agricultural Land Preservation Board, hereinafter referred to as the "Board".

### **ARTICLE II - Establishment and Purpose:**

The Board was established by the Adams County Board of Commissioners on January 10, 1990, pursuant to authority granted by Pennsylvania Act 43 of 1981 (7 Pa. Code Section 138.1) as amended.

- 1) The purpose of the Board is to administer a Program for purchasing Agricultural Conservation Easements on behalf of the County. It is the purpose of this Program to protect and promote continued productive agricultural use on viable agricultural lands by acquiring Agricultural Conservation Easements, which prevent the development or improvement of the land for any purpose other than agricultural production and allowed related agricultural activities.
- 2) To encourage landowners to participate in and assist townships with the establishment of Agricultural Security Areas (ASA).
- 3) To encourage the use of additional farmland preservation techniques through public and private organizations in the County.
- 4) To adopt rules and regulations for the administration of a County Program for the purchase of Agricultural Conservation Easements within ASA's. The Board shall execute all agreements of Agricultural Conservation Easements in the name of the County and/or the Commonwealth of Pennsylvania.
- 5) To promote efforts to support the agricultural industry in the County.
- 6) Perform such other duties and responsibilities as may be authorized pursuant to the Agricultural Area Security Law.
- 7) To encourage financial partnerships between State and local governments with nonprofit entities in order to increase the funds available for Agricultural Conservation Easement purchases.

### **ARTICLE III - Membership:**

The Board shall be comprised of nine (9) members to be appointed from the following groups by the Adams County Commissioners:

- 1) Four (4) farmers shall be appointed to the Board (representing one less than majority).
- 2) One (1) current member of the governing body of a township or borough located within Adams County shall be appointed to the Board.
- 3) One (1) industrial, commercial or residential building contractor shall be appointed to the Board.

- 4) Three (3) persons to be selected at the pleasure of the Adams County Commissioners shall be appointed to the Board.

**ARTICLE IV - Term of Office:**

The initial term of the appointees under Article III (1) above shall be for three (3) years. The initial term of the appointees under Article III (2) above shall be for two (2) years. The initial term of the appointees under Article III (3) and (4) above shall be one (1) year. Thereafter, the term of all members appointed to the Board shall be three (3) years. The position held by the appointee under Article III (2) above 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.

**ARTICLE V - Vacancies:**

Any appointment to fill any vacancy created by removal, resignation, or otherwise shall be only for the unexpired term of the vacant position.

**ARTICLE VI - Conflict Of Interest:**

Members of the County Board shall comply with the Act of October 4, 1978 (P.L. 883 No. 170) (65 P.S. Sections 401-413) known as the Public Official and Employee Ethics Law.

**ARTICLE VII - Attendance by Board Members:**

The Board members shall attend a minimum of sixty percent (60%) of all Board meetings, whether regular or special. Any member who is unable to attend a meeting should notify the Chair or Administrator prior to the meeting.

**ARTICLE VIII - Removal from County Board:**

Any Board member may be removed from the Board for malfeasance, misfeasance, or nonfeasance in office or for other just cause by the majority vote of the Board of County Commissioners, after the member has received fifteen (15) days advance notice of the intent to take such vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

**ARTICLE IX - Officers:**

The Chair of the County governing body shall designate annually one member of the Board as Chair of the County Board. The other officers of the Board shall include a Vice-Chair, a Secretary and Treasurer. The Chair shall preside at all meetings of the Board and shall have the duties normally conferred by parliamentary usage on such officers. The Vice-Chair shall act for the Chair in his/her absence.

The Chair of the County governing body shall designate a Secretary to the Board. The Secretary shall maintain Minutes of the business transacted. The Administrator shall act as Treasurer and maintain records of all receipts and disbursements. In addition, the Treasurer shall submit a financial report to the Board no less than once a year, with the assistance of such staff as is available.

**ARTICLE X - Election of Officers:**

Officers shall be elected annually by the Board members at the regularly scheduled meeting in January.

**ARTICLE XI - Voting:**

Each member of the Board will be allowed to cast one (1) vote, and must be present to vote.

**ARTICLE XII - Removal of Officers:**

The Chair can be removed from office at any time for just cause by a majority vote of all members of the Board.

**ARTICLE XIII - Meetings:**

The meeting schedule for the current calendar year will be determined at the reorganization meeting in January. Regularly scheduled meetings will be held at 7:30 p.m. in The County Conference Room of the Adams County Agricultural and Natural Resources Center, 670 Old Harrisburg Road, Gettysburg, unless otherwise stated by the Board Chair and duly advertised special meetings shall be held at the call of the Chair.

**ARTICLE XIV - Conduct of Meetings:**

All Board meetings shall be open to the public in accordance with the Sunshine Act (Act of July 3, 1986, P.L. 388, No. 84), and with the Right to Know Law (Act of June 21, 1957, P.L. 390, No. 212). Robert's Rules of Order shall apply to all events not otherwise covered by the By-Laws.

**ARTICLE XV - Quorum:**

A majority of the total Board membership shall constitute a quorum for the conduct of business.

**ARTICLE XVI - Committees:**

The Chair may appoint such Committees as are desirable for accomplishing the purpose of the Board and may include persons other than Board members.

**ARTICLE XVII - Staff:**

The Board shall use monies appropriated by the County Governing Body to hire staff and Administer Act 149 in Adams County. Such staff members shall be employees of the County. Secretarial support for Board business will be provided at the discretion of the County Governing Body.

**ARTICLE XVIII - Staff Assistance from Other Agencies:**

The Board may receive assistance from the staffs of the County Planning Commission, County Conservation District, other County Departments, or from other sources as are available.

**ARTICLE XIX - Amendments:**

The By-Laws may be amended at a regularly scheduled Board meeting by a 2/3 vote of the entire membership of the Board, provided such amendments, along with a notice of the date of the meeting have been circulated to all Board members at least two (2) weeks prior to the meeting.

**ARTICLE XX - Minutes:**

Minutes of all Board meetings shall be maintained by the Board Secretary and distributed to all Board members at least one (1) week prior to regularly scheduled meetings.

**ARTICLE XXI - Finances:**

The Board shall operate within a budget allocated in addition to Easement purchase funds, as approved annually by the Adams County Commissioners.

The total annual allocation and reallocation made to Adams County by March 1 of a fiscal year may be spent over a period of two consecutive County fiscal years.

With prior approval from the County Commissioners, Board members may be reimbursed for attending conferences, seminars, etc., related to their duties as members of the Board.

## **V. PUBLIC INFORMATION**

The Board recognizes the need and value of ongoing efforts through all channels of communications to make known throughout the farm community, to local governments, and to the general public, information on the County's Program to preserve farmlands.

The Board's communications program includes public meetings, newsletters, and releases to all news media, speaking engagements, as well as public television and radio. In addition, periodic meetings are held with officials of farm-related organizations, including conservation and extension services, and local officials to keep them updated on the Program.

The Board will continue to work closely with its State Representatives.

The Board and the Program Administrator have established working relationships within the farm community and with local governments through news articles in association publications and attendance at meetings.

The Board shall be 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.

The Board and the Program Administrator will continue to seek opportunities to explain the Program and to encourage participation by owners and local governments.

The Board shall notify the Chair of a Township's Supervisors when the Board begins the appraisal process on a farm within their township boundary.

Public informational meetings will be held prior to the opening of every application cycle.

## VI. DEFINITIONS

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

Act – Act 43 - The Agricultural Area Security Law (3 P. S. §§ 901-915) as amended.

Agreement or Agreement of Sale - A document executed by a landowner and the Board to purchase a specific Agricultural Conservation Easement as part of the 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 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 (ASA) – 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 ASA 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.

ACALP – Adams County Agricultural Land Preservation

Bargain Sale – A transaction wherein the applicant agrees to accept less than one hundred percent (100%) of the duly appraised Agricultural Conservation Easement value.

Board – Adams County Agricultural Land Preservation Board

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
4. Signatures of the landowner, operator, and Plan writer.

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, or railroads, and whether or not described as multiple tax parcels, tracts, purports, 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.

Crops, Livestock and Livestock products - The term includes:

- (i) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes, and dry beans.
- (ii) Fruits, including apples, peaches, grapes, cherries, and berries.
- (iii) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions, and mushrooms.
- (iv) Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees, and flowers.
- (v) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs, and furs.
- (vi) Timber, wood, and other wood products derived from trees.
- (vii) Aquatic plants, animals, and their by-products.

Crops Unique to the Region – Crops which are generally considered to be crops unique to the region in order for a farm to qualify for an application (*See*: Page 16).

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

Deed of Agricultural Conservation Easement (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).

Easement – See Deed of Agricultural Conservation Easement

Economic Viability of Farmland for Agricultural Production - The capability of a particular tract of restricted land, other than a tract of two (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 Non-profit Entity – An entity that provides the 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 an Easement, whether through purchase, donation, or other transfer.

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 which an Easement is conveyed under the Act.

Grazing or Pasture Land - Land, other than land enrolled in the USDA Conservation Reserve Program, used primarily for the growing of grasses and legumes which are consumed by livestock in the field, and at least 90% of which is clear of trees, shrubs, vines, or other woody growth not consumed by livestock.

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 two (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).

Harvested Cropland - Land, other than land enrolled in the USDA Conservation Reserve Program, used for the commercial production of field crops, fruit crops, vegetables, and horticultural specialties, such as Christmas trees, flowers, nursery stock, ornamentals, greenhouse products, and sod. The term does not include land devoted to production of timber and wood products.

Immediate Family Member - A brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father, or mother of the landowner.

Land Development - One of the following activities:

- (i) The improvement of one lot or two or more contiguous lots, tracts or parcels of and for any purpose involving a group of two or more residential buildings, whether proposed initially or cumulatively.
- (ii) 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 two (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.

Mansion House - The primary residential structure located upon a parcel.

Normal Farming Operations - The customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in year after year in the production and preparation for market of crops, livestock and livestock products, and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural, aquaculture crops, and commodities. The term includes the storage and utilization of agricultural and food processing wastes for animal feed and the disposal of manure, other agricultural waste, and food processing waste, on land where the materials will improve the condition of the soil, or the growth of crops, or will aid in the restoration of the land for the same purposes.

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 Easements covering the entire tract.

Pennsylvania Municipalities Planning Code — 53 P. S. § § 10101—11201. Establishes powers and authority and assigns them to municipalities.

Seasonal Farm Labor Camp Housing Unit(s): living quarters, single or multi-family dwellings, rooming houses, dormitories, and mobile homes maintained directly or indirectly in connection with any work of or place where work is being performed by seasonal farm workers, whether or not rent is paid or reserved for use or occupancy as long as such work is necessary as a common practice in the County and Region to conduct Normal Farming Practices.

Seasonal Farm Worker: An individual who is required to be absent from a permanent place of residence for the purpose of seeking employment in agricultural work, and who resides in living quarters owned, leased, or operated by an employer or a farm labor contractor and occupied by four or more unrelated individuals, or works with agricultural commodities or farm products, as defined by law, on a seasonal or other temporary basis, or who performs agricultural labor on a seasonal or other temporary basis.

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.

## VII. SUMMARY OF PROCEDURES AND TIMELINES FOR ACQUIRING EASEMENTS

The Board shall accept applications in two (2) year cycles. The specific dates when applications will be accepted will be duly advertised for public information, and public informational meetings will be held. For specific information regarding these procedures, please refer to appropriate Sections within these Guidelines.

### **Application and Ranking Procedures, and Timeline:**

1. Landowner submits an Application Form to ACALP Office ..... (60 days)

- There will be at least two (2) public informational meetings held which will be advertised.
- After the deadline for applications is set, no extensions will be permitted.

2. Applications are evaluated and information verified ..... (90-120 days)

- County Staff will verify the information on the Application and determine if it meets both State and County Minimum Criteria.
- The Board will review and approve or deny any Exclusion Area requests.
- Application(s) will be ranked using the Land Evaluation / Site Assessment (LESA) system.
- Applicants will have an opportunity to review their scores prior to final ranking.
- Board will approve Final Rankings and all applicants will receive their Final LESA score and Ranking.

### **Appraisal and Offer Procedures, and Timeline**

This timeline will not begin until funding is made available to the Board.

1. As funding is available, the Board will offer applicants the opportunity to begin the Appraisal Process, beginning with the highest ranked application and thereafter in descending order of farmland ranking LESA score. Any requested extensions for any reason by the applicant must be submitted in writing prior to the set deadline and approved by the Board at their next scheduled meeting.

- Selected applicant(s) are notified and request appraisal .....(30 days)  
*The \$500.00 Administrative Fee is received at this time.*  
*Applicants have thirty (30) days to respond and start the appraisal process.*
- Appraisals are ordered and are received .....(60-90 days)
- Appraisals are reviewed by County Staff for accuracy .....(30-60 days)
- At its next regularly-scheduled meeting, the Board will review the appraisals and authorize the Administrator to make the offer to the applicant based on established Program Guidelines.

2. Applicant acts on Board Offer. If the applicant fails to act, it will constitute a rejection of the Board’s offer; however, extensions may be requested and granted on a case-by-case basis.

- Applicant accepts the Board’s offer ..... (30 days)
- Applicant rejects Board offer and advises the Board in writing that the application is withdrawn.
- Applicant rejects Board offer in writing and retains, at the applicant’s expense, an independent appraisal and submits two (2) copies of the appraisal to the Board along with the applicant’s written purchase price proposal .....(120 days)  
*A maximum 60 day extension may be permitted, to accommodate the completion of this process.*
- At its next regularly-scheduled meeting, the Board will establish a new Easement purchase price and authorize the new offer amount.
- Applicant accepts or rejects in writing the Board’s new offer .....(15 days)

3. Upon acceptance of the signed offer, a Title Search is ordered .....(60 days)
4. Upon receipt of a satisfactory Title Search, the Board requests approval of the offer by the Adams County Commissioners at their next regularly-scheduled public meeting. It is possible that this information will be reported by the local news media.

**State Board Approval Procedures**

1. Upon approval by the Commissioners, Staff prepares the application for State Board approval.

Upon review and approval by the Bureau of Farmland Preservation, the application will be acted upon at the next regularly-scheduled State Board meeting to receive State Board approval in accordance with **Section 138e.921(b) of the State Regulations**. The State Board must act on the completed application within **sixty (60) days**. Failure of the State Board to act within such timeframe constitutes approval.

2. Prior to State Board approval, letters of notification for Easement purchase will be sent to all adjoining landowners of the applicant’s property via certified mail in the manner required by **Section 138e.71 of the State Regulations**.
3. The Board will schedule settlement after receipt of State and/or County funds, as well as after any necessary Subordination Agreements and any other documents necessary to clear the title are received. The County’s receipt of State funds could take eight (8) – twelve (12) weeks after State Board approval.

## VIII. MINIMUM CRITERIA, APPLICATION REVIEW AND ACCEPTANCE

All farmland tracts offered for Easement sale shall meet the following State and County Minimum Eligibility Criteria:

### State Minimum Criteria

The County Program shall consider the quality of the farmland tract including the USDA soil classification and productivity. The farmland tract shall:

1. Be one or more of the following:
  - a. Located in an ASA 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 ASA of 500 acres or more and the remainder in another local government unit outside of an ASA.
  - c. Bisected by the dividing line between the purchasing county and an adjoining county, having the land located in the purchasing county within an ASA of 500 acres or more and the remainder in another county outside of an ASA, and with respect to which one of the following applies:
    - i. A mansion house is on the tract and located within the purchasing county.
    - ii. 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.
    - iii. 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 contiguous acreage of at least 50 acres in size unless the tract is at least 10 acres in size and is either utilized for **Crops Unique to the Region** as listed on page 16 (as long as such crops cover a minimum of 50% of the total acres being offered for Easement purchase) or is at least 10 acres in size and is contiguous to a property which has a perpetual Easement in place which is held by a “qualified conservation organization” as that term is defined in the Internal Revenue Code (26 U.S.C.A. 17-[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, as defined.
5. Special Provisions for Parcels Not Entirely Within an Agricultural Security Area:  
Act 14 of 2001 amended the Agricultural Area Security Law (Act 43) to prescribe certain conditions which would allow for the purchase of an agricultural conservation easement (ACE) on a parcel that is not entirely within an agricultural security area (ASA). The county board will administer a program for the purchasing of agricultural conservation easements from landowners whose land is either within an agricultural security area or in compliance with the criteria set forth below as it

applies to the Act 14 amendment.

- a. Consistent Standards. The standards and procedures for the selection and purchase of an agricultural conservation easement set forth in this county program are applicable to the selection and purchase of easements crossing local government unit boundaries and county boundaries.
  - b. Parcels Crossing Local Government Unit Boundaries. The county may recommend the purchase of an agricultural conservation easement on a parcel portion of which is not within an agricultural security area if all of the following occur:
    - i. The Agricultural Conservation Easement would be purchased by the county solely, or with either the Commonwealth or a local government unit, or both. State-only easements are not included. Township-only easement purchases do not apply.
    - ii. 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.
    - iii. The majority of the parcel's viable agricultural land is located within an agricultural security area of 500 or more acres.
6. The State Board approved and authorized on July 13, 2000 that land enrolled in CRP/CREP on an applicant's property will not be included in the calculation of tillable land or pasture for the purpose of meeting State Minimum Criteria.

### **Crops Unique to the Region**

The following crops are generally considered to be crops unique to the region in order for a farm to qualify for application per **Section 138e.3 of the State Regulations**. Any application for Easement purchase meeting these criteria will be reviewed and approved on a case-by-case basis by the Board.

It is understood that to meet this criteria these crops are being commercially grown for fresh market, processing, *or* as a commercial agricultural enterprise. **It is also understood that at least 50% of the total acres being offered for Easement purchase must be utilized for such crops as defined below:**

Tree Fruits	Hemp	All Vegetables *
Small Fruits	Trees for Maple Syrup	All Edible Seeds *
Grapes	Tree Nuts	All Legumes *
Tobacco	Hops	

Christmas trees – grown as a rotation crop with a management plan for cultivation, harvesting, and replacement of Christmas trees.

Sod, nursery stock, ornamental trees and shrubs – grown for commercial agriculture enterprise with the restriction that removal of excess soil is prohibited.

\*Must historically have been grown, or have been grown within the last five years

## **Additional County-Defined Minimum Criteria**

1. The application in question may not be located within the 1990 Federally-established boundaries of the Gettysburg National Military Park.
2. If the application qualifies for Easement purchase based on the utilization of a Crop Unique to the Region, **at least 50% of the total acres being offered for Easement purchase must be utilized for such crops as defined above.**
3. If the application qualifies for Easement purchase based on being contiguous to another property which has a perpetual Easement in place, it is the policy of the Board that the following will NOT be considered to be a perpetual Easement:
  - a. Lands which are designated as “State Game Lands”
  - b. Lands which are designated as “State Forest Lands”

## **Costs**

**Application Fee** – None

**Administrative Fee** – There is a \$500.00 non-refundable fee due at the time of the appraisal process

**Clear Title Costs** – There **may** be charges which would be required to be paid by the applicant to obtain Clear Title on their Deed (**See: Section XII Procedures and Requirements for Sate Board Approval**). Assessment and Collection of County Fees, Costs, and Charges - Notwithstanding any other provision of this County Program, in the event that the assessment and collection by the County of any fee, cost, or charge mentioned in this Program is determined to be illegal or impermissible by Order of any Court of last resort or final, legally binding directive of any Commonwealth Agency, the assessment and collection of the fee, cost, or charge in question shall be deemed to have been waived by the County and the provision of this Program levying, assessing, or authorizing such fee, cost, or charge shall be deemed to have been automatically and immediately deleted.

## **Application Submission Guidelines**

The landowner voluntarily submits an “**Adams County Agricultural Land Preservation Board Agricultural Easement Application Form**” (**Application Form**) (**See: Appendix B-1**) to the Board. Farm properties described in more than one (1) deed, and multiple farmland tracts described in one (1) deed, **may be included in one (1) application**. In either case, however, all such deeds and/or parcels **must be under the same ownership**.

If the tracts or parcels, whether described in the same deed or in different deeds, do not adjoin one another, each parcel must meet the State Minimum Criteria for applications as defined in **Section 138e.16 of the State Regulations**. **Prior to combining any preserved tracts or parcels with other preserved or non-preserved tracts or parcels, the landowner should contact their municipality regarding any possible impacts with zoning regulations, subdivision regulations, etc.**

After Application Forms are submitted, they will be reviewed to assure both State and County Minimum Criteria requirements are met. **Applications must be signed by all persons listed on the Deed.**

If all minimum requirements are met, the application will be evaluated and scored, utilizing the Land Evaluation and Site Assessment (LESA) system. Any exclusion requests will be reviewed and acted upon by the Board prior to LESA scoring pursuant to the Exclusion Area Policy outlined below.

If the applicant alters the Application Form in any way after the completion of the final rankings, the Board reserves the right to withdraw that application from the current application cycle. (**See page 18: Post-Application Exclusions/Changes**).

If the applicant sells or transfers the subject property during the current application cycle, that active application may be transferred to the new owner, so as long as the sale or transfer does not significantly adversely affect the ranking of the property in question or the ranking of other properties. The new owner must sign and date the Application Form.

### **Exclusion Areas**

If an applicant wishes to exclude a portion or portions of a tract of land from the coverage of the Preservation Easement, any and all proposed exclusion area(s) must be clearly noted **at the time of application** and a sketch of such exclusion request must be attached. As Adams County has a digital mapping database system, the Board will provide any necessary maps for the applicant as needed in order to clearly identify the area to be excluded from the application.

The Board will evaluate the proposed exclusion to determine whether the exclusion will harm the economic viability of the land to be covered by the Easement for agricultural production (*see: Section 138e.225 of the State Regulations*), or is otherwise inconsistent with the purposes of the Program. The Board shall also review and determine what the effect of constructing a dwelling unit on the excluded land may have upon the probability of the restricted land remaining in viable agricultural use.

The applicant and the Board must agree on mutually acceptable boundaries prior to ranking the farm for Easement purchase, and a survey must be completed for the “excluded land” as soon as an offer has been accepted by the landowner.

If the Board requires the requested exclusion be preserved utilizing the Land Conservancy of Adams County or any other entity qualified to hold a Conservation Easement, those requirements will be outlined in an Exclusion Area Acknowledgement Letter and Form addressed to the Applicant (**See: Appendix B2 and B3**). These exclusions must be reviewed and approved in writing or email by the entity prior to final approval by the Board.

If the results of a Title Search indicate that a survey is necessary, or if the Board requests such exclusion for any reason, the survey will be commissioned and paid for by the Board. If a cemetery exists on a proposed preserved tract, the cemetery, and access thereto if necessary, will be surveyed out at the County’s request and cost.

In all other cases, the liability for survey expenses relative to the exclusion of certain land from the proposed Easement shall be paid by the applicant.

### **Exclusion of Future Building Lots**

With regard to the exclusion from the proposed preserved land of a building lot or lots (for example, for children of the applicant), the Board will recommend that the applicant take necessary steps to ensure that the lot(s) proposed for such exclusion meets, for example, all applicable subdivision, sewage

disposal, and water supply requirements at both the Township and County levels. If the applicant decides not to follow through with this recommendation, they must acknowledge that they may not be able to develop said exclusion area in the future. Please see **Appendix B2 “Exclusion Area Acknowledgement Form”** which the applicant is required to sign prior to final approval by the Board.

**Post-Application Exclusions/Changes:**

In general, additional exclusions of land and/or changes in the property being offered for an Easement purchase (for example, the grant of additional rights-of-way) subsequent to the submission of the Application Form (hereinafter collectively referred to as “post-application changes”) are discouraged, and the Board reserves the right, in its discretion, to deny requests for the same.

The Board may require a post-application exclusion if it is in the best interest of the Program.

The Board will consider requests for post-application changes, on a case-by-case basis, if and only if the applicant demonstrates, to the satisfaction of the Board, that the proposed post-application changes(s):

1. Will not harm the economic viability of the use of the land for agricultural production; and
2. Will not substantially adversely impact the appraised value of the proposed Easement; and
3. Will not adversely affect the LESA ranking of the subject property or the LESA ranking of other pending applications; and
4. Will not delay the processing of the application, the appraisal of the farm, or the eventual purchase of the Easement.

## **IX. FARMLAND RANKING SYSTEM (LESA) AND ADAMS COUNTY AGRICULTURAL PRESERVATION PRIORITY AREA MAP**

**All properties considered for Easement purchase will be evaluated in compliance with Section 138e.15 and Section 138e.17 of the State Regulations.**

The Board shall demonstrate fair, equitable, objective, nondiscriminatory procedures for determining Easement purchase priorities, and will apply the numerical ranking system which targets Easement purchases to areas given priority for farmland protection.

The Board will also consider the likelihood that a farmland tract will be converted to non-agricultural use.

In determining this likelihood, consideration will be given to the following factors:

1. Areas in the County devoted primarily to agricultural use where development is occurring or is likely to occur in the next 20 years;
2. Suitability of the farmland tract for development because of soil capabilities, location, and configuration;
3. Pre-existing perpetual restrictions against development;
4. Location in an area identified by the Adams County Agricultural Preservation Priority Area Map as desirable for agricultural use; and
5. Proximity of the farmlands subject to proposed Easements to other agricultural lands in the County which are subject to Easement.

The Board will consider the extent to which the applicant has demonstrated good stewardship of the land, use of conservation practices and best management practices, including but not limited to, soil erosion, sedimentation control, and nutrient management.

### **Land Evaluation / Site Assessment (LESA) System**

Applications will be ranked using a two-part Land Evaluation (LE) and Site Assessment (SA) System (LESA). The Land Evaluation looks at the quality of the soils and the Site Assessment considers locational factors that may have an impact on current or future viability of a farm.

The LESA System provides a way to rank the applications by evaluating soil and locational factors for each tract under consideration, and shall determine the order in which farmland tracts are selected by the Board for appraisal. Selection for appraisal shall be made in descending order of this farmland ranking score.

The Site Assessment Worksheet (*See: Appendix C-5*) summarizes the Land Evaluation (LE) Score as well as the three (3) Site Assessment (SA) categories, illustrates the total possible points for each, the application's score for each, and a table depicting the weights given in each category to create a final LESA Score. Every farm meeting the State and County Minimum Criteria will be reviewed and analyzed using the County Geographical Informational System (GIS) based LESA Automated System which will create a final LESA score and ranking. Applicants will have the opportunity to review their scores prior to final ranking.

See **Appendix C1** for Adams County Land Evaluation (Soils Values), **Appendix C4** for Adams County Site Assessment Factors, **Appendix C3** for Agricultural Preservation Priority Area Map Methodology and **Appendix C5** for the Site Assessment Worksheet. The following is a breakdown of the LESA System:

### **Land Evaluation (LE = 40% of the overall LESA Score)**

The Land Evaluation (LE) portion of the LESA System was developed by the US Department of Agriculture, Natural Resources Conservation Service (USDA-NRCS) using information contained in the State Soil Survey Geographic (SSURGO) database for Adams County, Pennsylvania. This Soil Survey provides the background information to develop these evaluations.

Each soil-mapping unit found in Adams County has been assigned a “Relative Value”. These Relative Values, developed for each soil mapping unit, reflect the agricultural value of each soil mapping unit relative to other soil mapping units in the County. These values are specific to the County and should not be used in other counties.

Factors considered in developing the Land Evaluation include average crop yields, land capability class and subclass (limitations such as erosion hazard, wetness, stones), Important Farmland classification and acreage (extent) of soil mapping units in the County.

Based on these factors, each soil has been assigned a Relative Value, with 100 being the highest. All the other soils in the County have been assigned Relative Values less than 100. (**See: Appendix C-1**)

An average of these Relative Values will be calculated, and each farm under consideration will be assigned their Land Evaluation (LE) score. The highest LE score a farm can receive is 100.

### **Site Assessment (SA = 60% of the overall LESA Score)**

The Site Assessment portion of LESA consists of factors which relate to the viability of the site for present and future agricultural use and development pressures. This portion of the formula consists of three (3) categories; **Farmland Potential, Clustering Potential, and Development Potential**. Each category has a percentage weight assigned to it and multiple factors, which determine the score for each category. The three (3) categories are based on a total attainable score of 100 for each category, and then given a weight to determine the overall Site Assessment Score. (**See: Appendix C-4**)

If the application qualifies for Easement purchase based on being contiguous to another property which has a perpetual Easement in place, it is the policy of the Board that the following will NOT be considered to be a perpetual Easement:

1. Lands which are designated as “State Game Lands”
2. Lands which are designated as “State Forest Lands”

For the purpose of ranking applications based on amount of tillable land, the following are policies of this Board:

3. All lands submitted in the application which are not woodland will be considered ‘tillable’ land (please note, Christmas Trees grown for agricultural production are considered tillable land)
4. The State Board approved and authorized on July 13, 2000 that land enrolled in CRP/CREP on an applicant’s property will not be included in the calculation of tillable land or pasture.

## **Adams County Agricultural Priority Preservation Area Map**

Per **Section 138e.17** of the State Regulations, the Board shall prepare and adopt a map which identifies the important agricultural areas of the County, delineates the approximate boundaries of ASAs, and identifies areas considered farmland of importance and lands where development is occurring or is likely to occur in the next 20 years. The Adams County Agricultural Preservation Priority Area Map (PPA Map) was created in consultation with the Adams County Planning Commission and has been adopted by the Board, the Adams County Commissioners, and the State Board as part of the County Program and LESA System (**See: Appendix C-3**). The PPA Map will be periodically revised following the model used in its development, so as to capture changes in agricultural and related land use dynamics, thereby ensuring the best use of preservation resources.

## **X. APPRAISAL PROCEDURE, EASEMENT VALUE, UNIQUE PURCHASE SITUATIONS, AND OFFER PROCESS**

**The appraisal and purchase procedure will follow Sections 138e.64, 138e.65 and 138e.66 of the State Regulations.**

### **Appraisal Procedure**

As funding is available, the Board will offer applicants the opportunity to begin the Appraisal Process, beginning with the highest ranked application and thereafter in descending order of farmland ranking (LESA) score. Any requested extensions for any reason by the applicant must be submitted in writing prior to the set deadline, and approved by the Board at its next regularly scheduled meeting.

Applicants receiving preference for appraisal based on the LESA evaluation system and availability of funds will receive an Appraisal Request Form (**See: Appendix D-1**). Applicants who wish to proceed will submit the Appraisal Request Form to the Board along with a non-refundable Administrative Fee of \$500.00.

An offer to purchase an Easement shall be based upon one or more appraisal reports which estimate the market value and the farmland value of the farmland tract, as those terms are defined in **Section 138e.3 of the State Regulations**. The initial appraisal shall be at the Board's expense, which may be reimbursed as a cost incidental to Easement purchase.

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.

If the Appraiser finds it necessary to utilize comparable sales from adjoining counties when evaluating and appraising Adams County farms, a letter stating the Board's approval must be sent to the State prior to such appraisal being approved.

The value of buildings or other improvements on the farmland tract will not be considered in determining the Easement value. The value of the buildings or other improvements shall be listed separately in the appraisal report.

The Appraiser shall be a State-certified general real estate appraiser who is qualified to appraise a property for Easement purchase. An appraiser shall be selected by the Board on the basis of experience, expertise, and professional qualifications. The appraiser shall be advised that Easements are perpetual. The perpetual nature of the Easement shall take precedent over any agricultural zoning status.

The Appraiser 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 or via email to the use of a per-acre value to account for the change in Easement value resulting from such a change in acreage.

If acreage is voluntarily withheld from the Easement sale by the landowner through an approved exclusion area, or by subdivision accomplished in accordance with the Pennsylvania Municipalities Planning Code, the Appraiser shall, in making the estimate of 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.

The Appraiser shall provide an electronic copy of the appraisal as well as two (2) copies of each report to the Board (one for the landowner and one for the State).

### **Notification of Municipality**

It is the policy of the Board to notify in writing the municipality in which a property that is the subject of an Easement application is located of the pending purchase of said Easement. This notification will be sent to the Chair of the Board of Supervisors prior to the Board beginning the appraisal process.

### **Easement Value**

The Board will only consider purchasing perpetual Easements.

The value of an Easement is the difference between the appraised fair market value and the agricultural use value, which is determined at the time of appraisal.

The purchase price offered for the purchase of an Easement under **Section 138e.66(b) of the State Regulations** shall not exceed, but may be less than, the value of the Easement.

Final purchase decisions will be based on the following factors:

1. LESA Score
2. Consistency with the “Adams County Preservation Priority Area Map”
3. Cost Factors
  - a. Available Funds
  - b. Cost Per Acre
4. Proximity of other lands subject to Easements
5. Good, marketable, and insurable title
6. Unique or special circumstances

If the Board decides not to make an offer, based on the above factors, to purchase an Easement on the farmland tract, the applicant shall be notified in writing.

### **Maximum Easement Purchase Price**

The offer for all Act 43 Agricultural Conservation Easements shall be 90% of the appraised Easement Value not to exceed \$3,000 **per acre**, as established at **Section 138e.64 of the State Regulations**. The Maximum Easement Purchase Price, as determined above, shall be applicable to all applications, subject to exception wherein Township participation, as a third-party funding source separate and distinct from

those funds certified for match under Act 43 as outlined below, may provide funding up to 100% of the Easement Purchase Price.

An exception to this maximum easement purchase price would be limited to Township Participation. A Township has the discretion to provide funds up to 100% of the Easement Purchase Price. **See Section XV, County-Only, Donations, Land Trust Reimbursement Program, and Local Government Participation.**

## **Unique Purchase Situations**

### **Priority Purchase**

The Board may consider preserving a farm earlier than it would otherwise be preserved based on its LESA ranking for the current round if the farm is subject to a unique funding opportunity and has an Application Form on file for the current round. Such an application is considered a Priority Purchase. In order to be considered a Priority Purchase, the ranking of the property must fall within the top fifty-percent (50 %) of the scored applicants for the current round of applications. A Priority Purchase must leverage additional funds for preservation of that farm from Federal, State, Municipal, or private sources.

The applicant, his or her family, or business associates may not be the direct or indirect source of the additional funds that are being leveraged for a Priority Purchase. If a landowner cannot provide clear title, or some other circumstance arises whereby the landowner is unwilling or unable to settle on the Priority Purchase in a timely fashion, and as a result the subject Easement is not able to be purchased in the then-current round of applications, and the decision to select this application was due to a Priority Purchase determination, then the landowner shall reimburse the Board for any and all costs waived by the Board in connection with the application, unless otherwise previously agreed upon by the Board.

The minimum amount from the additional funding source(s) for a farm application to be considered a Priority Purchase shall be the greater of **ten percent (10%) of the final Easement Purchase Price (which is capped at 90% of the appraised Easement Value not to exceed \$3,000 per acre), or \$25,000**. The Board has no duty to solicit or attempt to find alternate funding opportunities. The Board intends, however, to inform municipalities, potential applicants, and other interested parties of the existence of the Priority Purchase provision.

### **Township Participation in a Priority Purchase**

Municipalities will be notified when there is a proposed Easement purchase in their jurisdiction, and are encouraged to participate financially with the County at any time. Please refer to **Appendix C-7** for the **Township Participation Policy** as well as **Section XV, County-Only, Donations, Land Trust Reimbursement Program, and Local Government Participation.**

## **Offer Process**

After the Board has decided to make an offer for the purchase of an Easement, the Administrator and/or a Board Representative will meet with the applicant to discuss the offer. At this meeting, the appraisal report will be reviewed with the applicant along with a review of all documents to ensure the landowner understands the provisions of the proposed Agreement of Sale and Deed of Easement. A formal offer for purchase of an Easement shall be submitted to the applicant in writing (**See: Appendix D-2**) and

accompanied by the appraisal report which will be reviewed with the applicant (**Please refer to Maximum Easement Purchase Price on page 23**).

The applicant (with assistance from the Administrator or Board member if requested) may contact the Municipality in which the farm is located to request additional funds from such Municipality;

Any offer less than the appraised value of the Easement, would be considered a “Bargain Sale”. A Bargain Sale is when the landowner agrees to sell the Easement for less than 100% of the Easement value. A Bargain Sale may qualify for a Federal Income Tax deduction on the difference, or the donated portion, of the appraised value of the Easement (**See: Section XI. Payment Options, Tax Planning and Agreement of Sale**).

Within thirty (30) days of receipt of the written offer from the Board an applicant may either:

1. Accept the offer;
2. Reject the offer and advise the County, in writing, that the application is withdrawn; or
3. Advise the Board in writing that the applicant is retaining, at the applicant’s expense, an independent State-certified general real estate appraiser to determine the Easement value as set forth by **Section 138e.66 of the State Regulations**. Two (2) copies of the appraisal shall be submitted to the Board within 120 days of receipt of the Board’s offer to purchase. The applicant’s decision to obtain an independent appraisal under this paragraph does not constitute a rejection of the Board’s offer. The Board’s offer shall remain open unless increased by the Board or rejected by the applicant.

The failure of the applicant to act within thirty (30) days of the receipt of the Board’s written purchase offer shall constitute rejection of the offer. Extensions may be granted by the Board on a case-by-case basis; however, the applicant must be in contact with the Administrator within this thirty (30) day period either by phone, email, in writing, or in person.

If the offer of purchase is accepted by the applicant, the Board will order a Title Search of the proposed Easement property. Upon receipt of this Search, the Board will take the recommendation to purchase the Easement to the next regularly-scheduled public meeting of the Adams County Commissioners [**NOTE:** It is possible that the proposed purchase price of the Easement will be reported by the local news media.]

In the event that the applicant withdraws the application at any time after signing and returning the formal offer letter for any other reason other than because the applicant and the Board cannot mutually agree upon the appraised value of the property or the proposed Easement purchase price, the applicant will be required to reimburse the County for any and all costs incurred by the County in connection with the processing of such application, including, for example, surveying costs, legal fees including Title Search, as well as incidental administrative costs.

After the proposed Easement sale has been approved, the applicant shall enter into an Agreement of Sale (**See: Appendix D-3**), and the application will be submitted for State Board approval.

## **XI. PAYMENT OPTIONS, TAX PLANNING AND AGREEMENT OF SALE**

### **Payment Options**

The Agreement of Sale shall specify the method of payment. The method of payment for an Easement may be made in a Cash Sale (Lump-Sum), in installments, or another lawful manner of payment.

There are four (4) payment methods available to applicants:

- Cash Sale / Lump-Sum Payment
- Short-Term Installment Payments
- Long-Term Installment Payments
- Like-Kind Exchange

#### **1. Cash Sale – Lump-Sum Payment**

The Lump-Sum payment is a straight sale wherein the applicant elects to accept one (1) payment for the total amount of the Easement purchase price at the time of settlement.

#### **2. Short-Term Installment Payments**

The applicant may opt to receive a specific amount of the purchase price at the time of settlement, with the remaining purchase price balance being payable in equal annual payments over a period of up to five (5) years. The annual, fixed interest rate payable upon the purchase price balance during the installment payment period shall be determined by the Adams County Commissioners and shall be set forth in the Agreement of Sale. The requirements for Short-Term Installment Payments are set forth in **Section 138e.104(b) of the State Regulations**, which provisions are incorporated herein by reference.

#### **3. Long-Term Installment Payments**

The applicant may opt to receive a specific amount of the purchase price at the time of settlement, with the remaining purchase price balance being payable in equal annual payments over a period of more than (5) years. The annual, fixed interest rate payable upon the purchase price balance during the installment payment period shall be determined by the Adams County Commissioners and shall be set forth in the Agreement of Sale. The requirements for Long-Term Installment Payments are set forth in **Section 138e.104(c) of the State Regulations**, which provisions are incorporated herein by reference.

Installment Purchase Agreements (IPA) sales deferring the payment of principal for up to thirty (30) years, as provided for in **Section 138e.104(d) of the State Regulations** are not permitted by the Board.

#### **4. Like-Kind Exchange**

The applicant may elect to structure the Easement purchase as a “Section 1031” or Like-Kind Exchange. A Like-Kind Exchange may provide for the deferral of Capital Gains Tax. Like-Kind Exchange transactions are subject to various timelines under the Internal Revenue Code and the Regulations of the Internal Revenue Service. The applicant must contact the applicant’s attorney or tax advisor as to the advisability of electing a Like-Kind Exchange Easement purchase

structure and for information regarding all applicable requirements. If such structure is elected by the applicant, the applicant must retain legal counsel and the required qualified intermediary, and the applicant shall be solely responsible for all costs and expenses associated with the Like-Kind Exchange proceedings.

## **Tax Planning**

Short- and Long-Term financial considerations, family estate planning, retirement needs, and tax consequences are very important issues that need to be addressed when considering the sale of an Easement.

It is imperative that the applicant understand any and all tax implications of the sale of an Easement, and all applicants are strongly encouraged to consult with the applicants' tax preparer and/or financial advisor prior to signing the Board's Purchase Offer Letter. Neither the Board nor County Staff are qualified to provide the applicant with any tax advice.

## **Bargain Sale**

A Bargain Sale is a transaction wherein the applicant agrees to accept less than one hundred percent (100%) of the duly appraised Easement value. A Bargain Sale may be applied to any of the payment methods set forth hereinabove. If the duly appraised value of the Easement exceeds the Maximum Easement Purchase Price, as set forth hereinabove, the difference between the duly appraised value and the Maximum Easement Purchase Price will still be treated as a Bargain Sale. The difference between the Bargain Sale purchase price and the duly appraised value may qualify as a Charitable Contribution by the applicant for income tax purposes. In order to qualify for a Charitable Contribution, the applicant must complete IRS Form 8283 and forward it to the Adams County Commissioners and/or the Director of the State Bureau of Farmland Preservation for completion of the required Donee Acknowledgement. The State and County will acknowledge the receipt of the donated portion of the duly appraised Easement value in the context of a Bargain Sale; however, it is the responsibility of the applicant and the applicant's tax advisor to calculate the amount of the charitable contribution and file the required documentation with the taxing authorities, including an updated appraisal if required.

## **Capital Gains Tax**

All Easement purchases are potentially subject to Capital Gains Tax. The amount of such income tax due, if any, will depend upon the applicant's gain derived from the sale of the Easement and the applicant's individual tax situation. It is strongly suggested that the applicant consult with the applicant's tax preparer and/or financial advisor prior to signing the Board's Purchase Offer Letter.

## **Agreement of Sale**

The Agreement of Sale shall be conditioned upon the approval of the State Board, and shall be subject to the ability of the applicant to provide good, marketable, and insurable title to the premises, free of any encumbrances such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interests, and other encumbrances, which would adversely impact the County and Commonwealth's interests in the farmland tract (**See: Appendix D-3**).

An Agreement of Sale shall be in a form provided by the State Board and may be structured as:

1. A joint purchase by the State and the County;
2. A joint purchase by the State, County, and a Municipality;
3. A joint purchase by the County and a Municipality;
4. An individual purchase by either the State or the County;
5. A joint purchase by the State and a Municipality;
6. A Municipality only.

The Board reserves the right to determine the manner in which the Agreement of Sale will be structured, in terms of the nature of the purchase, as outlined above.

## **XII. PROCEDURES AND REQUIREMENTS FOR STATE BOARD APPROVAL**

All applications utilizing State funds must be approved by the State Board. Documents requested are outlined below and in the Pennsylvania Department of Agriculture, Bureau of Farmland Preservation “**A Guide to Farmland Preservation**” (as updated and amended). Submission of all materials for State Board approval must utilize “PA Farmland: Pennsylvania’s Online Agricultural Conservation Easement Purchase Program” at: [services.agriculture.state.pa.us/PAFarmland](http://services.agriculture.state.pa.us/PAFarmland)

### **Procedures for State Board Approval**

1. Upon approval of the offer by the Commissioners, Staff prepares the application and all documents required for State Board approval. Upon review and approval by the Bureau of Farmland Preservation, the application will be acted upon at the next regularly-scheduled State Board meeting to receive State Board approval in accordance with **Section 138e.921(b) of the State Regulations**. Within sixty (60) days of receipt of a complete recommendation for purchase, the State Board may approve, disapprove, or table the purchase as outlined in **Section 138e.92 of the State Regulations**. Failure of the State Board to act within such timeframe constitutes approval.
2. Prior to State Board approval, letters of notification for Easement purchase will be sent to all adjoining landowners of the applicant’s property via certified mail in the manner required by **Section 138e.71 of the State Regulations**.
3. The Board will schedule settlement after receipt of State and/or County funds, as well as after any necessary subordination agreements and any other documents necessary to clear the Title are received. The County’s receipt of State funds could take eight (8) – ten (10) weeks after State Board approval.

### **Requirements for State Board Approval**

#### **Conservation Plan**

There must be a Conservation Plan on file in order for the farm to be submitted for State Board approval. (For further information regarding required Conservation Planning, (**See: Section XIII. Provisions of the Deed of Agricultural Conservation Easement and Section XIV. Settlement and Recording Procedures**).

#### **Surveys and Legal Description**

If a survey of land being considered for Easement purchase is required (because the existing deed’s 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.

A survey shall also contain the following:

1. 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.

2. A copy of the final boundary survey in digital electronic format that complies with the Easement Geographic Information System (GIS) technical standards maintained in the Guidebook prepared by the Pennsylvania Department of Agriculture (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.
3. Coordinates of at least two (2) ground control points located sequentially along the boundary survey, with latitude and longitude expressed in decimal degrees with an accuracy of six (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.
4. 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.
5. Monumentation - The surveyor shall establish monumentation for at least the two (2) 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.

If no survey is needed, the current deeded acreage is used for the calculation of the Easement purchase.

### **Survey Costs**

If the results of a Title Search indicate that a survey is necessary, or if the Board requests an exclusion area for any reason, the survey will be commissioned and paid for by the Board.

In all cases, the cost to deal with Right-of-Way and Encroachment issues as noted below, including survey costs, shall be borne on the applicant unless otherwise previously agreed upon by the Board.

Any additional marker/pin or plot plan requested by the applicant for his/her own use or purpose is done at the cost of the applicant.

When an exclusion is requested by the applicant, that survey cost shall be borne by the applicant (***See: Section VIII. Minimum Criteria, Application Review, and Acceptance***).

### **Deed Requirements**

If your current legal description does not meet certain requirements, a new survey would be required at the expense of the County and Commonwealth. Be further advised that one of the following will take place at settlement, unless otherwise agreed upon by all parties:

#### **Declaration of Merger of Separate Tracts/Parcels:**

When there are separately described parcels or tracts of land in the above-referenced existing deed(s), such tracts or parcels are required to be merged into one (1) single tract prior to the imposition of the Easement, and thereafter cannot be separately sold or conveyed. In this case a

**“Declaration of Merger of Separate Tracts/Parcels” (See: Appendix E4)** must be recorded prior to the recording of the Easement. These expenses will be the liability of the County.

**Deed of Consolidation:**

If a new survey is required by the County to complete your project, a **“Deed of Consolidation”** will be recorded prior to the recording of the Easement. In essence, this will be your new “Fee Simple” Deed. The purpose of this is to have the legal descriptions of your current Deed and the Easement match, with the exception of when there are exclusions to the Easement. These expenses will be the liability of the County.

**Right-of-Ways and Encroachment Issues**

After a property is subjected to an Easement, private Right-of-Ways may not be granted. The Title Search will reveal any established, recorded Rights-of-Way.

It is the position of the Board to handle Right-of-Ways and encroachments as follows:

Building Encroachment - when there is a Building Encroachment on an applicant’s farm, it must either be moved from the premises or surveyed out of the Easement purchase.

Personal Driveway Encroachment – when there is a neighbor’s driveway or other type of established, regularly-used access road on an applicant’s farm, it must be surveyed out of the Easement purchase or a legal Right-of-Way must be recorded prior to the recording of the Easement.

Access Roads to Land-locked Parcels – The Board shall inquire of the applicant whether or not owners of any adjacent land-locked parcels must cross the subject farm in order to gain access to such adjoining property. If so, there must be a Right-of-Way Agreement recorded prior to the recording of the Easement, or such access road must be surveyed out of the Easement purchase area.

Railroads - If the land is owned in fee simple by the railroad company, the land must be surveyed out and excluded from the Easement purchase area. If there is a recorded Easement agreement for the railroad rather than a fee simple ownership by the railroad company, it does not need to be excluded from the Easement purchase area.

Cemeteries – If a cemetery exists on a proposed tract, access must be provided. If there is not public access, either a legal Right-of-Way must be provided or the cemetery and access thereto will be surveyed out at the County’s request and cost.

Costs to deal with Right-of-Way and Encroachment issues shall be borne on the applicant, unless otherwise previously agreed upon by the Board.

**Title Insurance**

The Board will provide a Title Report to the State Board upon submission of its recommendation for the purchase of an Easement. At settlement, the Board will provide a title insurance policy, together with copies of all exceptions, which is 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 will be a cost incidental to the Easement purchase and reimbursable from the County’s allocation under the Act.

All liens and encumbrances, including mortgages, judgments, and other mechanics liens filed against the acreage proposed for Easement acquisition must be subordinated to the rights of the grantee(s) holding the Easement. If the landowner wishes to pay off any such liens, prior to or at closing, no subordinations will be necessary. A landowner may do a partial pay-off and subordination of the remaining balance of a lien. In this case, a Satisfaction Piece will need to be filed and recorded to show the amount of the liens which were satisfied and liquidated at closing of the Easement purchase. A letter from the Settlement Agent must be included in the submission packet to the State Board to declare such actions in lieu of executing Subordination Agreements.

All costs associated with clearing the Title to the Easement area shall be borne on the applicant unless otherwise previously agreed upon by the Board.

The amount of Title Insurance must reflect the total Easement appraised value, not the purchase price.

### **Statement of Costs**

The Board shall submit, on a form provided by the State, a Statement of Costs. This Statement shall include the purchase price of the Easement and the costs incidental to the purchase of the Easement, and shall be submitted to the State Board along with the application for review. The incidental costs may include:

1. The County's appraisal costs.
2. Necessary legal fees for title search, preparation of documents, and attendance at closing.
3. Recording fees.
4. Survey costs.
5. The costs of providing adjoining landowners with required notices and of providing necessary advertisements
6. Reimbursements to a non-profit land conservation organization that has acquired an Easement at the request of the Board, for the purpose of transferring the Easement to the County, or the Commonwealth, or both. These costs include the Easement purchase price, reasonable costs of financing the purchase, appraisal costs, necessary legal costs, recording fees, and survey costs.
7. The title insurance premium.

The Statement of Costs shall specify the amount of funding requested from the Commonwealth for the purchase, the amount of County funds allocated for the purchase, total acreage, and cost-per-acre.

After settlement, the Board shall submit a revised Statement of Costs if actual costs were greater, or less, than the costs estimated in the initial Statement of Costs.

If actual costs are less than the estimated costs, the Board shall promptly refund the difference by check payable to the "Commonwealth of Pennsylvania".

### **Summary Report**

Each recommendation by the Board for the purchase of an Easement shall be accompanied by a Summary Report as outlined in **Section 138e.70 of the State Regulations**.

### **Notification of Owners of Land Adjoining Proposed Easement Purchase**

When utilizing funds certified by the State for Easement purchases, the Board shall provide the owners of land adjoining a farmland tract, with respect to which an Easement purchase is proposed, with notice of the proposed purchase and notice of an opportunity to be heard at the State Board meeting at which the Easement purchase recommendation is to be considered. This notification requirement will be accomplished as outlined in **Section 138e.71 of the State Regulations**

## **XIII. PROVISIONS OF THE DEED OF AGRICULTURAL CONSERVATION EASEMENT**

### **Agricultural Security Area (ASA)**

State Minimum Criteria states that a farmland tract shall be located in an established ASA. In this regard, the Board shall support established ASAs, specifically with regard 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 night-time farm operations.

The Board will, in consultation with other Federal, State, or County agencies (including, for example, the Adams County Office of Planning and Development), promote, by appropriate means, the protection of the continued agricultural use of land in ASAs from incompatible County-, State-, and Federally-funded capital projects which are not planned at the time of establishment of ASAs, and additions thereto, which would result in the extensive, direct, or indirect conversion of farmland resources.

### **Deed of Agricultural Conservation Easement**

**See Appendix E-1 for a copy of the Deed of Agricultural Conservation Easement.**

All owners of the subject real estate must execute a Deed conveying the Easement. The Deed shall comply with the requirements set forth in **Section 138e.67 of the State Regulations**.

An Easement shall be perpetual, and subject to the terms, conditions, restrictions, and limitations as outlined in **Section 914.1(c) of Act 43, as amended**.

### **Conservation Plan**

To preserve the agricultural viability of the restricted land, the Board shall require, and the owner of the restricted land shall implement, a Conservation Plan developed by a qualified PA NRCS Certified Conservation Planner. A "Conservation Plan Agreement" must be completed and recorded with the Easement (**See: Appendix E-2**).

The Conservation Plan shall meet the definitional requirement of a Conservation Plan in **Section 138e.3 of the State Regulations**, and shall also require that:

1. 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.
2. 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.
3. The mining of minerals is conducted only through the use of methods authorized in the Act.

The applicant shall, prior to settlement upon the purchase of the Easement, obtain the aforementioned Conservation Plan, written by a qualified PA NRCS Certified Conservation Planner, covering the entire acreage being offered for Easement purchase, which outlines an installation and management schedule. In the event of the failure, refusal, or inability of the applicant to obtain such Conservation Plan approval on

or before the date of settlement (as scheduled by the County Program Solicitor), the settlement date may be extended at the discretion of the County, or alternatively the transaction may, upon recommendation by the Board, be voided and terminated by the Adams County Commissioners.

Conservation Plans must be updated when there is a major change to the operation. When there is transfer of ownership of a preserved farm, the landowner will be notified by the Administrator regarding the provisions of the Deed of Easement, including Conservation Plan requirements.

### **Permitted Acts and Rural Enterprises**

During the term of the Easement, the restricted land shall be used solely for agricultural production or other uses permitted by the Act (*See: Appendix E-6*).

A Rural Enterprise may be permitted on a preserved farm. An Application for Consideration of a Rural Enterprise is required (*See: Appendix E-7*). If the landowner wishes to construct a pond on the preserved land, they must obtain all necessary permits through the Adams County Conservation District and complete the Notification for Pond Construction form (*See: Appendix E-8*). The Board will act on the application at its next regularly-scheduled meeting, and respond to the applicant in writing within thirty (30) days subsequent to the date of such meeting.

### **Construction of Buildings/Change in Use**

#### **New Buildings or Structures:**

The construction or use of a building or other structure on the restricted land, other than a building or structure existing on the date of the granting of the Easement, is prohibited, except that:

1. The erection of fences for agricultural production and protection of watercourses such as lakes, streams, springs, and reservoirs is permitted.
2. The construction of one (1) additional residential structure is permitted for the landowner, an immediate family member or an employee under **Section 138e.224 of the State Regulations**.
3. The construction or use of a building or other structure for agricultural production is permitted. The County Program may restrict the maximum building coverage (*see: Appendix E-6 Permitted Acts and Rural Enterprises*).
4. The replacement of a residential structure existing on the restricted land on the date of the granting of the Easement is permitted if the pre-existing residential structure is razed, or removed, and the replacement residential structure is erected within the curtilage of the residential structure it replaces.

#### **Existing Agricultural Buildings or Structures:**

A renovation or modification of an existing agricultural building or structure, or an addition to an existing agricultural building or structure, is permitted.

**Existing Residential Structures - Renovation or Replacement:**

All existing residential structures must be documented as a habitable (capable of being lived in) or inhabitable (not capable of being lived in) residence at the time of Easement purchase.

The renovation, modification, or addition to an existing residential structure is permitted as long as it would not increase the curtilage of the residential structure to more than two (2) acres.

In order to replace a residential structure, it shall be documented as a habitable residence at the time of Easement purchase.

**Construction of a Residential Structure on a Preserved Farm:**

In addition to a structure existing on the restricted land on the date of the granting of the Easement, one (1) additional residential structure may be constructed on the restricted land, if the following apply:

1. The residential structure is constructed and used as a residence for the landowner, an immediate family member, or an employee.
2. No other residential structure has been constructed on the restricted land under authority of the Act and after the date of the granting of the Easement.
3. The residential structure and its curtilage occupy no more than two (2) acres of the restricted land.

The landowner of a preserved farm requesting construction of a residential structure on the subject farmland tract shall, prior to the preparation and submission to the municipality of the formal Land Development Plan or Subdivision Plan, submit to the Board the following documentation for review and approval. Such documentation will be forwarded to the Adams County Office of Planning and Development for review.

1. A Plot Plan depicting:
  - a. All dimensions of the tract in question and the location of the proposed residence, driveway, yard, and associated lanes; and
  - b. The location of the existing farm buildings and lanes associated with the farm operation; and
2. A Letter of Intent stating that:
  - a. The use of the structure will be:
    - (i) to replace a residential structure existing at the time of Easement; or
    - (ii) to house farm employees; or
    - (iii) to house an immediate family member; or
    - (iv) as the landowner's residence; and
  - b. That no other residential structure has been constructed on the restricted land; and

- c. That the location of the proposed new residence, and its driveway, will not significantly harm the economic viability of the restricted land for agricultural production; and
- d. That the residential structure and its curtilage will occupy no more than two (2) acres of the restricted land.

This request will be acted upon at the next regularly-scheduled meeting of the Board. Upon approval of the Plot Plan by the Board, a letter of approval will be sent to the requesting landowner.

If the Plot Plan is not approved by the Board, thereby withholding permission for the construction of the proposed additional residence, review comments and recommendations shall be compiled and forwarded to the landowner, and a revised Plot Plan addressing the Board's review comments and recommendations may be submitted by the landowner.

The formal Land Development Plan, as required by the Pennsylvania Municipalities Planning Code (Act 170 of 1988, as amended), shall contain a signature block for the Board Chair.

### **Construction of Seasonal Farm Labor Camp Housing Unit(s)**

Seasonal Farm Labor Camp Housing Unit(s), hereinafter "Unit(s)", may be permitted if the applicant meets the definition of **Normal Farming Operations**, as defined at 3 P.S. §903 of the Act, and demonstrates that the Unit(s) and the seasonal farm laborers residing therein are a necessary and integral component of the applicant's ability to sustain Normal Farming Operations, as follows: *the customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in year after year in the production and preparation for market of crops, livestock and livestock products, and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural, and aquaculture crops and commodities. The term includes the storage and utilization of agricultural and food processing wastes for animal feed and the disposal of manure, other agricultural waste, and food processing waste on land where the materials will improve the condition of the soil, or the growth of crops, or will aid in the restoration of the land for the same purpose.*

Seasonal Farm Labor Camp Housing may be permitted if, in the course of the applicant's Normal Farming Operations, the applicant demonstrates all of the following:

1. Unit(s) are essential to the agricultural production of the farm, and shall be situate such that use remains incidental to the agricultural use and character of the farm;
2. Use of the Unit(s) enhance the applicant's agricultural production as needed for their Normal Farming Operations, as defined above;
3. Each Unit and its curtilage shall not occupy more than one-half (1/2) acre of the restricted land. The Total of all Unit(s), including curtilage area, shall not exceed two percent (2%) of the total acres of the eased property.
4. Locations of such Unit(s) shall prioritize the use of the farm's least productive soils and shall have minimal impact on viable agricultural land. Where practicable, such Unit(s) shall be located on non-production land. Location of such Unit(s) shall be approved by the Board on a case-by-case basis;
5. If the request is for more than two (2) Unit(s) per eased farm, subsequent Unit(s) shall be approved based upon demonstrated need, and supported by a formal written business plan and/or supporting documentation specifying material need for effective farming operations;

6. Non-restricted lands owned by the applicant must be disqualified from consideration before the applicant's request may be considered by the Board;
7. The Unit(s) shall not be utilized for year-round occupancy or as a permanent residence, shall not be utilized by persons not employed by a farm operation, and under no circumstances can be subdivided from the parent tract.

**Procedure to apply for Seasonal Farm Labor Camp Housing:**

It is noted that a formal Land Development Plan would be necessary for municipal review and approval. Prior to starting this process, it is highly recommended that the landowner, of a preserved farm requesting construction of Seasonal Farm Labor Camp Housing on the subject farmland tract, schedule a **Pre-Application meeting** with Program Staff. The purpose of this meeting is to review the overall needs of the landowner and to determine if those needs meet the requirements of the Program. Location maps can be provided for discussion purposes.

After the Pre-Application meeting, the landowner shall submit to the Adams County Agricultural Land Preservation Board (Board) the following documentation for review and approval. Such documentation must be provided to the Administrator two weeks prior to the next regularly scheduled meeting of the Board. As a part of the process the request may be forwarded to the Adams County Office of Planning and Development for review.

1. Aerial map, which can be provided by the Administrator, of the tract in question with the following:
  - a. location of existing farm buildings, structures, driveways, yard, and associated lanes;
  - b. location of the proposed Unit(s), including proposed driveway, yard, associated lanes, and any other use necessary to construct proposed Unit(s).
2. A completed "Application for Approval of Seasonal Farm Labor Camp Housing" Form (**See: Appendix E10**), which will include the following:
  - a. a clear and succinct statement of the need for Seasonal Farm Labor Camp Housing;
  - b. documentation showing the current licensed capacity for Seasonal Farm Workers for this farm operation, and copies of all current "Seasonal Farm Labor Camp Permits" as issued by the PA Department of Agriculture;
  - c. the estimated duration of the need for such housing;
  - d. applicant must demonstrate that the use of the Unit(s) are for customary and generally accepted activities in the Region, and the use of such Unit(s) are necessary for the practices and procedures that farms adopt, use, or engage in year after year in the production and preparation for market of crops, livestock and livestock products, and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural, aqua cultural crops and commodities, as may be demonstrated through a business plan and/or other supporting documentation;
  - e. if more than two (2) Unit(s) are requested, a business plan or other supporting documentation outlining the need for said Unit(s) is required;

- f. individual Unit(s) shall not occupy more than one half (1/2) acre of restricted land, and shall be located on non-productive land or have minimal impact on agricultural production lands. Such use shall be calculated as part of the allowable permanent structures area as outlined in the Permitted Acts and Rural Enterprises language found in “**Appendix E**”.

Upon receipt of the above required documentation, the request will be placed on the Agenda for the next regularly-scheduled meeting of the Board.

Upon approval by the Board of the Seasonal Farm Labor Camp Housing Unit(s) request, a letter of approval will be sent to the requesting landowner permitting construction. If permission is not granted, review comments and recommendations will be compiled and forwarded to the landowner. The applicant may resubmit a revised request. In all cases all expenses shall be paid by the requesting landowner.

### **Recordation of Approval**

Following approval of an Application for Seasonal Farm Labor Camp Housing, the Applicant/Landowner shall complete and record in the office of the Adams County Recorder of Deeds the **Application for Approval of Seasonal Farm Labor Camp Housing** form (*See: Appendix E10*), along with a map depicting the location of such approved Unit(s). A copy of the recorded document shall be forwarded to the Pennsylvania Department of Agriculture, Bureau of Farmland Preservation for their files.

### **Documentation and Inspections**

Landowner shall provide to the Board a copy of all current “Seasonal Farm Labor Camp Permit(s)” as issued by the Commonwealth of Pennsylvania, Bureau of Food Safety and Laboratory Services, prior to March 1 of each year.

If, for any reason, the Seasonal Farm Labor Camp Housing Unit(s) are no longer necessary to the landowner’s ability to sustain Normal Farming Operations, the landowner shall not use the Unit(s) for any purpose other than the originally approved use.

Existence of such Unit(s), and/or issues of non-compliance, shall be noted on the Annual Inspection Form as part of the annual inspection process (*See: Section XVI. Baseline Report, Inspections and Enforcement of an Easement*).

### **Termination of Seasonal Farm Labor Camp Housing Unit(s)**

If one or more approved Unit(s) are deemed by the Board and/or designated by the landowner as no longer essential to the agricultural production of the farm, the use may be terminated. If after the annual inspection process County staff recommends to the Board that such Unit(s) be terminated, the landowner shall be notified in writing of the next regularly scheduled Board meeting and shall be given the opportunity to present evidence to the Board as to why such Unit(s) should not be terminated. The Board shall hear evidence, make relevant findings with fact based thereon, and issue a written decision within five (5) business days.

Once the determination has been made to terminate such Unit(s), a **Termination of Seasonal Farm Labor Camp Housing Unit(s)** form (*see: Appendix E11*) shall be recorded in the Recorder of Deeds office. A copy of the recorded document shall be forwarded to the Pennsylvania Department of

Agriculture, Bureau of Farmland Preservation for their files. Future annual inspections shall document that these Unit(s) are no longer being utilized.

Within one year of such termination, any land which was taken out of production to host one or more Unit(s) shall be made available for agricultural use. Annual inspections shall occur to document the conversion to agricultural use.

## **Subdivision**

The land under the Easement shall be subject to the “**Subdivision Guidelines for Land Subject to an Agricultural Conservation Easement under the Adams County Agricultural Land Preservation Program**”, as amended and approved by the State Board on April 9, 2009, and as recorded in Record Book 5632 Page 211 (*See: Appendix E-5*). **Subdivision requests must be submitted in writing.**

If an Easement was recorded after such County Subdivision Guidelines were originally approved by the State Board (April 25, 1996), and only if the subdivision requires formal subdivision approval by either the Township or County, the subdivision request **must** be submitted for approval by the State Board.

## **Subdivision for the Construction of a New or Existing Residence**

With regard to the construction and use of structures on the subject land for the purpose of a residence for the landowner, an immediate family member, or an employee, the landowner has two options:

1. They may obtain the required municipal approval(s) under the applicable Subdivision/Land Development Ordinance, via a Land Development Plan approval rather than a Subdivision; **See: Section 138e.225 and 226 of the State Regulations;**
2. They may request a one-time subdivision of the restricted land for a residence for the landowner, an immediate family member, or an employee, unless the right to the additional residential structure has been relinquished and extinguished by current or previous owner(s) in accordance with subsection (c)(6)(iv) of the Act. The right to subdivide includes either the construction of the additional residential structure OR the subdivision of the existing residential structure.

In all cases the area to be subdivided is limited to two (2) acres or less.

If the restricted land is subdivided under authority of the Act, the landowner shall do the following:

1. Request approval by the Board, in writing, of the specific proposed subdivision. Specify if such subdivision request is for the construction of a new residence or for the residence existing at the time of the Easement.
2. Specify if the subdivision is for the landowner, an immediate family member. or an employee, or if the request is for the subdivision of a residence existing at the time of the Easement.
3. Such request must be provided to the Administrator two (2) weeks prior to the next regularly scheduled meeting of the Board. As part of the review process, the request shall be forwarded to the Adams County Office of Planning and Development for review.
4. Ensure that the Land Development Plan or Subdivision Plan, is prepared by a licensed engineer/surveyor and includes the following:

- a) the Plan shall state that the property is subject to the terms and conditions of the Agricultural Conservation Easement and must reference the Deed Book and Page of the Deed of Easement;
  - b) the Plan shall state on which tract the allowable additional residential dwelling unit may be erected;
  - c) the Plan shall state which tract is entitled to the residential subdivision;
  - d) the Chairman of the Board shall have a signature line on the Plan.
5. After review of the Plan by the Administrator and Planning Staff, the Chairman of the Board shall sign the Plan for approval.
  6. Deeds to the remaining subdivided tracts must recite that no residential structure may be constructed on the remaining subdivided tracts and shall state which tract is entitled to the residential subdivision.
  7. All costs associated with any Subdivision are the responsibility of the landowner.

### **Landowner Duties with Respect to Change of Ownership**

A Deed conveying an interest in the restricted land shall set forth the language of the Easement restrictions verbatim; *i.e.*, a complete copy of the original, recorded Deed of Agricultural Conservation Easement shall be referenced in any new Deed and appended in its entirety to such new Deed.

In the case of a subdivision, the Grantor must designate which tract has or will have the right for the additional residential structure as permitted by the Easement. The Deed for the remaining tract must state that no additional residential structure is permitted.

The Grantor shall clearly designate which tract is entitled to the residential subdivision, which may or may not be the same Deed as the tract which is entitled to the additional residential structure.

Within thirty (30) days of a change in ownership of the restricted land, the prior owner shall notify the Board and the Department of the name and address of the new owner, provide each with a copy of the recorded new 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.

### **Eminent Domain / Condemnation**

Right-of-Ways for the installation of public or private utilities' facilities in and upon land subject to an Easement may, under certain circumstances, be voluntarily granted by the landowner, or acquired via eminent domain (condemnation). Acquisitions of utility Right-of-Ways via eminent domain (condemnation) are sometimes subject to prior review and approval by the State Agricultural Lands Condemnation Approval Board (ALCAB). Please refer to **Section 10.3 of "A Guide to Farmland Preservation", prepared by the Bureau of Farmland Preservation of the Pennsylvania Department of Agriculture and Sections 914.1 (c)(5) and (6) of Act 43 of 1981, as amended.** Note, for example, that most sewer and water lines have manholes for maintenance of such lines. The Board strongly encourages the landowner to insist that these manholes are located outside of the fields and are not taking land out of agricultural production.

## **XIV. SETTLEMENT, RECORDING PROCEDURES & RECORD RETENTION**

The Deed of Easement shall comply with the requirements set forth in **Section 138e.67 of the State Regulations**. See **Appendix E-1** for a copy of the Deed of Agricultural Conservation Easement.

A complete copy of the proposed Deed of Agricultural Conservation Easement must be submitted to the State Board for approval. All instruments and documents for the purchase of Easements must be approved by the State Board prior to execution and delivery.

The following Transfer Tax Exemption Statement will be included on the signature page of the Easement:

*“This is a transfer of an Agricultural Conservation Easement unto the Commonwealth of Pennsylvania and County of Adams, and is; therefore, exempt from all State and Local transfer taxes, pursuant to Sections 1102-C-2., 1102-C-3. (1) and (18) and Sections 91.192.(a)(b) and 91.193.(a)(b) of the Regulations.”*

In addition, the County of Adams requires that the following documents to be attached to the Deed of Agricultural Conservation Easement:

1. Conservation Plan Agreement (**See: Appendix E-2**)
2. Landowner Responsibility Agreement (**See: Appendix E-3**)

### **Settlement and Recording Procedures**

Staff will contact the applicant after the application has been approved by the State Board. The Board will schedule settlement upon receipt of State funds, as well as after any necessary Subordination Agreements and any other documents necessary to clear the Title are received. Copies of the fully executed Agreement of Sale along with a letter verifying the date, time, and location of settlement will be sent to the applicant at least one week prior to the date of settlement.

At settlement, the applicant will be required to provide the Board with a duly executed “Photo Use Permission Form” (**See: Appendix E-9**). The purpose of this Form is to give the County permission to publish photos taken of the preserved land in any publication which would be produced by the County for the purpose of publicizing the Program. By submitting an Application Form, all applicants consent and agree in advance to such “Photo Use Permission Form”, and to provide a copy thereof at settlement, as aforesaid.

The Easement, Legal Description, Declaration of Merger, Landowner Responsibility Agreement, Conservation Plan Agreement, and any necessary Subordination Agreements will be recorded at the Adams County Recorder of Deeds office as soon as possible after settlement takes place. The original recorded Easement will be returned to the Adams County Agricultural Land Preservation Office to be filed in the County Courthouse safe.

Within ten (10) days of settlement, the following must be sent to the Pennsylvania Department of Agriculture, Bureau of Farmland Preservation:

1. A Notification of Settlement form or letter

2. A certified copy of the recorded Easement and all attachments thereto
3. A copy of the HUD-1 Settlement Statement
4. A “marked up” copy of the Title Insurance Commitment
5. IRS Form 1099-S
6. When appropriate, an invoice from the County for any additional incidental expenses not previously submitted for reimbursement
7. A revised Exhibit “B” (Statement of Costs), if costs are greater or less than that originally submitted.

### **Record Retention**

The Board shall utilize the Record Retention Schedule as approved by the Pennsylvania Historical Museum Commission dated September 26, 2012. (**See: Appendix F-3**)

## **XV. COUNTY-ONLY, DONATIONS, LAND TRUST REIMBURSEMENT PROGRAM, AND LOCAL GOVERNMENT PARTICIPATION**

### **County-Only Purchases (Special Projects)**

In order to effectively preserve agricultural land within ASAs in Adams County, the Board may acquire perpetual Easements using County-only funding, or may accept voluntary bequests of Easements.

County-Only Easements may be practical for Adams County if there is County funding available outside of the State Certified funding, or if there is a unique circumstance warranting a County-Only purchase approved by the Board and the Adams County Commissioners.

#### **Eligibility for a County-Only Funded Easement**

1. Must meet all Minimum State and County Criteria.
2. Must be a current applicant to the County Program, and has been ranked accordingly.
3. The Board will consider the purchase of a County-Only Easement on a case-by-case basis.

#### **Procedures for Purchase of a County-Only Easement**

1. The Board will provide a County-only Deed of Agricultural Conservation Easement document;
2. The Board will review the application for compliance with the County-only eligibility criteria;
3. An appraisal report is initiated by the Board to determine the Easement value;
4. The landowner will enter into an Agreement of Sale with the County;
5. All incidental costs may be reimbursed by the State, as long as there is a minimum of a \$1.00 Bargain Sale.
6. The Board will follow the closing procedure, recording, and reporting to the State for reimbursement of incidental costs as per **Chapter 138e.103(c) – (f) of the State Regulations.**

### **Donated Easements**

A Donated Easement would be considered an Easement in gross on a perpetual basis. Such grants of Easements would be subject to acceptance, as determined by the Board. The Board may consider special minimum eligibility criteria on a case-by-case basis.

#### **Eligibility for a Donated Easement**

1. Must be located in a duly established ASA.
2. The land must be used for agricultural or timber production.

3. Must have good, marketable, and insurable Title. Any liens or mortgages against the subject land must be paid off and satisfied, or subordinated to the Easement.
4. The Board will consider the location of any project in regards to prime agricultural lands for continued production as recommended by the Land Use and Agricultural Resources Conservation elements of the Adams County Comprehensive Plan and comparable other related Community Plans.
5. The Board will consider the acceptance of a Donated Easement on a case-by-case basis.

### **Procedures for Acceptance of a Donated Easement**

1. The Board will provide a County-only Deed of Easement document;
2. The Board will review the application for compliance with necessary eligibility criteria;
3. If the landowner wishes to utilize the Easement donation for tax purposes, they must order an Appraisal Report to determine the Easement value and resulting gift. An Appraisal Report may also be required in order for title insurance to be issued. The landowner(s) will be responsible for the cost of such appraisal, unless otherwise agreed upon by the Board;
4. The landowner will enter into an Agreement of Sale with the County;
5. If it is determined that a survey is needed, such survey will be the responsibility of the landowner(s), unless otherwise agreed upon by the Board.
6. The Board may work with the landowner to provide additional time to settle upon the Easement to be donated, where appropriate.

Incidental costs for a County-Only or a Donated Easement of a minimum of \$1.00 may be submitted to the State for reimbursement up to \$5,000.00. Easements must meet State and County Minimum Criteria in order to be eligible for reimbursement. Reimbursable expenses may include, but are not limited to: appraisal, survey, title search and title insurance policy, necessary legal fees and recording fees.

In all cases, the Board reserves the right to require the landowner to pay for any or all costs and fees associated with County-only or Donated transactions, as determined by the Board on a case-by-case basis.

In all cases, the Board assumes responsibility for ongoing monitoring and Conservation Easement enforcement as explained in **Section XVI, Baseline Report, Inspections and Enforcement of an Easement.** .

### **Eligible Non-Profit Entity Participation**

An eligible, non-profit entity may participate with the Board to preserve farmland through the purchase of Easements in the following manner:

1. The eligible, non-profit entity provides the 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, agricultural or other Easements.
2. The eligible non-profit provides the Board with the organization's Mission Statement, Strategic Plan, minimum criteria and/or property requirements, and a copy of an Annual Report as documentation and certification of the organization's eligibility.
  3. The eligible non-profit entity provides a letter of request to participate with the Board in the purchase of Easements. The letter must be signed by the President, and attested by the Secretary, of the nonprofit organization.
  4. The County shall always be a grantee in the purchase of an Easement with a non-profit entity. An Easement may be purchased jointly with an eligible non-profit entity in the following grantee configurations:
    - a. County jointly with eligible non-profit entity;
    - b. County jointly with eligible non-profit entity and local government unit;
    - c. County jointly with eligible non-profit entity and the Commonwealth of Pennsylvania.
  5. The Board shall be responsible for recording the Deed of Agricultural Conservation Easement, shall perform all post-settlement notification requirements of the State Regulations, and shall provide a copy of the recorded Easement to the eligible non-profit entity and the grantor of the Easement within thirty (30) days after recording.
  6. Additionally, all other conditions must be met as prescribed by the Act, as amended and as outlined in the State Regulations for eligible non-profit entity participation.
  7. It is noted that many Land Trust's will require a Stewardship Endowment for the donation of an Easement. The landowner must contact the eligible non-profit to determine what they require.

## **Land Trust Reimbursement Program**

It is the intent of the Board to support our local Land Trusts. Act 46 of 2006 re-established a grant program to reimburse qualified Land Trusts up to \$5,000.00 for costs associated with the acquisition of a qualified Easement. Eligible expenses include appraisals, legal services, title search and title insurance, document preparation, closing and recording fees, and survey costs.

### **Eligibility for Land Trust Reimbursement**

1. Must be primarily an Agricultural Conservation Easement
2. Must be a perpetual Easement.

## **Local Government Participation in Purchasing Easements**

Pennsylvania Act 138 of 1998 (an amendment to the Agricultural Area Security Law, Act 43 of 1981, codified at 3 P.S. § 901 – 915) authorizes local governments to purchase Agricultural Conservation Easements to preserve farmland in established Agricultural Security Areas. The specific authority for local government acquisition of agricultural Easements is contained at 3 P.S. § 914.1. Local governments may undertake this activity on their own, in cooperation with a county or the Commonwealth as joint owners, or by partnering with a local Land Trust. The Act also permits local governments to incur debt to purchase these Easements. To this end, procedures have been established for township participation in the Program.

Any local government unit that has created an ASA may participate, along with an eligible County and the Commonwealth, in the preservation of farmland through the purchase of Easements.

1. The local government unit, in conjunction with a County Board, may participate with the State Board in the purchase of Easements.
2. The local government unit shall recommend to the County Board the purchase of Easements by the eligible County and the local government unit in joint ownership.
3. The local government unit shall recommend to the County Board the purchase of Easements by the local government unit and the Commonwealth in joint ownership.
4. The local government unit may purchase an Easement, provided that all of the following apply:
  - a. The Easement is located within an ASA of at least 500 acres pursuant to the criteria set forth for the purchase of Easements crossing local government unit boundaries and crossing County boundaries, including any portion of an Easement extending into an adjoining County.
  - b. The Easement is at least as restrictive as the Deed of Agricultural Conservation Easement prescribed by the State Board for Easements purchased by the Commonwealth.
  - c. The local government unit shall participate with the County Board in complying with Subparagraph 5 herein below for recording any Easement purchased by the local government unit.
5. The County Board shall be responsible to record Easements where a local government unit is a party to the purchase of the Easement. The Easement shall be recorded by the Board in the Office of the Recorder of Deeds of the County wherein the Easement is located.

The County Board shall submit to the State Board a certified copy of the Deed of Agricultural Conservation Easement within thirty (30) days after recording.

## **Federally Funding Programs**

When an application for the acquisition of an Easement has been awarded Federal funds, an addendum shall be included in the Easement which follows the Federal laws at the time of the Easement purchase. Language shall be included stating that if the Grantee fails to enforce any of the terms of the Easement, the United State Department of Agriculture shall have the right to enforce the terms of the Easement through any and all authorities available under Federal and State Law.

## **XVI. BASELINE REPORT, INSPECTIONS AND ENFORCEMENT OF AN EASEMENT**

**The Inspection and Enforcement Procedures will follow Sections 138e.201 – 138e.207 of the State Regulations.**

### **Responsibilities**

The Board shall have the primary responsibility for inspecting restricted land and enforcing 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 Board.

### **Baseline Report**

Prior to scheduling settlement, the Board or its designee shall create a baseline report which will utilize various media, including photographs and drone images. The purpose of the report is to document all existing structures, current uses of the land to be preserved, and current conservation practices which exist at the time of Easement purchase. This report shall be presented to the landowner at settlement for their review and signature. (**See: Appendix F1**).

### **Inspections**

The Board shall inspect all restricted land within the County, at least on a biennial basis, to determine compliance with the applicable Easement. The first inspection shall be complete within one (1) year of the date of Easement sale.

The landowner shall be notified of an inspection, and the inspection shall be conducted on a date and time agreeable to the County and the landowner.

Any inspection 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 on a date and time agreeable to the County and the landowner.

Within ten (10) days of conducting an inspection, the Board shall prepare a written inspection report, which shall be provided to the landowner and setting forth the following information (**See: Appendix F2**):

1. The identification of the land inspected;
2. The name of the owner of the farmland at the time the Easement was originally acquired, and the name of the current owner of the land inspected;
3. 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 Easement;
4. A description of deviations from the Conservation Plan observed on the restricted land;
5. A statement of whether the provisions of the Easement are being observed;
6. Note if a subdivision has occurred, or if an additional residence has been constructed;

7. A statement indicating whether the residential subdivision permitted under Section 914.1(c)(6)(iv) of the Act has been exercised.

The 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.

The Board shall file with the State Board 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 unresolved violations.

### **Enforcement**

The Board shall enforce the terms of each Easement purchased within the County under the Act, whether it be a County, State, or joint purchase with any approved entity.

The State Board may enforce the terms of State, or jointly, purchased Easements. The right of the State Board to enforce the terms of an Easement may be exercised either jointly with the Board, or by the State Board acting on its own behalf.

### **Notification to Owner of a Violation**

Within ten (10) days of the discovery of a violation of the terms of an Easement, either through an inspection or otherwise, the Board shall send written notice of the violation to the owner of the restricted land, the County governing body, and the State Board.

The written notice required by this Section shall be sent by certified mail and shall set forth the following information:

1. A copy of the inspection report;
2. A copy of the recorded Easement;
3. A description of the action or condition which constitutes the alleged violation;
4. A statement of the measures necessary to correct the alleged violation;

### **Enforcement Actions**

Sixty (60) days after the mailing of a notice of violation to the owner, the 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 violation enjoining further violation of the terms of the Easement and other appropriate relief, unless the 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 sixty (60) day period.
- b. Establishes a period not to exceed one (1) year within which the corrective measures shall be completed.

The Board shall commence and prosecute the enforcement action if the violation is not corrected within the time established. The owner of the restricted land shall bear all 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 Board and the State Board.
3. Court costs and reasonable attorneys' fees incurred by the Board and/or the State Board in enforcing the Easement.

If the 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 Board or the owner of the restricted land, or both.