"A nation that destroys its soil, destroys itself."
- Franklin D. Roosevelt

FARMLAND PRESERVATION:
How is it done and why is it important?

Agricultural conservation easements are purchased or donated voluntarily by the landowners to permanently protect farms for agriculture. Land protected by an easement cannot be used for any other purpose other than agricultural production or commercial equine activity. Protecting groups or clusters of farms helps maintain agriculture as a viable industry.

Benefits to the Agricultural Community:
- Promotes farming and supports the agri-business system. The agri-business system is a complex network of producers, processors, sellers and supporting services.
- Ensures that no development unrelated to agriculture will occur on the land thus providing security to the landowners, and leading to greater capital investments.
- Provides landowners the opportunity to improve or expand their operations.
- Allows the farm to be passed between generations.

Benefits to the General Public:
- Secures a local food base.
- Stabilizes the local tax base. (Residential development increases taxes in order to provide services such as schools, police, fire, and utilities.)
- Improves water quality and provides for groundwater recharge.
- Preserves the scenic environment.
- Preserves wildlife habitat.
- Preserves the historical integrity of the area.
- Preserves the quality of life in Berks County that residents have come to expect.
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F. Conservation Plan Agreement
G. Agricultural Security Area Program: General Information

Act 43 was amended in 1989 to allow counties to create joint Agricultural Conservation Easement (ACE) Programs with the State to purchase agricultural conservation easements. The easements limit the land to agricultural production in perpetuity. ACE Programs are regulated by 7 Pa. Code Chapter 138e., the Agricultural Conservation Easement Purchase Program.

On August 3, 1989, the Berks County Board of Commissioners established the Berks County Agricultural Land Preservation Board by Resolution 393-89, on authority granted to them by Act 43, whose responsibility it is to administer the Berks County Agricultural Conservation Easement (ACE) Program according to Act 43 and 7 Pa. Code Chapter 138e. A copy of Resolution 393-89 is available upon request.

Act 43: The Agricultural Area Security Law

The intent of Act 43, the Agricultural Area Security Law, is to conserve, protect, and to encourage the development and improvement of agricultural lands for the production of food and other agricultural products. It is also to conserve and protect agricultural lands as valued natural and ecological resources that provide needed open space for clean air, as well as for aesthetic purposes.

Agriculture is under urban pressure, taking the form of scattered development and bringing conflicting land uses into juxtaposition, creating high costs for public services, and the stimulation of land speculation. When scattered development extends into good farm areas, ordinances inhibiting farming tend to follow, farm taxes rise, and hopes for speculative gains discourage investments in farm improvements. Agricultural lands are in jeopardy of being converted to non-agricultural uses. Certain of these lands constitute unique and irreplaceable land resources of statewide importance. It is the purpose of Act 43 to provide the means by which agricultural lands may be protected and enhanced as a viable segment of the economy, and as an economic and environmental resource of major importance.

Agricultural Security Areas Defined

Act 43 authorizes townships to create Agricultural Security Areas (ASAs) on a voluntary basis. Landowners are encouraged to enroll farmland in an ASA that offers three benefits: 1) Protection from condemnation or eminent domain; 2) Protection from local nuisance ordinances; and 3) Eligibility for the ACE Program.

Landowners with 10 acres or more may voluntarily petition their township to form an ASA. A minimum of 250 acres is needed to establish an ASA and a minimum of 500 acres is needed for that land enrolled in the ASA to be eligible for the ACE Program. Most townships in Berks County with an ASA have more than 500 acres enrolled. An ASA may be increased at any time. Landowners simply need to submit an enrollment form to the township office by certified mail, as it is important that the landowners can verify the date the application was submitted. In addition to the township’s responsibility to respond to enrollment forms, every seven years townships may review lands enrolled in ASA with the option of adding additional land, at the request of the landowners, or withdrawing land previously enrolled. ASA enrollment forms and supporting documentation may be obtained at the Berks County Agricultural Land Preservation Office.
The Berks County Agricultural Land Preservation Board oversees the implementation of the Berks County Agricultural Conservation Easement (ACE) Program through the staff of the Berks County Agricultural Land Preservation Office. The Berks County ACE Program is a funded largely by the Commonwealth of Pennsylvania and the County of Berks to purchase agricultural conservation easements in perpetuity. Easements prevent the development of the lands for any other purpose other than agricultural production. Permanently preserving large clusters of farms helps ensure the future of agriculture in Berks County. Furthermore, it is the purpose of the Berks County ACE Program to:

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

The Berks County Planning Map identifies important farmland and has been submitted to the PA State Agricultural Land Preservation Board as part of the ACE Program. The map identifies municipalities within Berks County that have agricultural security areas, as well as identifies farmland of importance to the County Board that are designated as Agricultural Preservation.

Landowners submit applications to the Berks County Agricultural Land Preservation Office on a voluntary basis by December 31st of any given year. Applications must meet minimum criteria. Each year, beginning in January, all applications that meet the minimum criteria are numerically ranked according to the Land Evaluation and Site Assessment (LESA) ranking system. The ranking system evaluates soil quality and site assessment factors designed to evaluate development pressures, productivity of a farm, and the ability to create clusters of protected farmland. Applications are selected for the program based on the ranking order and the amount of available funding. Townships may participate along with the County and the State in the Berks County ACE Program.

Funding for the ACE Program is typically allocated on a yearly basis. The State and County compensate landowners at the settlement of the agricultural conservation easement based on appraisal values and maximum payments per acre. The easements are legal documents restricting the land to agricultural production and are recorded at the Berks County Recorder of Deeds Office. The easements remain with the farm as the property changes ownership, thereby protecting the land in perpetuity. Inspections are conducted yearly to ensure compliance with the deed of easement.

Information is available upon request or on the Web at www.countyofberks.com/alp. Additional information includes an application form, an information pamphlet on conservation easements, and a sample agricultural conservation deed or easement. Please contact the Berks County Agricultural Land Preservation Office at: Berks County Agricultural Center, 1238 County Welfare Road, Suite 260, Leesport, Pennsylvania, 19533 or call (610) 378-1844.
Summary of Procedures

**Please Note:** The ACE Program involves a legal process and landowners are advised to consult with an attorney before proceeding.

1. Landowners voluntarily submit an application to the ACE Program by December 31st of any given year to be considered for the program the following year. As part of the application, landowners are responsible for submitting a copy of the conservation plan, if any, for ranking purposes. There is no charge to submit an application to the program and there is no commitment to proceed if the application is selected.

2. Applications are reviewed to ensure that minimum criteria is met. If an application meets minimum criteria, the landowners may meet with a representative of the County Office to review the ACE Program. If an application fails to meet minimum criteria, the landowners will be sent a letter outlining the reasons. If at any time circumstances change so that the farm does meet minimum criteria, it is the landowners’ responsibility to contact the County Office.

3. Applications that meet the minimum criteria are ranked using the LESA Ranking System based on the material submitted by December 31st. If the landowners request a modification to the application after December 31st, the request will need approval from the County Board and may be denied, particularly if the change involves withholding land from the application. If a request is denied, the landowners may choose to withdraw from the ranking and reapply the following year or continue with the program as the application had been originally submitted. The ranking begins in January and is typically completed within three to four months.

4. Upon completion of the ranking, applications are selected in the order in which they were ranked, highest to lowest, based on the amount of available funding. Landowners are notified in writing as to whether their application was selected. Applications not selected in a given year are automatically ranked in subsequent years unless the landowners request to withdraw from the program. If an application is not selected, it is strongly encouraged that landowners review the ranking of their application with the staff of the County Office. If an application is selected, the landowners may proceed with the program.

5. When an application is selected, the landowners are required to submit a $500 security deposit within fifteen (15) days to proceed with an appraisal of the easement value. After the deposit is received, the County Office will order an appraisal that may take several months to complete. The security deposit is returned provided that the landowners convey an agricultural conservation easement.

6. An appraisal is prepared for each selected application to determine the value of the agricultural conservation easement. The value of the easement is equal to the difference between the open market value and the agricultural value of the farm.

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List of Abbreviations

1. “ACE Program” – The Berks County Agricultural Conservation Easement Program.
3. “easement” – An agricultural conservation easement.
5. “County Board” - The Berks County Agricultural Land Preservation Board.
7. The County Board reviews each appraisal and authorizes a per acre offer to purchase an agricultural conservation easement. The offer may not exceed, but may be less than the appraised value of the easement. The County Board may impose a maximum payment per acre, otherwise referred to as a “cap.” **The cap is currently set at $2,500 per acre.**

8. The landowners either accept the offer, reject the offer, or proceed with a second appraisal at their own expense. If a second appraisal is pursued, the offer may change based on the formula described in Exhibit D of these guidelines. The second appraisal process is described in this section of the guidelines under “Offer to Purchase an Agricultural Conservation Easement.”

   **Please Note:** The offer is a legal document. Landowners should consult with their attorney before signing it and proceeding with the ACE Program.

9. After the landowners accept an offer, the County Office proceeds with the following:

   a. Acquires a title report to ensure the easement purchase is conveyed in clear title and that there are no restrictions inconsistent with the terms of the easement, as well as to obtain title insurance. **Landowners must be able to convey the easement in clear title. Therefore, all liens must either subordinate to the easement or be paid before or at the settlement of the easement.**

   b. Obtains a survey if the legal description on the property deed does not have adequate closure. **The ACE Program pays for the survey, except for the expense to survey land withheld from the application at the landowners’ request.**

   c. Requests additional documentation, as required.

10. After determination of final easement acreage either by property deed or survey, an Agreement of Sale is executed. The Agreement of Sale specifies the final easement purchase price (final acreage multiplied by the accepted price per acre) and method of payment. Payment methods include a lump sum payment, installment payments, or a Like-Kind Exchange.

   **Please Note:** The Agreement of Sale is a legal document. Landowners should consult with their attorney before signing it and proceeding with the ACE Program.

11. Adjoining landowners are notified of the impending easement purchase by certified mail or personal service. They may object to the easement purchase. Please refer to Exhibit E of these guidelines.

12. For those easement purchases involving State funding, a recommendation as described in this section under “State Recommendation for Purchase” is submitted to the PA Bureau of Farmland Preservation. The Bureau reviews the application and recommends the application for approval to the State Board that meets approximately six times each year. Deadlines for submission of the recommendations are approximately 1½ months prior to a State Board meeting.

13. Easement purchases recommended by the PA Bureau of Farmland Preservation need to be reviewed and approved by the State Board to proceed as a joint county and state easement purchase.

14. The staff of the County Office schedules settlement of the easement purchase as checks issued by the State become available. Settlement is typically held at the title company providing the title insurance for the easement purchase unless other arrangements are necessary. The landowners sign the agricultural conservation easement and conservation plan agreement and receive financial compensation for conveying the easement.

   **Please Note:** The Agricultural Conservation Deed of easement and Conservation Plan Agreement are legal documents. Landowners should consult with their attorney before signing them.

15. Farm inspections are performed yearly to ensure compliance with the easement.
Applications to the Berks County ACE Program  

Participation in the ACE Program is voluntary. In order to apply for the ACE Program, landowners must submit a completed application form, as prepared by the County Office. A copy of the application is included in these guidelines as Exhibit C or a copy may be obtained by contacting the County Office or on the website located at www.countyofberks.com/alp.

1. A separate application is required for each tract. All the land contained within an application will be protected under one agricultural conservation easement. The landowners are also responsible for submitting a copy of the conservation plan, if any, for ranking purposes.

**Please Note:** Careful consideration should be taken when landowners submit an application for a tract consisting of multiple parcels or deeds as separately described parcels or deeds will be required to be merged at the time of settlement.

2. The County Board will accept all applications for the purchase of agricultural conservation easements if the applications meet the minimum criteria established by the County Board.

3. After the staff of the County Office reviews the application and it is found to be complete and meets the minimum criteria, a meeting will be scheduled with the landowners to review the application, to gather any additional information, and to discuss the ACE Program.

4. Applications meeting the minimum criteria for the ACE Program shall be assigned a docket number. The docket number will be used when the application is discussed instead of the landowners’ names until the landowners and the County and/or State execute an Agreement of Sale for the purchase of an easement. Information submitted to the County Board by landowners will not be revealed to anyone other than the landowners unless either: the landowners submit a letter to the County Board indicating that another individual may have access to the application information or is designated to transact business on their behalf; or a “Right to Know” request is filed and approved.

**Application Submission Schedule**

1. **Application Submission Deadline** – December 31st of each year is the deadline for applications, subject to the availability of funds. If landowners request a modification to the application after December 31st, the request will need to be approved by the County Board and may be denied, particularly if the landowners are requesting an exclusion. If a request is denied, the landowners may choose to withdraw from the ranking and re-apply the following year.

2. **Applying for Subsequent Rounds** – Applications will be considered in subsequent rounds under the following conditions:
   a. After each round of evaluation, an application that is not selected will automatically be ranked in subsequent rounds of funding provided the landowners do not withdraw the application.
   b. Landowners who reject an offer of appraisal for reasons the County Board considers appropriate, may be considered in the next round of funding. The landowners are required to specify their intention to be considered in the next round in writing to the County Board.
   c. If the fee simple ownership of the land changes or a deed of agricultural conservation easement is conveyed to a qualified conservation organization on a portion of the land after the application has been filed, the application will remain in the round it was originally submitted and it will not be required a re-submission of the application in the next round.
The land contained within an application shall meet all of the following minimum criteria as set forth by the County Board, which includes all of the minimum criteria in 7 PA Code Chapter 138e.16.

1. Be located in an agricultural security area consisting of 500 acres or more, or meets the special provisions for parcels not entirely within an agricultural security area.

2. Be contiguous acreage of at least 35 acres in size (3 P.S. § 914.1(d)(1)(v)(II)) unless the tract is at least 10 acres in size and:
   a. Is either utilized for a crop unique to the area; or
   b. Is contiguous to a property that has a perpetual agricultural conservation easement in place under Act 43 or held by a “qualified conservation organization,” as that term is defined at Section 170(h)(3) of the Internal Revenue Code (26 U.S.C.A. § 170(h)(3)).

3. Contain 50% of soils, which are available for agricultural production and are in capability classes I-IV, as defined by the USDA-Natural Resources Conservation Service (NRCS).

4. Contain the greater of 50% or 10 acres of harvested cropland, pasture, or grazing lands.

5. No land in an area identified as Designated Growth or Future Growth by the adopted Berks County Comprehensive Plan may be preserved as part of the Berks County Agricultural Conservation Easement Program.

Should any portion of the application be located in Designated Growth or Future Growth by the adopted Berks County Comprehensive Plan and after the County Board has reviewed the application for the other minimum criteria and the application meets those requirements, the Berks County Planning Commission (BCPC) will be asked to perform a confidential review of the application. If the BCPC confirms that any part of the application is in Designated Growth or Future Growth, the County Board will notify the landowner(s) of the application (both verbally and by registered mail) that the application will need to be modified in order to comply with the Board of Berks County Commissioners’ directive dated September 13, 2010 (available upon request). The landowner(s) will have fifteen (15) business days to amend the application to exclude at least that land located in an area of Designated Growth and/or Future Growth to have the application considered for the ACE Program. If the application is not amended within the 15 days, the County Board may withdraw the application in its entirety.

If the landowner(s) amends the application to exclude only the portion of land located in Designated Growth and/or Future Growth, the landowner(s) will be awarded points in the LESA ranking for offering the entire parcel. If the landowner(s) excludes more land than what is located in Designated Growth and/or Future Growth, the application will not receive points in the LESA ranking for offering the entire parcel unless otherwise approved by the County Board.

If you have questions regarding whether your land has been identified as Designated Growth or Future Growth, you may contact the Berks County Planning Commission at (610) 478-6300 or planning@countyofberks.com.

Failure to meet the minimum criteria set by the County Board will result in a rejection of the application. Landowners of applications that are rejected will be given written notice of the rejection along with an explanation of the reasons why the application was rejected.
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 an agricultural conservation easement crossing local government unit boundaries and county boundaries.

1. Parcels Crossing Local Government Unit Boundaries - The County Board may recommend the purchase of an agricultural conservation easement on a parcel, a portion of which is not within an agricultural security area if all of the following occur:

   a. The agricultural conservation easement would be purchased by the county solely, or jointly with either the Commonwealth or a local government unit, or both.
   b. 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.
   c. The majority of the parcel's viable agricultural land is located within an agricultural security area of 500 or more acres.

2. Parcels Crossing County Boundaries - The County Board may recommend the purchase of an agricultural conservation easement on a parcel a portion of which is not within an agricultural security area if all of the following occur:

   a. The agricultural conservation easement would be purchased by the county solely, or jointly with either the Commonwealth or a local government unit, or both.
   b. The land is part of a parcel of farmland that is transected by the dividing line between Berks County and an adjoining county, with the portion within Berks County being in an agricultural security area of 500 or more acres and the portion within the other local government unit not being within an agricultural security area.
   c. One of the following is shall apply:

      i. A main dwelling (mansion house) is located on the parcel, and the house is located entirely within Berks County with the local government unit that has an agricultural security area.
      ii. A main dwelling (mansion house) is located on the parcel, on the dividing line between Berks County and an adjoining county, and the landowners of the parcel has chosen Berks County, with the local government unit that has an agricultural security area, as the house site for tax assessment purposes.
      iii. There is no main dwelling (mansion house) on the parcel, and the majority of the parcel's viable agricultural land is located within Berks County with the local government unit that has an agricultural security area.

Recording responsibilities - Upon the purchase of an agricultural conservation easement as described above, the portion of the parcel that was not part of an agricultural security area immediately becomes part of the agricultural security area covering the rest of the parcel. Berks County will take all steps necessary to ensure the governing body which created the agricultural security area meets its responsibility, under §§ 14.1(b)(2)(i)(B)(II) and 14.1(b)(2)(i)(C)(III) of the Agricultural Area Security Law, for the recording, filing and notification described in § 8(d) and 8(g) of the Agricultural Area security Law with respect to the land added to the agricultural security area.

Enforcement – The County Board shall exercise primary enforcement authority with respect to the agricultural conservation easements acquired pursuant to the criteria set forth for the purchase of agricultural conservation easements crossing local government unit and county boundaries, including any portion of an agricultural conservation easement extended into an adjoining county, as set forth in Section XIV of these guidelines.
The County Board shall rank applications that meet the minimum criteria using the Land Evaluation and Site Assessment (LESA) system. The LESA system is a comprehensive farmland ranking system that evaluates applications on a 100-point scale, using the two-part Land Evaluation and Site Assessment system.

### Land Evaluation (LE)

The Land Evaluation accounts for 40% of the LESA score and is derived from basic soils data as contained in the soil survey of Berks County by the USDA Natural Resources Conservation Service (January, 2000). Each different soil mapping unit in Berks County is evaluated as to its productive capacity for corn. A relative value of 100 is assigned to the most productive soil mapping units. All the remaining soil mapping units are evaluated against those soil mapping units with a relative value compared to 100. Considered in the evaluation are natural fertility of the soil, topography, cost of conservation treatment, and cost of drainage.

#### Numerical Ranking System: LESA

(In accordance with 7 PA Code Chapter 138e.61.)

The Land Evaluation accounts for 40% of the LESA score and is derived from basic soils data as contained in the soil survey of Berks County by the USDA Natural Resources Conservation Service (January, 2000). Each different soil mapping unit in Berks County is evaluated as to its productive capacity for corn. A relative value of 100 is assigned to the most productive soil mapping units. All the remaining soil mapping units are evaluated against those soil mapping units with a relative value compared to 100. Considered in the evaluation are natural fertility of the soil, topography, cost of conservation treatment, and cost of drainage.

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<td>BkA</td>
<td>II</td>
<td>61</td>
<td>EhB</td>
<td>II</td>
<td>90</td>
<td>LmA</td>
<td>II</td>
<td>68</td>
<td>Ua</td>
<td>N/A</td>
<td>0</td>
</tr>
<tr>
<td>BkB</td>
<td>II</td>
<td>61</td>
<td>EhC</td>
<td>III</td>
<td>82</td>
<td>LmB</td>
<td>II</td>
<td>68</td>
<td>UgB</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BkC</td>
<td>III</td>
<td>49</td>
<td>EhD</td>
<td>IV</td>
<td>61</td>
<td>Lv</td>
<td>I</td>
<td>100</td>
<td>UgC</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BkD</td>
<td>IV</td>
<td>49</td>
<td>Gc</td>
<td>II</td>
<td>90</td>
<td>Me</td>
<td>II</td>
<td>90</td>
<td>UkB</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BkE</td>
<td>VII</td>
<td>0</td>
<td>GeB</td>
<td>II</td>
<td>100</td>
<td>MgB</td>
<td>II</td>
<td>72</td>
<td>UkD</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BmB</td>
<td>II</td>
<td>100</td>
<td>GeC</td>
<td>III</td>
<td>82</td>
<td>MIB</td>
<td>II</td>
<td>82</td>
<td>UmB</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>Bo</td>
<td>III</td>
<td>68</td>
<td>GeD</td>
<td>IV</td>
<td>72</td>
<td>MmB</td>
<td>VII</td>
<td>0</td>
<td>UmD</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BpB</td>
<td>II</td>
<td>72</td>
<td>GiB</td>
<td>VI</td>
<td>0</td>
<td>MuA</td>
<td>I</td>
<td>100</td>
<td>UnB</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BpC</td>
<td>III</td>
<td>61</td>
<td>GiD</td>
<td>VI</td>
<td>0</td>
<td>MuB</td>
<td>II</td>
<td>90</td>
<td>UnD</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BpD</td>
<td>IV</td>
<td>49</td>
<td>GiF</td>
<td>VII</td>
<td>0</td>
<td>MuC</td>
<td>III</td>
<td>82</td>
<td>UpB</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BsB</td>
<td>VII</td>
<td>0</td>
<td>GnA</td>
<td>II</td>
<td>72</td>
<td>NbA</td>
<td>II</td>
<td>100</td>
<td>UpD</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BsD</td>
<td>VII</td>
<td>0</td>
<td>GnB</td>
<td>II</td>
<td>72</td>
<td>NaC</td>
<td>III</td>
<td>90</td>
<td>UsB</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BtA</td>
<td>IV</td>
<td>61</td>
<td>HaB</td>
<td>II</td>
<td>100</td>
<td>NaD</td>
<td>IV</td>
<td>72</td>
<td>UsD</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BtB</td>
<td>IV</td>
<td>61</td>
<td>HeB</td>
<td>VII</td>
<td>0</td>
<td>NhB</td>
<td>VII</td>
<td>0</td>
<td>UxB</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BuB</td>
<td>II</td>
<td>72</td>
<td>HeD</td>
<td>VII</td>
<td>0</td>
<td>NhD</td>
<td>VII</td>
<td>0</td>
<td>UxD</td>
<td>VIII</td>
<td>0</td>
</tr>
<tr>
<td>BvB</td>
<td>VII</td>
<td>0</td>
<td>HeF</td>
<td>VII</td>
<td>0</td>
<td>NhF</td>
<td>VII</td>
<td>0</td>
<td>W</td>
<td>NA</td>
<td>0</td>
</tr>
<tr>
<td>BvD</td>
<td>VII</td>
<td>0</td>
<td>HgF</td>
<td>VII</td>
<td>0</td>
<td>PaA</td>
<td>III</td>
<td>68</td>
<td>WeB</td>
<td>III</td>
<td>49</td>
</tr>
<tr>
<td>CaB</td>
<td>III</td>
<td>49</td>
<td>Ho</td>
<td>III</td>
<td>68</td>
<td>PeB</td>
<td>II</td>
<td>72</td>
<td>WeD</td>
<td>VI</td>
<td>34</td>
</tr>
<tr>
<td>CaC</td>
<td>IV</td>
<td>49</td>
<td>JnB</td>
<td>II</td>
<td>90</td>
<td>PeC</td>
<td>III</td>
<td>61</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CaD</td>
<td>VI</td>
<td>34</td>
<td>JnC</td>
<td>III</td>
<td>82</td>
<td>PeD</td>
<td>IV</td>
<td>49</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CmA</td>
<td>II</td>
<td>72</td>
<td>JnD</td>
<td>IV</td>
<td>61</td>
<td>PkC</td>
<td>III</td>
<td>49</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### Land Valuation Score Calculation

The average relative value of the soils of an application being considered shall be calculated by multiplying the relative value of each soil mapping unit by the total acreage of the soil mapping unit, adding these products, and dividing that sum by the total acreage.
Site Assessment (SA)  Site Assessment accounts for 60% of the LESA score and consists of factors in three general categories: Development Potential (DP), Farmland Potential (FP), and Clustering Potential (CP).

### Development Potential (DP) Factors

DP Factors identify the extent to which development pressures are likely to cause conversion of agricultural land to non-agricultural uses. DP Factors account for 10% of the site assessment.

#### a. Distance to a borough.

(Measured from the nearest point of a borough to the nearest point of the tract).

<table>
<thead>
<tr>
<th>POINTS:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to (\frac{1}{2}) mile</td>
<td>10 points</td>
</tr>
<tr>
<td>Over (\frac{1}{2}) mile to 1 mile</td>
<td>5 points</td>
</tr>
<tr>
<td>More than 1 mile</td>
<td>0 points</td>
</tr>
</tbody>
</table>

*Explanation:* The strategy provides an emphasis on areas closer to development since these areas generally experience a greater pressure to convert to a non-agricultural use.

#### b. Availability of public sanitary sewer.

(Measured from nearest point of public sanitary sewer access to the nearest point of the tract).

<table>
<thead>
<tr>
<th>POINTS:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to (\frac{1}{2}) mile</td>
<td>10 points</td>
</tr>
<tr>
<td>Over (\frac{1}{2}) mile to 1 mile</td>
<td>5 points</td>
</tr>
<tr>
<td>More than 1 mile</td>
<td>0 points</td>
</tr>
</tbody>
</table>

*Explanation:* The availability of public sewer system indicates a high possibility for development. Agricultural areas in the proximity of public sanitary sewer are under a greater pressure for conversion to a non-agricultural activity.

#### c. Availability of public water.

(Measured from the nearest point of public water access to the nearest point of the tract).

<table>
<thead>
<tr>
<th>POINTS:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to (\frac{1}{2}) mile</td>
<td>10 points</td>
</tr>
<tr>
<td>Over (\frac{1}{2}) mile to 1 mile</td>
<td>5 points</td>
</tr>
<tr>
<td>More than 1 mile</td>
<td>0 points</td>
</tr>
</tbody>
</table>

*Explanation:* The availability of public water indicates a high possibility for development. Agricultural areas in the proximity of public water are under a greater pressure for conversion to a non-agricultural activity.

#### d. Observed distance of road frontage on public roads measured in linear distance.

<table>
<thead>
<tr>
<th>POINTS:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>More than 2 miles</td>
<td>25 points</td>
</tr>
<tr>
<td>More than 1 mile to 2 miles</td>
<td>20 points</td>
</tr>
<tr>
<td>More than (\frac{1}{2}) mile to 1 mile</td>
<td>15 points</td>
</tr>
<tr>
<td>(\frac{1}{4}) mile to (\frac{1}{2}) mile</td>
<td>10 points</td>
</tr>
<tr>
<td>Less than (\frac{1}{4}) mile</td>
<td>5 points</td>
</tr>
</tbody>
</table>

*Explanation:* The strategy is to provide an emphasis on areas with more road frontage since development is generally more likely to occur in areas with greater access to the land.
e. **Observed distance from access to a priority highway of commercial or industrial importance, as defined in the Berks County Comprehensive Plan.**

(Measured from nearest point of the tract along existing roadways to the nearest priority highway access).

<table>
<thead>
<tr>
<th>POINTS:</th>
<th>Description</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than ½ mile</td>
<td>= 25 points</td>
<td></td>
</tr>
<tr>
<td>½ mile to 1 mile</td>
<td>= 15 points</td>
<td></td>
</tr>
<tr>
<td>More than 1 mile to 1 ½ mile</td>
<td>= 10 points</td>
<td></td>
</tr>
<tr>
<td>More than 1 ½ mile to 2 miles</td>
<td>= 5 points</td>
<td></td>
</tr>
<tr>
<td>More than 2 miles</td>
<td>= 0 points</td>
<td></td>
</tr>
</tbody>
</table>

*Explanation:* Areas with greater access to priority highways are generally under greater pressure to convert to a non-agricultural use.

f. **Percent of land less than 10 acres within a 1 mile radius of site.**

<table>
<thead>
<tr>
<th>POINTS:</th>
<th>Description</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt; 75% - 100 %</td>
<td>= 20 points</td>
<td></td>
</tr>
<tr>
<td>&gt; 50% - 75%</td>
<td>= 10 points</td>
<td></td>
</tr>
<tr>
<td>25% - 50%</td>
<td>= 5 points</td>
<td></td>
</tr>
<tr>
<td>&lt; 25%</td>
<td>= 0 points</td>
<td></td>
</tr>
</tbody>
</table>

*Explanation:* Assessing the land use within 1-mile of the site is an indicator of development pressure in the area. Urban uses are generally considered incompatible with agricultural uses. Therefore, a tract in an area of smaller tracts of land shall receive a relatively higher score since these areas generally experience a greater pressure to convert to a non-agricultural use.

**Farmland Potential (FP) Factors**

FP Factors measure the potential agricultural productivity and farmland stewardship. FP Factors account for 20% of the site assessment.

a. **Acreage of the site proposed for easement purchase.**

<table>
<thead>
<tr>
<th>POINTS:</th>
<th>Description</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt; 150 acres</td>
<td>= 25 points</td>
<td></td>
</tr>
<tr>
<td>&gt; 100 – 150 acres</td>
<td>= 15 points</td>
<td></td>
</tr>
<tr>
<td>&gt; 50 – 100 acres</td>
<td>= 10 points</td>
<td></td>
</tr>
<tr>
<td>&gt; 35 – 50 acres</td>
<td>= 5 points</td>
<td></td>
</tr>
<tr>
<td>10—35 acres</td>
<td>= 0 points</td>
<td></td>
</tr>
</tbody>
</table>

*Explanation:* This factor acknowledges that in most cases large parcels are necessary for efficient farming practices.
b. **Percent of the farm proposed for the sale or donation of an agricultural conservation easement to the Berks County Agricultural Land Preservation Board or a qualified non-profit land conservation organization, including an approved exception for an excluded area where it can be reasonably determined that the area is not suitable to be developed as a competing land use to agriculture.**

| POINTS: | 100 % = 20 points | Less than 100% = 0 points |

*Explanation:* Landowners are encouraged to offer entire areas to prevent incompatible land uses from entering an area and competing with agriculture.

c. **Percent of site under consideration utilized for cropland, pasture, or grazing lands.**

| POINTS: | > 75% - 100 % = 25 points | > 65% - 75% = 10 points | 50% to 65% = 0 points |

*Explanation:* This factor is necessary to determine the current agricultural use of the property.

d. **Tract under consideration has a conservation plan including best management practices such as soil erosion control, sedimentation control, and nutrient management, as approved by either the Berks County Conservation District or the Berks County Agricultural Land Preservation Board.**

| POINTS: | Landowners have an approved conservation plan with best management practices in place on at least 50% of the tract. = 15 points | Landowners do not have an approved conservation plan with best management practices on at least 50% of the tract. = 0 points |

*Explanation:* This factor addresses the extent to which the landowners have demonstrated good stewardship of the land, use of conservation practices, and best management practices.

e. **Historic, Scenic, and Environmental Qualities.**

<table>
<thead>
<tr>
<th>Historic Qualities:</th>
<th>POINTS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Site or adjacent site has a historic barn or structure built before 1960 that is listed on the National Historic Register</td>
<td>Yes = 5 points</td>
</tr>
<tr>
<td>2. Site or adjacent site is a Century or Bicentennial Farm</td>
<td>Yes = 5 points</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Scenic and Environmental Qualities:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Observed distance to Federal, State and County owned recreation areas and County recognized wildlife sanctuaries, as defined in the Berks County Open Space and Recreation Plan.</td>
</tr>
<tr>
<td>Less than 1 mile = 5 points</td>
</tr>
</tbody>
</table>
Clustering Potential (CP) Factors

CP Factors emphasize the importance of preserving blocks of farmland to support commercial agriculture and help to shield the agricultural community from conflicts with incompatible land uses. CP Factors account for 30% of the site assessment.

a. Percent of land zoned agricultural preservation within a 2-mile radius from the center of the site.

<table>
<thead>
<tr>
<th>POINTS:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>&gt; 75% - 100%</td>
<td>10 points</td>
</tr>
<tr>
<td></td>
<td>&gt; 50% - 75%</td>
<td>5 points</td>
</tr>
<tr>
<td></td>
<td>&gt; 25% - 50%</td>
<td>3 points</td>
</tr>
<tr>
<td></td>
<td>More than 0% - 25%</td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>0%</td>
<td>0 points</td>
</tr>
</tbody>
</table>

Explanation: This factor addresses the question of zoning for agricultural preservation within a 2-mile radius of the site. The greater the percentage of land zoned for agricultural preservation, the greater the ability to cluster protected farms. If urban land uses are zoned within the 2-mile radius of the site, a zoning change may need to be considered.

b. Percent of land zoned agricultural preservation adjacent to the site.

<table>
<thead>
<tr>
<th>POINTS:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>&gt; 75% - 100%</td>
<td>20 points</td>
</tr>
<tr>
<td></td>
<td>&gt; 50% - 75%</td>
<td>10 points</td>
</tr>
<tr>
<td></td>
<td>&gt; 25% - 50%</td>
<td>5 points</td>
</tr>
<tr>
<td></td>
<td>More than 0% - 25%</td>
<td>3 points</td>
</tr>
<tr>
<td></td>
<td>0%</td>
<td>0 points</td>
</tr>
</tbody>
</table>

Explanation: This factor is similar to CP Factor (a) but is narrower in focus. This factor addresses the amount of land zoned agricultural preservation in the immediate area of the site.

c. Percent of land in an Agricultural Security Area within a 2-mile radius from the center of the site.

<table>
<thead>
<tr>
<th>POINTS:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>&gt; 75% - 100%</td>
<td>10 points</td>
</tr>
<tr>
<td></td>
<td>&gt; 50% - 75%</td>
<td>5 points</td>
</tr>
<tr>
<td></td>
<td>&gt; 25% - 50%</td>
<td>3 points</td>
</tr>
<tr>
<td></td>
<td>&gt; 0% - 25%</td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>0%</td>
<td>0 points</td>
</tr>
</tbody>
</table>

Explanation: Being in an Agricultural Security Area is a prerequisite to the purchase of an agricultural conservation easement. This factor will benefit a site under consideration if it is within 2 miles of other properties in Agricultural Security Areas, as there is a greater opportunity to cluster protected farms.
d. **Percent of land in an Agricultural Security Area adjacent to the site.**

<table>
<thead>
<tr>
<th>POINTS:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt; 75% - 100%</td>
<td>= 10 points</td>
</tr>
<tr>
<td>&gt; 50% - 75%</td>
<td>= 5 points</td>
</tr>
<tr>
<td>&gt; 25% - 50%</td>
<td>= 3 points</td>
</tr>
<tr>
<td>More than 0% - 25%</td>
<td>= 1 points</td>
</tr>
<tr>
<td>0%</td>
<td>= 0 points</td>
</tr>
</tbody>
</table>

*Explanation:* This factor is similar to CP Factor (c) but is narrower in focus.

e. **Total number of acres within a 2-mile radius from the center of a site with an agricultural conservation easement with the County Board, a qualified non-profit land conservation organization, or governmental entity, as approved by the County Board.**

<table>
<thead>
<tr>
<th>POINTS:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt; 500 acres</td>
<td>= 10 points</td>
</tr>
<tr>
<td>&gt; 250 – 500 acres</td>
<td>= 5 points</td>
</tr>
<tr>
<td>&gt; 100 – 250 acres</td>
<td>= 3 points</td>
</tr>
<tr>
<td>More than 0 – 100 acres</td>
<td>= 1 points</td>
</tr>
<tr>
<td>0 acres</td>
<td>= 0 points</td>
</tr>
</tbody>
</table>

*Explanation:* This factor will benefit sites under consideration that are within 2 miles of other preserved properties to cluster preserved farms to protect agriculture as an industry.

f. **Percent of land with an agricultural conservation easement with the County Board, a qualified non-profit land conservation organization or governmental entity, as approved by the County Board, adjacent to the site.**

<table>
<thead>
<tr>
<th>POINTS:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt;75% - 100%</td>
<td>= 20 points</td>
</tr>
<tr>
<td>&gt;50% - 75%</td>
<td>= 10 points</td>
</tr>
<tr>
<td>&gt;25% - 50%</td>
<td>= 5 points</td>
</tr>
<tr>
<td>More than 0% - 25%</td>
<td>= 3 points</td>
</tr>
<tr>
<td>0%</td>
<td>= 0 points</td>
</tr>
</tbody>
</table>

*Explanation:* This factor is similar to CP Factor (e) but is narrower in focus. This factor will benefit sites under consideration that are adjacent to preserved properties.

g. **Is the tract located in an area identified by the County Board or the Berks County Comprehensive Plan as desirable for agricultural use?**

<table>
<thead>
<tr>
<th>POINTS:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>75% or more is located in a desirable location</td>
<td>= 10 points</td>
</tr>
<tr>
<td>Less than 75% is located in a desirable location</td>
<td>= 0 points</td>
</tr>
</tbody>
</table>

*Explanation:* To receive points, the site under consideration must be within an area identified on the County Board planning map for the purchase of conservation easements, or be identified within an area of importance as defined in the Berks County Comprehensive Plan.
h. **Is the tract located in an agricultural cluster area as identified by the County Board?**

<table>
<thead>
<tr>
<th>POINTS:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>If the tract is 50 acres or more:</strong></td>
</tr>
<tr>
<td>50% or more of the tract is located in an agricultural cluster area</td>
</tr>
<tr>
<td>Less than 50% of the tract is located in an agricultural cluster area</td>
</tr>
<tr>
<td>or the tract is adjacent to an agricultural cluster area</td>
</tr>
<tr>
<td>Not in or adjacent to an agricultural cluster area</td>
</tr>
<tr>
<td><strong>If the tract is less than 50 acres:</strong></td>
</tr>
<tr>
<td>100% of the tract is in an agricultural cluster area</td>
</tr>
<tr>
<td>Less than 100% is an agricultural cluster area</td>
</tr>
</tbody>
</table>

*Explanation*: A goal of the ACE Program is to have concentrated areas of agricultural conservation easements in order to sustain agriculture in a given area. A site should be located in an area that has the ability to cluster in order to achieve this goal.

**Site Assessment Score Calculation**

The site assessment score shall be calculated as follows:

- DP Score × 10% = DP Weighted Score
- FP Score × 20% = FP Weighted Score
- CP Score × 30% = CP Weighted Score

\[
\text{Site Assessment Score} = \text{DP Weighted Score} + \text{FP Weighted Score} + \text{CP Weighted Score}
\]

**LESA Score Determination**

The LESA Score = Land Evaluation Score + Site Assessment Score.
Sources of Funding

The Berks County Agricultural Conservation Easement Program may be funded by:

1. **The County of Berks.** The County of Berks has funded easement purchases from general funds, bonds, line of credit, interest from Clean & Green rollback taxes, fundraisers, and donations.

2. **The Commonwealth of Pennsylvania.** The Pennsylvania State Department of Agriculture has secured funding through appropriations, bond funding through programs such as Growing Greener, cigarette tax, and interest on securities.

3. **The United States of America.** The Federal Government has provided funding for easement purchases through the Federal Farm and Ranch Lands Protection (FFRP) Program.

4. **Local Government Units.** Townships may partner with the County Board to purchase agricultural conservation easements. Please refer to Section VII, Local Government Unit Participation, for additional information.

County funds are required to be certified to the State by January 31st of each year. State funding is typically announced by March of each year. County and State funding accounts for the majority of funding for easement purchases. The Federal Farm and Ranch Lands Protection Program may release funds, but the amount of funding and time of year varies. Alternative sources may be available.

Selection of Applications

Applications are typically selected at the March or April meeting of the County Board based on the outcome of the LESA ranking and amount of available funding. Subsequent selections may be done if additional funding becomes available.

1. The LESA score will determine the order in which the County Board selects applications for appraisals. The selection for appraisals shall be made in descending order of LESA ranking score.

2. The number of applications selected for appraisals will depend on the amount of funds available for the ACE program.

3. Typically, applications are selected one time per year (usually in the spring) or as additional funding becomes available.

4. If an application is selected, the landowners have the opportunity to proceed with the ACE Program. Applications not selected in any given year will be re-ranked the following year unless the landowners withdraw the application.

The Appraisal Process  *(In accordance with 7 PA Code Chapter 138e.64)*

After a farm is selected by the County Board for the ACE Program, an appraisal must be completed for each selected application to determine the value of the agricultural conservation easement. The value of the easement, as determined by the appraisal, will be considered when the County Board approves a per acre offer for the easement purchase.

1. **Landowners must submit a $500 security deposit to proceed with an appraisal for each application selected by the County Board within 15 days of notification that the application was selected.** The deposit will be refundable if the landowners convey the easement to the County Board in the round that the deposit was submitted. If for any reason, the landowners are unwilling or unable to convey the easement, the deposit will not be refunded. If the landowners withdraw from the round in which the deposit was submitted after the appraisal was completed and the application is ranked and selected in a subsequent round, another $500 deposit will be required. Appraisal expenses beyond the cost of the first appraisal will be deducted from the total amount of deposits with the balance refunded to the landowners after the conveyance of the easement to the County of Berks.
2. All appraisals completed for the ACE program must be done by a State-certified general real estate appraiser who is qualified to appraise a property for easement purchase and shall be selected on the basis of experience and professional qualifications.

3. An offer to purchase an easement shall be based upon one or more appraisal reports that estimate the market value and the farmland value of the farmland tract, as those terms are defined in Exhibit B. The initial appraisal shall be requested by the County Board.

4. 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 practically conduct an appraisal based on an analysis of comparable sales, the appraiser may use an acceptable methodology under the Uniform Standards of Professional Appraisal Practice if the appraisal report clearly describes the information considered, the appraisal procedures followed and the reasoning that supports the analyses, opinion and conclusions.

5. Existing zoning classifications shall not be a factor in determining either non-agricultural or agricultural values.

6. The value of a building or other improvement on the farmland tract will not be considered in determining the easement value.

7. The appraiser shall complete and submit appraisals in accordance with 7 PA Code Chapter 138e.64 and shall include an introduction, description of property, and analysis and conclusions.

Easement Value and Purchase Price  (In accordance with 7 PA Code Chapter 138e.65)

The County Board will review the easement value as determined by the County Board’s appraisal, the allowable maximum purchase price, and the limitations on the purchase price as set by the County Board. Upon approval by the County Board, landowners will be offered a specified price per acre for the purchase of an agricultural conservation easement.

1. Easement value. The easement value is the difference between the market value and the farmland value contained in the County Board’s appraisal report. If a subsequent appraisal is obtained by the landowners, the value of the easement is derived from a formula set forth under “Offer to Purchase an Agricultural Conservation Easement.”

2. Maximum purchase price. The purchase price offered for the purchase of an easement may not exceed, but may be less than, the value of the easement.

3. Limitations on purchase price. The County Board shall set an upper limit per acre or “cap” for the purchase of agricultural conservation easements at the beginning of each calendar year. The cap is currently set at $2,500 per acre.

4. Charitable Tax Contributions. The difference between the appraised easement value and the purchase price may be used as a charitable tax contribution by filing an IRS Form 8283. Please consult an accountant to determine how the charitable tax contribution will impact taxes, as well as for instruction on what documentation is needed. In most cases, the appraisal report will need to be updated at the expense of the landowners.

5. Calculation of Easement Purchase Price. The final easement purchase price will be determined by multiplying the acreage, as determined by property deed or survey (Please refer to “Survey Requirements” section.), rounded to the tenth of an acre, by the agreed upon price per acre (Please refer to “Offer to Purchase an Agricultural Conservation Easement.”).
Upon approval of the County Board’s motion to offer the landowners a specified price per acre for the purchase of an agricultural conservation easement, a representative of the County Office shall meet with the landowners to provide them with a written offer and copy of the County’s appraisal report. Any offer to purchase an agricultural conservation easement must exclude the land where the current use is deemed to be potentially hazardous, and/or is clearly not part of a normal farming practice, and/or would present a possible liability to the County, State, and/or their respective preservation boards. The exclusion of such land from an offer to purchase an agricultural conservation easement shall be expressed to the landowners in writing. Please Note: The offer is a legal document. Landowners should consult with their attorney before signing it and proceeding with the ACE Program.

Landowners’ Response to offer

1. Within 30 days of receipt of the written offer from the County Board, the landowners may do one of the following:

a. Accept the offer, in which case the County Board will determine easement acreage by survey or property deed (Please refer to survey requirements.) followed by the County Board and the landowners entering into an agreement of sale. The agreement of sale shall be conditioned upon the approval of the State Board and be subject to the ability of the landowners to provide clear title to the premises, free of encumbrances such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interest, and other encumbrances which would adversely impact the County of Berks and Commonwealth’s interest in the farmland tract.

b. Reject the offer and advise the County Board that the application is withdrawn.

c. Advise the County Board that the landowners, at their expense, are retaining an independent Pennsylvania State Certified General Real Estate Appraiser to determine the easement value. The appraisal shall be completed with the procedures in PA Code Chapter 138e.64. The appraisal shall be submitted to the County Board within 120 days of receipt of the County Board’s offer to purchase. The County Board may extend the time within which this appraisal shall be submitted. This extension shall be in writing and shall extend the 120-day deadline by no more than 60 days. Upon completion, three copies of the landowners’ appraisal shall be submitted to the County Board. The landowners’ decision to obtain an independent appraisal shall not constitute a rejection of the County Board’s offer. The County Board’s offer shall remain open unless increased by the County Board or rejected by the landowners.

2. The failure by the landowners to act within 30 days of receipt of a written offer shall constitute rejection of the offer, unless the County Board agrees to extend the offer.

Landowners Second Appraisal Process (optional):

1. If the landowners retains a separate independent Pennsylvania State Certified General Real Estate Appraiser, the easement value shall be the difference between the agricultural value and the nonagricultural value, determined as follows:

a. Agricultural value: The agricultural value shall equal the sum of:
   i. The farmland value determined by the landowners’ appraiser; OR
   ii. One-half the difference between the farmland value determined by the County Board’s appraiser and the farmland value determined by the landowners’ appraiser, if the farmland value determined by the Board’s appraiser exceeds the farmland value determined by the landowners’ appraiser.
b. Non-agricultural value: The nonagricultural value shall equal the sum of:
   i. The market value determined by the County Board’s appraiser; OR
   ii. One-half of the difference between the market value determined by the landowners’
       appraiser and the market value determined by the County Board’s appraiser, if the market
       value determined by the landowners’ appraiser exceeds the market value determined by the
       County Board’s appraiser.

2. Within 30 days of receipt of the landowners’ appraisal, the County Board shall:
   a. Submit a written offer to purchase in an amount in excess of the original amount to the
      landowners; or
   b. Notify the landowners, in writing, that the original offer remains open and will not be modified.

3. The landowners shall, within 15 days of receipt of the County Board’s written offer (either the offer
   in excess of the original amount or the original offer), accept or reject the offer.

4. Failure of the landowners to respond within 15 days shall constitute a rejection of the County
   Board’s offer unless the County Board agrees to extend the offer.

5. If the offer of purchase is accepted, the County Board and the landowners shall enter into an
   agreement of sale containing the same requirements and subject to the same conditions as set forth
   in 7 PA code Chapter Section 138e.66(c)(1).

6. If an applicant proposes an amendment to an Agreement of Sale that is executed by the County and/
   or State, and the amendment to the Agreement of Sale is approved by the County and/or State, the
   applicant shall be responsible for paying all additional incidental costs associated with the
   amendment to the Agreement of Sale including, but not limited to the cost for revising the appraisal
   report and the cost of revising the survey.

### Title Insurance (In accordance with 7 PA Code Chapter 138e.68)

1. Landowners must be able to convey or sell the agricultural conservation easement in clear title. The
   County Board will acquire a title report that will include a legal description of the farm, list liens
   against the land, and describe exceptions to the title.

2. Any liens against the property must be either paid in full at or prior to settlement or the lender(s)
   must agree to subordinate to the easement. This includes, but is not limited to mortgages, lines of
   credit, judgments, and taxes. If the lender agrees to subordinate to the easement, it is agreeing to
   take a second position, which means that in the case of foreclosure, the property would be sold
   protected by the agricultural conservation easement. This ensures that the land remains in agriculture
   and protects the investment of the County of Berks and the State. The landowners are responsible
   for costs associated with preparing and recording subordination agreements.

3. Exceptions or other restrictions listed in the title report will be reviewed to ensure they are compliant
   with the agricultural conservation easement. If they are not, the staff of the County Office will
   advise the landowners how to proceed.

4. At settlement, the County Board will acquire a title insurance policy on the agricultural conservation
   easement, a copy of which will be provided to the State. If the title insurance policy is not readily
   available at settlement, a marked up title commitment may serve as a policy until the policy is
   issued.

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Survey Requirements  *(In accordance with 7 PA Code Chapter 138e.73)*

The Berks County Agricultural Land Preservation Office will determine whether a farmland tract on which an easement is to be purchased shall be surveyed. A survey is required unless the legal description contained in the deed:

1. Includes the metes and bounds of the farmland tract subject to the easement;
2. Includes at least one course and distance referencing affixed marker or monument of a type commonly placed in the field by a surveyor. Fixed markers may include iron pins, pk nails, spikes, concrete monuments or stones; and
3. Does not contain a closure error greater than 1 foot per 200 linear feet.

If the Berks County Agricultural Land Preservation Office determines a survey is required, the Office will request the survey from a firm contracted with the County of Berks to complete surveys for the ACE Program, and will assume the costs of the survey. The landowners are responsible for the survey costs associated with providing a legal description for land withheld from the easement purchase at their request or wants additional survey work completed.

The survey shall meet the requirements as set forth in PA Code Chapter 138e.73 and include:

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. Verification that the survey has a closure error of not greater than 1 foot per 10,000 linear feet;
3. Coordinates of at least two ground control points located sequentially along the boundary survey, with latitude and longitude expressed in decimal degrees with an accuracy of 6 recorded decimal places.
4. Monumentation for at least the two ground control points consisting of permanent concrete markers or substantial length and width containing ferrous or other materials detectable by an electromagnetic locator.

Copies of the final boundary survey shall be submitted in both paper copy and digital format that shows the course bearings and distances and other annotations and symbols, including the northing and easting of each monument.

Agreement of Sale and Payment Options

The landowners will sign an agreement of sale to convey an agricultural conservation easement to the grantees after the acreage of the easement area is determined. The easement purchase price will be the agreed upon price per acre multiplied by the acreage, as determined by deed or survey, rounded to the tenth of an acre. The agreement of sale will be structured for how the landowners decide to accept the proceeds from the sale of the easement. The landowners may choose to accept the proceeds as:

1. **A lump sum payment**: Net proceeds are received at settlement.
2. **Installments**: The landowners may opt to receive net proceeds in installment payments over two to five years. Interest on installment payments will be set by the Board in January of each year. Currently, no interest is being paid on installment payments.
3. **A Like-kind Exchange**: Landowners work through a third party qualified intermediary to purchase a replacement property with the proceeds. The exchange will impact capital gains taxes.

Landowners are advised to seek the advice of an accountant when deciding on the method of payment.

*Please Note: The Agreement of Sale is a legal document. Landowners should consult with their attorney before signing it and proceeding with the ACE Program.*
The agreement of sale will include exhibits such as a legal description of the easement area, a statement of costs, the agricultural conservation easement and conservation plan agreement to be signed at settlement.

The agreement of sale shall be executed in a form provided by the State Board, if the State is to be listed as a Grantee. An agreement of Sale may be structured as: 1) A joint purchase by the State and the County; 2) A joint purchase by the State, County, and a township; 3) A joint purchase by the County and a township; or 4) An individual purchase by either the State or the County. The County Board reserves the right to decide how the agreement of sale will be structured. Sample copies of the Agreement of Sale are available at the Berks County Agricultural Land Preservation Office.

**State Recommendation for Purchase (In accordance with 7 PA Code Chapter 138e.91)**

The County Board seeks to purchase easements jointly with the Commonwealth of Pennsylvania. Easement purchases funded in part by the Commonwealth of Pennsylvania require approval from the State Agricultural Land Preservation Board, chaired by the Secretary of Agriculture. Recommendations are submitted to the Bureau of Farmland Preservation that reviews the recommendations for compliance with Act 43 and 7 PA Code Chapter 138e regulations. The Berks County Agricultural Land Preservation Office prepares and submits recommendations to the Bureau of Farmland Preservation on behalf of the landowners. Recommendations include:

1. Summary information, as described in 7 PA Code Chapter 138e.70;
2. A statement of costs as described in 7 PA Code Chapter 138e.69;
3. A copy of the application form;
4. Aerial, topographic, tax, and soil maps;
5. A list of soil types and soils report;
6. LESA ranking information;
7. A list of adjoining landowners and copy of the notification letter to be sent to the adjoining landowners as described in 7 PA Code Chapter 138e.71 (See Exhibit E);
8. A letter from the landowners stating the percent of ownership of each grantor for the purpose of issuing IRS Form 1099;
9. A copy of the approved soil conservation plan that is required prior to settlement;
10. A copy of the nutrient management plan, if applicable;
11. Documentation on how liens will be addressed;
12. An appraisal report;
13. A title insurance report;
14. Survey work or closure documentation;
15. A signed agreement of sale;
16. A completed and signed IRS Form W-9, Request for Taxpayer Identification Number and Certification for individual grantors.

When it is determined the recommendations are complete and in compliance, the farms are submitted to the State Board for approval. Notification of the easement purchase is sent to the adjoining landowners. The State Board, which typically meets six times per year, will review the recommendation and provide a decision according to 7 PA Code Chapter 138e.92. After State Board approval, the agreement of sale is executed and checks are requested from the State Comptroller’s Office. Typically, this process takes two to three months after State approval for the County to be able to schedule settlement of the easement purchase.
### Settlement of the Agricultural Conservation Easement

At settlement, the landowners will convey an agricultural conservation easement in exchange for proceeds, as outlined in the agreement of sale, and sign a Conservation Plan Agreement. The agricultural conservation easement protects the farm for agriculture in perpetuity. The Conservation Plan Agreement identifies the current conservation plan and reiterates that the landowners agree to comply with the conservation practices and implementation schedule and acknowledges that failure to comply would violate the terms of the agricultural conservation easement. Examples of both documents are available at the County Office.

1. The County Office will schedule the settlements, which are typically held at the title company issuing the title insurance policy, unless the landowners are unable to attend.

2. The landowners, closing agent for the title company, county solicitor, county controller or a county commissioner, and a representative from the County Board will attend settlement.

3. Landowners need to bring their driver’s licenses to settlement.

4. Landowners must be able to sign an affidavit verifying that the easement is being conveyed in clear title, that there are no outstanding agreements of sale on the farm, that liens or debts that may give rise to a lien have been disclosed, that there are no taxes owed, and that there is no child support due.

5. The landowners of the subject farmland tract shall execute a deed conveying the easement at settlement. The deed shall include the provisions of the 7 PA Code Chapter 138e.241 (relating to deed clauses). The grantees of the deed of easement will be the State, County, or local municipality or a combination thereof, depending on the entity that funded the easement purchase.
   
   a. For purchases made entirely with State funds, the Commonwealth shall be the sole grantee.
   
   b. For purchases made using a combination of State and County funds the grantees shall be the Commonwealth and the County providing the funds under joint ownership as defined in the Act.
   
   c. For purchases made entirely with county funds, the county shall be the sole grantee.
   
   d. For purchases made entirely with local municipal funds, the municipality shall be the sole grantee.

6. Landowners will have minimal settlement fees including, but not limited to, fees to the local tax collector certifying that the taxes are paid and for the preparation and recording of subordination agreements and deed of merger, if applicable.

7. Settlements take approximately 20-30 minutes. Following settlement, the County Board will comply with post settlement and reporting procedures according to 7 PA Code Chapter 138e.93.

*Please Note:* The Agricultural Conservation Deed of easement and Conservation Plan Agreement are legal documents. Landowners should consult with their attorney before signing them.
SECTION III

CONSERVATION PLAN REQUIREMENTS

To preserve the agricultural viability of the eased land, landowners are required to implement a conservation plan acknowledged by the Berks County Conservation District or the County Board.

Landowners applying to the Agricultural Conservation Easement (ACE) Program are strongly encouraged to have an approved conservation plan. It is the responsibility of the landowners to submit a copy of the conservation plan to the Berks County Agricultural Land Preservation Office (“County Office”). Additional points will be awarded in the LESA ranking (Please refer to Section II, “Numerical Ranking System.”) to those applications that have an approved conservation plan with best management practices in place on at least 50% of the tract.

After an application is selected for the ACE Program, it is a requirement that there is a conservation plan on the farm before the County Office recommends the farm to the Pennsylvania State Agricultural Land Preservation Board (“State Board) for easement purchase. A conservation plan agreement will be signed at settlement. (Please refer to Section II for additional information on procedures for participation in the ACE Program.) Implementation of the conservation plan will be monitored during the inspection process, as described in Section VI.

Requirements for a Conservation Plan

1. Landowners of land under agricultural conservation easement are required to have a conservation plan that addresses all environmental concerns on the farm. The plan may be in the operator’s name, but it is the landowners’ responsibility for compliance.
2. Conservation plans may be developed by private consultants, landowners, a county conservation district, or the Natural Resources Conservation Service (NRCS). If a farm is selected to participate in the Federal Farm and Ranch Lands Protection Program, a NRCS-approved conservation plan is required.
3. State regulations authorize the County Board or a county conservation district to acknowledge plans for the easement program.
4. At the time the plan is submitted to the Board for review, the conservation plan must reflect the present best management practices and any agreed-to future improvements or management changes. If a conservation plan is unavailable, the landowners must agree to begin the process of developing the plan and indicate the agency that will develop it. A conservation plan must be completed and approved prior to State Board approval or if the easement purchase does not involve the State Board, the plan must be approved prior to settlement.
5. Landowners who participate in the easement program must update their conservation plan when there are significant changes to the operation. Updates to the conservation plan must be approved by the County Board or a county conservation district.
6. In the event of a nutrient management or Chapter 102 Clean Stream’s violation occurring on the farm, the conservation plan must be reviewed and revised to include any measures necessary to correct the violation.

Defining Conservation Plans

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.

In accordance with State regulations, a conservation plan shall include:
1. An installation schedule for best management practices;
2. A nutrient management component consisting of a statement of whether a nutrient management plan is required under the Nutrient Management Act. If a nutrient management plan is not required, the nutrient management component shall consist of a description of the amounts and types of nutrients
imported to or generated on the farmland tract and a description of any current and planned measures or procedures for containment, use, disposal, or other disposition of the nutrients described. The source of any manure imported to the farm or the destination of manure exported from the farm should be indicated;

3. An Environmental Evaluation Worksheet to identify resource concerns;

4. A Grazing Plan to guide proper management of pasture areas;

5. Soil and topography maps (including elevation levels) and an aerial photograph. Maps should have a title that includes the landowners’ name, acreage, township, type of map, and source of map data, as well as include a north arrow, scale, legend, and other relevant information;

6. Soil descriptions;

7. Soil loss calculations, indicating that acceptable level of soil loss is met;

8. Any other conservation concerns that may have been identified by the Board during an inspection or site visit;

9. Signatures for both the landowners and the operator, if the plan is written by a private consultant; and signatures to NRCS policy if the plan is written by NRCS or a county conservation district;

10. If the plan is written by a private consultant, the plan must include certification from the private consultant indicating that the plan meets all of the requirements of a conservation plan as indicated above.

Obtaining a Conservation Plan

Conservation plans may be obtained by:

1. Filling out proper documentation, an SC-1 Form, and submitting it to the County Office, the USDA Natural Resources Conservation Service (NRCS); or the Berks County Conservation District (BCCD); or

2. Hiring a private crop consultant. A list of private crop consultants may be obtained at the County Office.

Approvals of Conservation Plans

Conservation plans must be acknowledged by the County Board or a county conservation district. The County Board will review and approve plans as follows:

1. New or revised plans must be submitted one week prior to the County Board taking official action. The County Board may waive this requirement under special circumstances.

2. Staff at the County Office will review all conservation plan submissions and contact landowners or their designees to acquire additional information, perform site visits, if necessary, or request amendments to the plan. Landowners may schedule meetings with staff at any time during regular office hours to review plan submissions or update information.

3. The County Office staff shall recommend the plan for County Board approval when all plan requirements are met.

4. The County Office staff shall recommend the conservation plans to the County Board in executive session and the County Board shall approve the conservation plans in regular session using docket or settlement numbers.

5. If after receipt of the staff recommendation for approval, the County Board has questions or concerns regarding the conservation plan, the County Board can request further information or a site visit be conducted. Any landowner can request the opportunity to discuss the conservation plan during the public comment period of the regularly scheduled County Board meeting.
PROVISIONS OF THE AGRICULTURAL CONSERVATION EASEMENT

Copies of the agricultural conservation deed of easement are available at the County Office. 

Please note: Landowners must seek approvals from all other interested entities when exercising the provisions of the agricultural conservation easement, including approvals from townships and any other programs in which the land is enrolled such as the Clean & Green Program (Act 319).

**Agricultural Production** *(In accordance with 7 PA Code Chapter 138e.221)*

The eased land shall be used solely for the production for commercial purposes of crops, equine, livestock and livestock products, including the processing or retail marketing of such crops, equine, livestock or livestock products if more than fifty percent of such processed or merchandised products are produced on the subject land (hereinafter “agricultural production”). For purpose of this Deed, “crops, equine, livestock and livestock products” include, but are not limited to:

(a) Field crops, including corn, wheat, oats, rye, barley, soybeans, speltz, buckwheat, hay, potatoes and dry beans;
(b) Fruits, including apples, peaches, grapes, cherries, pears and berries;
(c) Vegetables, including tomatoes, pumpkins, snap beans, cabbage, carrots, beets, onions, sweet corn and mushrooms;
(d) Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers;
(e) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs, and furs;
(f) Timber, wood and other wood products derived from trees; and
(g) Aquatic plants and animals and their byproducts.
(h) Commercial equine activity including boarding of equine, training of equine, instruction of people in handling, driving or riding equines, use of equines for riding or driving purposes, pasturing equines all of where a fee is collected. THE TERM DOES NOT INCLUDE ACTIVITY LICENSED UNDER THE ACT OF DECEMBER 17, 1981 (P.L. 435, NO. 135), KNOWN AS THE “RACE HORSE INDUSTRY REFORM ACT.”

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

**Construction or Renovation of Buildings** *(In accordance with 7 PA Code Chapter 138.223)*

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

1. The erection of fences for agricultural production or a commercial equine activity and protection of watercourses such as lakes, streams, springs, and reservoirs is permitted.
2. The construction of one additional residential structure is permitted under 7 PA Code Chapter 138.224. (Refer to following section for additional guidelines.)
3. The construction or use of any building or other structure for agricultural production or a commercial equine activity is permitted.
4. The replacement of a residential structure existing on the eased land on the date of the granting of the easement is permitted if the preexisting structure is razed or removed and the replacement residential structure is erected within the curtilage of the residential structure it replaces.
Construction of One Additional Residential Structure (In accordance with 7 PA Code Chapter 138e.224)

1. **General** – In addition to structures existing on the eased land at the date of the granting of the easement, one additional residential structure may be constructed subject to the following conditions:
   a. The construction and use of the residential structure is limited for the landowners’ principal residence or for the purpose of providing necessary housing for persons employed in farming the subject land on a seasonal or full-time basis;
   b. No other residential structure has been constructed on the eased land at any time since the delivery of the Deed;
   c. The additional residential structure and its curtilage occupy no more than two acres of the eased land; and
   d. The location of the residential structure and its driveway will not significantly harm the economic viability of the subject land for agricultural production or a commercial equine activity.

2. **Replacement of structures** – The replacement of a residential structure constructed under authority of Section 14.1(c)(6)(iv) of the Act (3 P.S. 914.1(c)(6)(iv)) and this section is permitted.

3. **Reservation of right to construct after subdivision** – If the eased land is subdivided prior to the construction of a residential structure under authority of Section 14.1(c)(6)(iv) of the Act (3 P.S. 914.1 (c)(6)(iv)) and 7 PA Code Chapter 138e.224, the landowners shall do the following:
   a. Inform the County Board of specific subdivided tract upon which the right to construct and use such a residential structure is reserved.
   b. Ensure that the deed to the subdivided tract upon which the right to construct and use such a residential structure is reserved clearly sets forth the reservation of this right.
   c. Ensure that all deeds to remaining subdivided tracts recite that no such residential structure may be constructed on such remaining subdivided tracts.

Renovations to Buildings and Residential Structures (In accordance with 7 PA Code Chapter 138.223)

1. A renovation or modification or an existing residential structure, or an addition to an existing residential structure, is permitted if it would not increase the curtilage of the residential structure.
2. A renovation or modification of an existing agricultural building or structure, or an addition to an existing agricultural building or structure, is permitted.

Subdivision of Eased Land

**General** — The landowners of a property subject to an agricultural conservation easement through the Berks County Agricultural Land Preservation Program, whether the easement be held solely by the State, solely by the County, or held jointly by the State and County, may subdivide the property into a maximum of two parcels provided that the following conditions apply.

1. The subdivision is consistent with the statement of purpose of the Berks County Agricultural Land Preservation Board as defined in the Agricultural Conservation Easement Program Guidelines, as amended.
2. No restriction, prohibitions or condition shall prevent the landowners from subdividing eased lands for the purpose of constructing one additional residential structure as authorized by 3 P.S. Section 914.1 (c)(6)(iv), provided that such a subdivision complies with 7 PA Code Chapter 138e.224.
3. The prohibitions, restrictions, and conditions of subdivision of eased land shall be recited verbatim in the deed for all subdivided and remaining parcels.

4. The subdivided parcels shall continue to be subject to the terms of the original agricultural conservation easement.

5. The subdivision guidelines, 7 PA Code Section 138e.225 (relating to subdivision of eased land), are intended to preserve as much farmland as possible in integral parcels and to promote viable agricultural enterprises. Special exceptions to these subdivision guidelines will be considered by the County Board on a case by case basis depending on the size of the subdivided parcels, township zoning, neighborhood characteristics, and other pertinent factors.

6. All costs associated with subdivision shall be the responsibility of the landowners.

7. Nothing shall relieve the landowners of any municipal, county or state regulations, procedures or requirements necessary for the subdivision of land.

Subdivision Restrictions — Except as provided in #2 above, no subdivision of eased land shall be permitted unless all of the following conditions are met:

1. Approval of a subdivision shall be requested, in writing, of and granted by the County Board and by the State Board.

2. Subdivision shall not harm the economic viability, as defined in Sub-Section B of Section XI of the Subdivision Guidelines, of any parcel created by or remaining after subdivision. The landowners shall have the burden of proof.

3. The subdivision of property does not convert land which has been devoted primarily to agricultural use to another primary use, other than a tract of two acres or less upon which construction and use of the landowners’ principal residence or housing for seasonal or full-time employees is permitted pursuant to 3 PS. Section 914.1 (c)(6)(iv).

4. Subdivision of a property with an agricultural conservation easement may be prohibited if the landowners can accomplish the construction and use of a principal residence or housing for seasonal or full-time farm employees in accordance with 3 P.S. Section 914.1(c)(6)(iv), under the applicable subdivision and land development ordinance, by a land development other than subdivision.

5. Each parcel created or remaining as a result of subdivision shall have all of the following:
   a. At least fifty percent (50%) of its soils in USDA Soil Capability Class I-IV.
   b. At least fifty percent (50%) of its area utilized for crop or pasture land.
   c. Site characteristics (including but not limited to slopes, topography, shape, location of roads, streams, wetlands, ponds, access) that allow for practicality and reasonable efficiency of agricultural activity.

6. No parcel of less than 52 acres may be created by subdivision. The sole exception to this 52-acre minimum subdivision standard shall allow a tract of as few as 10 acres to be created through subdivision if all of the following occur:
   a. The subdivision results in the residue parcel and the parcel for annexation; and
   b. Each of these parcels, by itself, meets the minimum criteria in #5 above and
   c. The parcel for annexation is annexed, by deed of merger, to an adjacent receiving parcel, with this deed of merger effectively extinguishing the legal right to convey the parcel for annexation as a separate building lot; and
d. The residue parcel retains any existing right to the additional residential structure allowed under the Agricultural Area Security Law, with the deed of merger for the parcel for annexation clearly reserving this right for the residue parcel; and

e. The parcel for annexation remains subject to the restrictions of its original deed of agricultural conservation easement. If said restrictions encumbering the parcel for annexation are stricter than the restrictions of the original deed of easement encumbering the receiving parcel, the landowners of the receiving parcel shall execute documentation satisfactory to the County Board imposing the restrictions encumbering the parcel for annexation on the receiving parcel; and

f. No further annexations under this section may occur with respect to the main parcel.

Procedures and Requirements of Subdivision — Landowners proposing to subdivide eased land shall be subject to following procedures and requirements.

1. Requests for subdivision review and approval shall be submitted, in writing, to the County Board. The letter, hereafter referred to as the “subdivision application,” shall explain the reasons for such a subdivision, including evidence that the agricultural economic viability of the resulting parcels will not be diminished as a result of the proposed subdivision. Please Note: Subsequent subdivision applications on the same farm or modifications to the subdivision application will not be accepted unless the previous pending application is withdrawn by the landowner in writing.

2. If applicable, the landowners shall submit a copy of the landowners’ subdivision review request submitted to the governing body and a copy of the letter of transmittal from the local governing body to the Berks County Planning Commission, requesting the subdivision review.

3. The landowners should be mindful that it is their responsibility, in accordance with the Pennsylvania Municipalities Planning Code, to submit a subdivision plan to the local governing body for review and approval. Landowners are encouraged to seek this review, any other required review, and the County Board review simultaneously.

4. Requests shall include the following maps and information:

   a. Written requests for subdivision approval including description of subdivision and reason for subdivision.

   b. A map or sketch, at a scale sufficient to clearly show the following:

      i. Location of crop land, pasture land, wood land and other lands.

      ii. Roads, streets, driveways, utility right-of-way, streams.

      iii. Location of existing buildings, sheds, barns, dwellings, and other structures.

      iv. Delineation of proposed subdivision.

      v. Indication of which parcel either created by subdivision or remaining after subdivision on which the additional residential structure permitted by 3 P.S. Section 914.1 (c)(6)(iv) and the “Construction or Renovation of Buildings” section above may be constructed.

5. The County Board will note receipt of the request for subdivision approval at its next regularly scheduled meeting.

6. The County Board may agree to permit a parcel of land subject to an Agricultural Conservation Easement to be subdivided after the granting of such easement after appropriate review as follows:

   a. The County Board will send written notification for a review of the subdivision application to the local governing body, the Berks County Planning Commission, and the Berks County Agricultural Preservation Office herein referred to as the reviewing agencies. The reviewing
agencies shall have 60 days from receipt of such notification to review, comment and make recommendations on the proposed application to the County Board.

b. After reviewing the application and the comments and recommendations submitted by the reviewing agencies, the County Board shall approve or reject the application to subdivide within 120 days after the date the request for subdivision was noted at the regularly scheduled County Board meeting, unless the time is extended by mutual agreement of the landowners and reviewing agencies.

c. If the application to subdivide the land is approved by the County Board, a copy of the application, along with the comments and recommendations of the reviewing agencies, shall be forwarded to the State Board for review and approval or disapproval. When reviewing an application to subdivide land subject to an Agricultural Conservation Easement, the State Board shall consider only whether the application complies with the conditions under which subdivisions are permitted by the approved county program. The State Board shall notify the County Board of its decision regarding the application.

d. If the application to subdivide is rejected by the County Board, the application shall be returned to the landowners with a written statement of the reasons for such rejection. Within 30 days after receipt of the statement of rejection, the landowners may appeal the rejection in accordance with 2 PA. CS. Chapter 5 Subchapter B (relating to practice to judicial review of local agency action).

7. Failure of the County Board to render a decision to approve or disapprove a subdivision within the time from described in #6 above shall constitute approval of request to subdivide provided that the parcels created by and remaining after subdivision comply with the Subdivision Restrictions listed above.

8. Approval of the County Board, or failure to act by the County Board as per #7 above shall not be construed to provide approval of the State Board or any other Governmental Unit with authority to approve or disapprove subdivisions.

9. Subdivisions approved prior to the construction of additional residential structure.

a. If the County Board and State Board approval is granted for subdivision of eased land prior to the construction of one additional residential structure as permitted by 3 P.S. Section 914.1 (c) (6)(iv) and the “Construction or Renovation of Buildings” section above, the landowners must do the following:

   i. Ensure that the deed to the parcel created by or remaining after subdivision upon which the additional residential structure may be constructed clearly reserves the right to construct this residential structure.

   ii. The parcel for which the right to construct the allowed additional residential structure shall be the same parcel indicated in Section 4 (b) (v) above.

   iii. Ensure that the deeds to all other parcels created by subdivision or remaining after subdivision clearly state that no residential structures of any kind may be constructed on the eased parcels.

b. Prior to recording deeds to parcels created by subdivision or remaining after subdivision, the landowners requesting subdivision approval shall forward copies of the deed for each such parcel for County Board review and approval.

c. Within 15 days of recording deeds to tracts created by subdivision or remaining after subdivision, the landowners at the time of subdivision shall forward a copy of all recorded deeds to all parcels created by subdivision or remaining after subdivision to the County Board.
Mining Provisions

The granting of leases, assignments or other conveyances or the issuing of permits, licenses or other authorization for the exploration, development, storage or removal of coal by underground mining methods, oil and gas by the landowners of the subject land or the landowners of the underlying coal by underground mining methods, oil and gas or the landowners of the rights to develop the underlying coal by underground mining methods, oil and gas, or the development of appurtenant facilities related to the removal of coal by underground mining methods, oil or gas development or activities incident to the removal or development of such minerals is permitted.

Customary Part-Time, Off-Season Minor and/or Rural Enterprises Regulations

Pennsylvania’s “Agricultural Area Security Law”, known as Act 43, 3 P.S. §§901. et seq., and the Regulations promulgated thereunder by the Pennsylvania Department of Agriculture [See: Subchapter I, §138c.241] require that an Agricultural Conservation Easement (ACE) shall not prevent customary part-time or off-season minor or rural enterprises which are provided for in the County Agricultural Conservation Easement Program approved by the State Board [See: 3 P.S. §914.(c)(6)(v)].

Agriculture-related products, services and activities associated with customary part-time or off-season minor or rural enterprises are permissible, provided that they remain incidental to the plant and animal production. Except as otherwise set forth herein, the Berks County Agricultural Land Preservation Board (BCALPB), or its staff, will review and approve or disapprove all customary part-time or off-season minor or rural enterprises on a case-by-case basis. In order to obtain a required approval for a rural enterprise, an application form [See: Exhibit H] must be submitted to the BCALPB office by 12:00 noon two weeks prior to a regularly scheduled Board meeting.

The construction of new buildings for the purpose of “Customary Part-Time, Off-Season Minor and/or Rural Enterprises” is prohibited.

Structures and/or buildings existing on the eased land at the date of granting of the easement and/or subsequent BCALPB recognized structures are intended to be used for agriculture. When agricultural opportunities are exhausted, those buildings to be utilized for “Customary Part-Time, Off-Season Minor and/or Rural Enterprises” must comply with the following:

1. The direct sale of agricultural products to the public provided that at least fifty percent (50%) of such products are produced on the preserved farm by the farm operator, which may be the farm owner(s) or tenant(s).

2. The production and sale of home occupation services, goods, and arts and crafts, so long as (i) these uses remain incidental to the plant and animal production of the preserved farm; and (ii) at least 50% of the items for sale are produced on the preserved farm.

3. The provision of agricultural services, supplies, and repairs on the farm, as long as these provisions remain incidental to the plant and animal production on the preserved farm.
4. The accommodation of tourists and visitors at the property is permitted in accordance with applicable law as long as the accommodation of such tourists and visitors is undertaken as a part-time or off-season minor or rural enterprise, is incidental to the agricultural production and does not diminish the productive capacity of the soils in connection with such activities.

5. Regulated hunting operations and the stocking of game birds are permitted so long as these uses remain incidental to the plant and animal production and cannot diminish the productive capacity of the soils in connection with such activities.

6. Energy Rural Enterprises shall remain incidental to plant and animal production. The energy generated by this enterprise shall be available for use on the farm and the excess energy that is generated may be available for retail sale.

7. The installation of communications antennae on existing structures along with associated equipment and structures shall be permitted, provided the installation or construction of any permanent non-agricultural equipment or structures associated with communications antennae remains incidental to the plant and animal production of the preserved farm.

If more than one rural enterprise as permitted above either exists or is established on the farm, the total site coverage of all such rural enterprises shall be limited to one-half of one percent of the area of the eased farm.

The BCALPB and/or its staff reserve the right to consider other similar “Customary Part-Time or Off-Season Minor or Rural Enterprises” that support the local agricultural economy and economic viability of preserved farms. Approval of rural enterprise(s) by the BCALPB does not constitute an automatic approval of future requests nor set a precedent for any future requests.

During inspections of a preserved farm, the rural enterprise(s) will be evaluated based on the facts and information included within the approved application. If the rural enterprise is not in conformity with said application, the landowner/tenant will be given 60 days to comply with the original approved application. If the rural enterprise remains out of compliance, BCALPB will initiate violation procedures.

**Soil and Water Conservation Requirements** *(Additional information in Section IV)*

All agricultural production or commercial equine activity on the subject land shall be conducted in accordance with a conservation plan approved by the County Conservation District or the County Board. Such plan shall be updated upon any change in the basic type of agricultural production or commercial equine activity being conducted on the subject land. In addition to the requirements established by the County Conservation District or the County Board, the conservation plan shall include an installation schedule and maintenance program and a nutrient management component which, when completely implemented, will improve and maintain the soil, water and related plant and animal resources of the land and shall require that:

1. The use of the land for growing sod, nursery stock ornamental trees, and shrubs does not remove excessive soil from the subject land; and

2. The excavation of soil, sand, gravel, stone or other materials for use in agricultural production or commercial equine activities on the land is conducted in a location and manner that preserves the viability of the subject land for agricultural production or commercial equine activity.

As part of the settlement documents, the executed Conservation Plan Agreement shall be recorded with the Deed of Easement at the County Recorder of Deeds.
New property deeds may be recorded for a variety of reasons including the sale of the property to others, the re-recording of a property deed from the landowners to themselves, or to place ownership in a trust. Anytime a new property deed is recorded, regardless of the reason, the following must occur:

1. A deed conveying an interest in the eased land shall set forth the language of the easement restrictions verbatim. This is most easily done by attaching the entire deed of agricultural conservation easement to the new property deed as an exhibit. The deed of agricultural conservation easement includes: the deed of easement, subdivision guidelines for Berks County if the farm was preserved in August, 1996 or later, and the legal description of the eased property.

2. Within 30 days of a change in ownership of the eased land, the prior landowners shall notify the Berks County Agricultural Land Preservation Board and the Pennsylvania Bureau of Farmland Preservation, Department of Agriculture of the transfer. The following information shall be provided:
   a. The name, address, and telephone number of the landowners selling the property;
   b. The name, address, and telephone number of the new landowners;
   c. The price per acre or portion thereof involved in the transfer;
   d. A reference to the volume and page in which the transfer has been recorded by the Berks County Recorder of Deeds; and
   e. A copy of the deed.

The information should be sent to:
Berks County Agricultural Land Preservation Board,
1238 County Welfare Road, Suite 260, Leesport, PA 19533

Bureau of Farmland Preservation
2301 North Cameron Street, Room 402, Harrisburg, PA 17110-9408

Please Note: Any ownership transfers involving subdivision of a property are required to be approved by both the Berks County Agricultural Land Preservation Board and the Pennsylvania State Agricultural Land Preservation Board. In addition, any transfers involving subdivision have additional deed requirements and are best discussed on a case by case basis.
SECTION V

ACQUIRING APPROVALS FOR NON-AGRICULTURAL ACTIVITIES ON PROTECTED FARMS THAT ARE PROVIDED FOR IN THE AGRICULTURAL CONSERVATION EASEMENT (other than subdivision)

Landowners should contact the Berks County Agricultural Land Preservation Office for any activity provided for in the agricultural conservation easement other than agricultural production. Procedures for seeking approvals for the construction or modification of a residential structure and rural enterprises are provided in this section to assist landowners. Procedures for approving Soil and Water Conservation Plans and subdivisions are included in Sections IV and Section III, respectively. Other activities may be reviewed on a case by case basis.

Please Note: Forms are available at the Berks County Agricultural Land Preservation Office to assist with the submission of a request for the construction or modification of a residential structure and a customary part-time or off-season minor or rural enterprise.

Procedures for Reviewing the Construction or Modification of a Residential Structure

1. Landowners submit a written request for the construction or modification of a residential structure. The written request will specify whether the construction is to be considered the one permitted additional residential structure, if the landowners are removing an existing residential structure and the construction of a new residential structure is to be considered a replacement structure, or if the construction is a modification of an existing residential structure.

   a. If the construction of the residential structure is to be considered the additional residential structure, the written request shall specify that:

      i. The construction and use of the residential structure is limited to the landowners’ principal residence or for providing housing for persons employed in farming the subject land on a seasonal or full-time basis;
      ii. No other residential structure has been constructed on the eased land at any time since the delivery of the Agricultural Conservation Deed of Easement;
      iii. The residential structure and its curtilage occupy no more than two acres of the subject land; and,
      iv. The location of the residential structure and its driveway will not significantly harm the economic viability of the subject land for agricultural production.

   b. If the construction of a residential structure is to be considered a replacement structure, the written request shall specify:

      i. The residential structure to be removed, and
      ii. The replacement residential structure is to be erected within the curtilage of the residential structure it replaces.

   c. If the construction is to be considered a modification of a residential structure, the written request shall specify that the construction will not increase the curtilage of the residential structure being modified.

2. Landowners submit a survey drawing or sketch to scale of the proposed construction containing:

   a. Location of the proposed construction;
   b. Location of existing buildings, sheds, barns, dwellings, and other structures;
   c. Identification of the residential structure to be replaced or modified, if applicable;
   d. Location of the existing curtilage areas;
   e. Location of cropland, pastureland, woodland and other lands;
f. Roads, streets, driveways, utility right-of-way, streams; and,
g. Other information that may be pertinent, as requested by the Board.

3. The County Board will note receipt of the request for the construction or modification of a
residential structure at its next regularly scheduled meeting and shall have 120 days from the note of
receipt to approve or disapprove the request. Failure to approve or disapprove the request within the
specified time will constitute approval of the request.

### Procedures for Reviewing Permitted customary part-time or
Off-season minor or Rural Enterprises

Landowners submit a written request for a customary part-time or off-season minor or rural enterprise to the
County Office for preliminary review. The written request shall describe the rural enterprise and:

1. Specify which section of the rural enterprises permits the activity;
2. Identify the landowners and operator of the rural enterprise;
3. Identify the location of the rural enterprise;
4. Discuss whether it involves the direct sale to the public of agricultural products produced principally
   on the farm;
5. Specify how much total eased land will be involved in acres and by percentage;
6. Describe any excavation, paving, gravelling, or construction of non-agricultural structures;
7. Discuss updates to the conservation plan, if any;
8. Discuss how the farm operation will be impacted by the rural enterprise; and,
9. Specify that land will not be taken out of production for the rural enterprise.

Landowners may submit sketches or other documentation that may be useful for the County Board
to render a decision.

The County Office will review the request and submit it to the County Board. Landowners will be
notified as to when the County Board will consider the request and are encouraged to attend the meeting to
present the request and answer questions.
The County Board has the primary responsibility for inspecting the land under easement and enforcing an easement. The State Board will also have the right to inspect eased land and enforce an easement on its own behalf or in conjunction with the County Board.

Procedures for Inspections and Reporting
(In accordance with 7 PA Code Chapter 138e.202 and Chapter 138e.203)

1. The County Board shall inspect all eased land within the County on at least a biennial basis to determine compliance with the applicable deed of easement.

2. Written notice of an inspection to be conducted shall be mailed to the landowners at least 10 days prior to the inspection.

3. The inspection shall be conducted on a date and time agreeable to the County Board and the landowners.

4. Within 10 days of conducting an inspection, the County Board shall prepare a written inspection report setting forth the following information:
   a. The identification of the land inspected;
   b. The name of the landowners of the farmland at the time the easement was acquired and the name of the current landowner;
   c. A description of modifications in the number, type, location or use of any structures on the land since the date of the filing of the deed of easement;
   d. A description of deviations from the conservation plan observed on the eased land; and
   e. A statement of whether the provisions of the deed of easement are being observed.

5. A copy of the inspection report shall be mailed to the landowners. In the event of a violation, the inspection report will be mailed by certified mail.

6. The County Board and the State Board may inspect the eased 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.

7. As required by the State Board, the County Board shall review and file with the State Board a copy of reports for inspections conducted during the prior year, and compile an annual report that summarizes the number of inspections, violations detected, violations resolved and the circumstances surrounding any unresolved violations.

Enforcement Responsibility (In accordance with 7 PA Code Chapter 138e.204)

The County Board shall enforce the terms of every easement purchased within the County under Act 43, whether it is a County, State or joint purchase. 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 County Board or by the State Board acting on its own behalf.

If a violation of the terms of the deed of easement is discovered, an injunction may be obtained against the violation from a court along with an order requiring the landowners to restore the land under easement to the condition it was in prior to the violation, and recover any costs or
### Notification to Landowners of Violation *(In accordance with 7 PA Code Chapter 138e.205)*

Within 10 days of the discovery of a violation of the terms of an easement, either through an inspection or otherwise, the County Board shall send written notice of the violation to the landowners of the eased land, the County governing body and the State Board. The written notice required by this section shall be sent by certified mail and shall include the following information:

1. A copy of the inspection report;
2. A copy of the deed of easement;
3. A description of the action or condition that constitutes the alleged violation; and,
4. A statement of measures necessary to correct the alleged violation.

### Enforcement Actions for Violations *(In accordance with 7 PA Code Chapter 138e.206)*

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

   a. Determines with the State Board that the violation has been corrected; or,
   b. Completes the following requirements:

      i. Determines that the landowners of the eased land has commenced the necessary corrective measures, or determines that the necessary corrective measures cannot reasonably be completed within the 60-day period.
      ii. Establishes a period not to exceed 1 year within which the corrective measures shall be completed.

2. The County shall commence and prosecute the enforcement action if the violation is not corrected within the time established.

3. The landowners of the eased land shall bear all costs associated with the correction of a violation of the easement, including:

   a. Costs of work required and materials used to correct the violation.
   b. Administrative costs incurred by the County Board and the State Board.
   c. Court costs and reasonable attorneys’ fees incurred by the County Board and the State Board in enforcing the easement.

4. If the County fails to institute and prosecute a timely enforcement action, the State Board may institute the action and recover the costs incurred, including reasonable attorneys’ fees, from the County or the landowners of the eased land, or both.
Local Government Participation

Any local government unit that has created an Agricultural Security Area may participate along with Berks County and the Commonwealth in the preservation of farmland through the purchase of agricultural conservation easements.

1. The local government unit, in conjunction with the County Board, may participate with the State Board in the purchase of agricultural conservation easements.
2. The local government unit shall recommend to the County Board the purchase of agricultural conservation easements by Berks County and the local government unit as joint ownership.
3. The local government unit shall recommend to the County Board the purchase of agricultural conservation easements by the local government unit and the Commonwealth as joint ownership.
4. The local government unit may purchase an agricultural conservation easement, provided that all of the following apply:
   a. The agricultural conservation easement is located within an Agricultural Security Area of at least 500 acres or the easement purchased is a joint purchase with either Berks County or both Berks County and the Commonwealth pursuant to the criteria set forth for the purchase of agricultural conservation easements cross local government unit boundaries and cross county boundaries including any portion of an agricultural conservation easement extending into an adjoining county.
   b. The deed of agricultural conservation easement is at least as restrictive as the deed of agricultural conservation easement prescribed by the State Board for agricultural conservation easements purchased by the Commonwealth.
   c. The local government unit shall participate with the County Board in complying with paragraph (5) for recording any agricultural conservation easement purchased by the local government unit.

5. The County Board shall be responsible to record agricultural conservation easements where a local government unit is a party to the purchase of the easement. The easement shall be recorded by the County Board in the office of the Berks County Recorder of Deeds wherein the agricultural conservation easements are located. The County Board shall submit to the State Board a certified copy of the agricultural conservation easements within 30 days after recording. The County Board shall attach to all certified copies of the agricultural conservation easements submitted to the State Board a description of the farmland subject to the agricultural conservation easements.

Please Note: The local government unit may incur debt pursuant to 53 PA C.S. Pt. VII Supbt. B (relating to indebtedness and borrowing) for the purchase of agricultural conservation easements.
Donation of an Agricultural Conservation Easement

Landowners may donate an agricultural conservation easement on their farm, or a portion thereof, to the County of Berks in conjunction with the Commonwealth, an eligible nonprofit entity, or a local government unit, or any combination of these. If a portion is donated, it may be done so in conjunction with the balance of the land applying to the Berks County Agricultural Conservation Easement (ACE Program).

The donation of an agricultural conservation easement may be acquired if all the following apply:

1. The land is used for agricultural production;
2. The term of the agricultural conservation easement is perpetual;
3. The County Board provides for the acquisition by donation of an agricultural conservation easement;
4. The agricultural conservation easement is being acquired by donation by the County Board in conjunction with the Commonwealth, an eligible nonprofit entity, or a local government unit, or any combination of these;
5. Instruments and documents for the acquisition by donation of an agricultural conservation easement are approved by the State Board or the County Board, as the case may be, prior to execution and delivery. Proper releases from mortgage holders and lienholders must be obtained and executed to insure that all agricultural conservation easements are acquired by donation free and clear of all encumbrances;
6. The agricultural conservation easement has title insurance;
7. The deed of agricultural conservation easement is as prescribed by the State Board for agricultural conservation easements purchased by the Commonwealth;
8. The County Board records an agricultural conservation easement acquired by donation by the County in the office of the recorder of deeds of the county wherein the agricultural conservation easement is located and submits to the State Board a certified copy of the agricultural conservation easement within 30 days after recording; and,
9. If the land does not meet the minimum criteria established by the State Board for purchase of an agricultural conservation easement, the land shall be contiguous to property which is subject to an agricultural conservation easement.

The costs associated with the donation such as survey work, title insurance, and recording fees may be paid for by the County of Berks, if it is found that the donation is consistent with the goals of the
The Land Trust Reimbursement Program allows nonprofit entities to be reimbursed up to $5,000 in incidentals expenses per agricultural conservation easement acquisition.

Eligibility
A land trust shall be an eligible nonprofit entity and shall:
1. Register with the State Agricultural Land Preservation Board (State Board);
2. Coordinate agricultural conservation easement purchase activities with Berks County Agricultural Land Preservation Board (County Board); and
3. Submit an application to the State Board, with the statement of costs incidental to the acquisition, the deed of agricultural conservation easement, and any other documentation required by the State Board, within 60 days of closing the easement.

Registration of a nonprofit entity with the State Agricultural Land Preservation Board
1. Send a letter of request to the Bureau of Farmland Preservation stating the organization’s desire to register with the State Board for the purpose of receiving reimbursement of grants under the Land Trust Reimbursement Program.
2. The letter is to be signed by the president or other appropriate officer of the land trust.
3. Enclose a copy of the land trust’s Section 501(c)(3) tax-exempt certification as issued by the Internal Revenue Service and any other documentation necessary to demonstrate that the land trust has the acquisition of agricultural conservation easements or other conservation easements as part of its state purposes.
4. Include a letter from the Director or Chairperson of the County Board indicating that the land trust coordinates its farmland preservation activities with those of the County Board.

Eligible expenses for reimbursement include:
1. Appraisals;
2. Legal services;
3. Title searches;
4. Document preparation;
5. Title insurance;
6. Closing fees; and,
7. Survey costs.

Limitations
1. Reimbursement shall be limited to $5,000 per agricultural conservation easement.
EXHIBIT A

BERKS COUNTY AGRICULTURAL LAND PRESERVATION BOARD BY-LAWS

ARTICLE I: Name

The name of this non-profit organization shall be called the Berks County Agricultural Land Preservation Board. For the purposes of these bylaws, it will be referred to as the “County Board.”

ARTICLE II: Purpose

The County Board was established to administer the Agricultural Conservation Easement (ACE) Program for Berks County as set forth in the Agricultural Area Security Law (3 P.S. §§ 901-915) as amended, and any other public program approved by the Berks County governing body for the purpose of preserving agricultural land.

ARTICLE III: Membership

Size of Membership: The County Board shall be comprised of nine members appointed by the Berks County Board of Commissioners, of which, no less than four members shall serve initial terms of one year.

Representation: The County Board shall be appointed by the Board of County Commissioners as follows:

1. Four members shall be active resident farmers of Berks County and shall serve initial terms of three years;
2. One member shall be a current member of the governing body of a township or borough located within Berks County and shall serve an initial two year term;
3. One member shall be a commercial, industrial, or residential contractor and shall serve an initial one year term;
4. Three members shall be selected at the pleasure of the Berks County governing body and shall serve initial terms of year; and,
5. The Board may include appropriate non-voting ex officio members who have expertise in appropriate areas.

Terms of Office: Upon expiration of the initial terms set forth above, all terms of members shall be three years.

Vacancies: Appointments to fill vacancies on the County Board shall be made by the Berks County Board of Commissioners for the balance of the term vacated.

ARTICLE IV: Membership Reappointments and Nominations

Reappointments: In early September, the County Board will send a letter to the Berks County Board of Commissioners (Commissioners) informing them which sitting Board Members terms will expire and if the member is interested in serving another term. The Board requests that the Commissioners notify the Board prior to the September Board meeting if they would require additional names submitted for their consideration. A copy of this procedure would accompany the letter to the Commissioners.

Nominations:

1. This is to establish, by rule, a procedure for the Board to select future Board members through a nomination process. The selected nominees will be presented to the Commissioners for final selection.
2. In September of each year, the County Board Chair will request that County Board members nominate persons interested in serving on the Board. All nominees must meet the qualifications of the statutory mandated composition of the County Board. The Chair may nominate a candidate if there are no nomination from any of the other County Board members.

3. The staff of the County Board will contact all nominees to inquire if they are interested in serving on the County Board.

4. All nominations must be received in the County Office two weeks prior to the October County Board meeting. Nominees include those persons nominated at the September County Board meeting and those persons that have expressed an interest in serving as a County Board member to the County Board staff. Nominees interested in serving on the County Board are required to submit a resume and a cover letter to the Chair stating their interest, intent, and qualifications to serve on the County Board. Their submissions must be received in the County Board’s office by twelve o’clock noon one week prior to the October County Board meeting in order to be included with the County Board meeting notices.

5. All nominees are encouraged to appear before the County Board at the October meeting at which time they will have the opportunity to address the County Board and respond to questions.

6. The County Board will make its final selections at its November County Board meeting. Nominees are invited to attend this meeting.

7. The Board will submit the relevant resumes and cover letters to the Commissioners for the final selection. The Commissioners selection need not be restricted to the list submitted by the County Board.

8. Prior to the January County Board meeting, the newly appointed Board members will attend a brief County Board member orientation provided by the County Board’s staff.

**ARTICLE V: Officers**

The following officers shall govern the County Board:

1. **Chair:** The member of the County Board who serves as Chair will be selected annually by the Chair of the Board of Berks County Commissioners and shall preside at all meetings of the Berks County Agricultural Land Preservation Board, call special meetings, establish committees, appoint committee chairs, and delegate other tasks and assignments as may be appropriate.

2. **Vice-Chair:** The member of the County Board who serves as Vice-chair will be selected annually by the vote of the County Board and shall preside at all meetings of the Berks County Agricultural Land Preservation Board in the absence of the Chair.

3. **Secretary:** The staff person for the County Board may serve as Secretary and will have no vote. The Secretary shall be responsible for seeing that all meetings are recorded.

**ARTICLE VI: Election of Officers**

**Terms of office:** Install a limit of four (4) consecutive years in which a member of the Board can serve as Chairman or Vice Chairman beginning with the 2013 Chair appointment by the Chair of the County Commissioners and the election of the 2013 Vice Chairman by the Board.

**Date of Election:** Annually, the Chairperson of the Board of County Commissioners shall designate one member of the Board to act as Chairperson of the Board.

**Nomination of Officers:** All officers, except Chairperson, shall be nominated by members of the County Board and shall be themselves members of the County Board. A nominated candidate must be present at the meeting and may decline nomination.
ARTICLE VII: Meetings

Meetings shall be in compliance with the provisions of the Sunshine Act (65 P.S. §§ 271-286).

1. Regular Meetings – The County Board will meet at least six times annually. Regular meetings are typically held the last Wednesday of each month. A schedule may be obtained at the Berks County Agricultural Land Preservation Office. The first meeting of the calendar year will be a reorganization meeting.

2. Special Meetings – The County Board may meet at any day, time, or place in a special meeting to carry out important business. The meeting may be called by the Chairperson, or by a petition to the Secretary from a quorum of Board members.

Business to be on a County Board meeting agenda must be submitted as follows:

1. Matters requiring legal review must be submitted by 12:00 noon three (3) weeks prior to a regular County Board meeting. If legal council will attend the regular County Board meeting to discuss the matter, the landowners’ attorney must also submit a legal argument by the deadline.

2. Non-legal matters must be submitted by 12:00 noon two weeks prior to the regular County Board meeting unless an exception is approved by the Executive Director or County Board officer.

ARTICLE VIII: Quorum

All meetings shall require a quorum of at least five members of the County Board to conduct business.

ARTICLE IX: Voting

Each member of the County Board will be allowed to cast one vote. A simple majority vote of members present (provided the quorum rule is met) is needed to pass all resolutions and to transact all other items of business requiring a vote, except to amend these bylaws (see ARTICLE IX).

ARTICLE X: Amendments

These bylaws can be amended only by a simple majority vote of all members of the County Board. The Secretary shall provide written notification of all proposed bylaw changes to all County Board members at least fifteen days prior to a vote at a regular or special meeting.

ARTICLE XI: Board Member Responsibilities

Finance: All monies received via County or State funds shall be used for the purpose of protecting viable agricultural farmland in Berks County.

1. No member of the County Board shall be liable for the debts of the County Board.

2. No net income of the County Board shall accrue to the benefit of any member with the exception of purchasing conservation easements consistent with the Agricultural Area Security Law (3 P.S. §§ 901-915), as amended.

3. County Board members who have a personal interest or private interest in any measure proposed or pending before the County Board shall disclose the fact to the County Board and shall not vote thereon.
Participation: The County Board members shall be able to participate in the Berks County ACE Program provided they comply with the Act of October 4, 1978 (P.L. 833, No. 170), known as the Public Official and Employees Ethics Law.

Code of Conduct:

1. Privacy of Landowner information and Communications. The County Board will provide information to authorized landowners and respect their privacy in regard to their applications.

2. Integrity of Records. The County Board will protect, to the best of its ability, the information provided with regard to landowners applying to the ACE Program, including their financial information. However, the County Board recognizes that the PA State Agricultural Land Preservation Board will advertise information regarding a selected farm upon its approval.

3. Conflicts of Interest. The County Board will inform each member that his or her personal interests shall not conflict with the policies and practices of the County Board. The County Board will inform each member that any endorsements, testimonials, or statements made by a County Board member will be communicated as a reflection of the County Board member’s personal opinion and not the opinion of the County Board. If a County Board member has a conflict of interest he or she will identify the conflict of interest in writing to the County Board. The County Board will request that any member recuse himself or herself from voting on any matter in which the County Board member is personally involved.

4. Business Partnerships. The County Board agrees to conduct the business of accepting and selecting applications to the Berks County Agricultural Conservation Easement (ACE) Program on an impartial basis and with the best interests of the program. The County Board will treat all landowners applying to the ACE Program with fairness and will not discriminate on the basis of the personal opinion of a County Board Member.

5. Complaints. If a complaint is received regarding the conduct of any County Board member as to the above guidelines, the Chairman of the County Board and the Executive Director will investigate the complaint. The information derived from this investigation will be shared with the County Commissioners. It will be the sole responsibility of the County Commissioners to act upon such information and take whatever action they deem appropriate.
EXHIBIT B

DEFINITIONS

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

1. **Act, the** - The Agricultural Area Security Law (3 P.S. Section 901-915), as amended.

2. **Agricultural conservation 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 landowners 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. It shall meet the minimum criteria, as set forth in Section VII of the Berks County Agricultural Conservation Easement Program Guidelines. 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 act of October 18, 1988 (P.L. 756, No. 108), known as the “Hazardous Sites Cleanup Act.”

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

4. **Agricultural products** – Any animal product produced or plant product cultivated and other life forms produced for food, fiber, biofuel, medicinals and other products used to sustain and enhance human life. These agricultural products can be broadly grouped into foods, fibers, fuels, and raw materials.

5. **Agricultural Security Area (ASA)** – A unit of 250 or more acres of land used for the agricultural production of crops, livestock and livestock products under the ownership of one or more persons and designated as such by the procedures set forth in Act 43. Benefits of land being enrolled in an ASA include:
   a. A local government unit may not impose ordinances that unreasonably restrict farm structures or practices within the Area, nor may normal farming operations and practices be deemed “nuisances” in a nuisance ordinance. State government agencies must modify their administrative regulations and procedures to encourage viable farming in Agricultural Security Areas.
   b. Land condemnations within an ASA, proposed by either the Commonwealth or local agencies (such as municipal authorities, school boards, and governing bodies), must be reviewed and approved before land may be condemned.
   c. Land must be enrolled in an ASA of 500 acres or more to be eligible for participation in the Berks County Agricultural Conservation Easement.

6. **Annex/Annexation** - To append or attach one tract of land to another.

7. **Contiguous acreage** - All portions of one operational unit as described in a 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, purparts or other property identifiers. The term includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds, and streams.
8. **County Board** - The Berks County Agricultural Land Preservation Board, its officers or others authorized to act on behalf of the Board.

9. **Curtilage** - The area surrounding a residential structure used for a yard, driveway, onlot sewage system, or other nonagricultural purposes.

10. **Deed of Merger** - A deed which, when recorded, accomplishes an annexation and which shall contain a condition and restriction in substantially the following form:

    “UNDER AND SUBJECT nevertheless, to the express condition and restriction that Parcels A and B described hereinafore are hereby annexed, one to the other, and shall not hereafter be separately conveyed and shall not hereafter be considered separate building lots. The Grantees for themselves, their heirs and assigns, by acceptance of this indenture, agree that the said condition and restriction shall be a covenant running with the land.”

11. **Eased** - Protected against uses other than agriculture through the purchase of an agricultural conservation easement.

12. **Economic Viability of Farmland for Agricultural Production** - The capability of a particular tract of eased land, other than a tract of two acres or less upon which construction and use of the landowners’ principal residence or housing for a seasonal or full-time employee(s) is permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3 P.S. Section 914.1(c)(6)(iv), to meet all of the criteria set forth at Section 5.4 (relating to minimum criteria for applications).

13. **Eligible Nonprofit Entity** - An entity that provides the State Board or Berks County 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)); and
    
    b. That the entity has experience acquiring, whether through purchase, donation or other transfer, and agricultural or other conservation easement.

14. **Energy Rural Enterprise** - The production of energy from renewable sources, such as, but not limited to, wind, solar, hydroelectric, methane, wood, geothermal, alcohol fuel and fossil fuel systems, structures and facilities for the storage and treatment of animal wastes and equipment, and structures associated with the production of energy.

15. **Goods, Arts and Crafts** – Materials, products, objects and articles made with the hands exhibiting skill and craftsmanship. These items may be available on a preserved farm for purchase by a consumer and could include, but are not limited to quilting; products from the culinary arts, such as baking, chocolatiering, and winemaking; products from the media arts, such as photography and film; and products from the visual arts, including drawing, painting, and sculpting with the use of wood, clay, ceramics, glass, textiles, stone, and metal.

16. **Harm the Economic Viability of the Farmland for Agricultural Production** - To cause a particular tract of eased land to fail to meet the criteria set forth at Section 5.4a (relating to minimum criteria for applications) of this chapter, or to create, through subdivision, a tract of eased land, other than a tract of two acres or less upon which construction and use of the landowners’ principal residence or housing for seasonal or full-time employees is permitted pursuant to Section 14.1(c)(6)(iv), of the Act (3 P.S. Section 914.1(c)(6)(i), what would fail to meet the aforesaid described criteria.
17. **Home Occupation** - A home occupation is an occupation conducted as an accessory use in or from a residential dwelling or its accessory building by persons whose principal residence is on the preserved farm and which has no more effect on an adjacent property than normal residential use. Examples include: Hair salon, Financial Consultant, etc.

18. **Land development** - Either of the following activities:
   
a. The improvement of one lot, or two or more contiguous lots, tracts or parcels of land for any purpose involving a group of two or more residential buildings, whether proposed initially or cumulatively; or
   b. A subdivision of land.

19. **Land which has been devoted primarily to agricultural use** - That area which has been devoted primarily to agricultural use such as harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land containing non-residential structures used for agricultural production or other acreage immediately available for agricultural production, and which excludes any acreage upon which immediate agricultural production is impractical due to residential structures and their curtilages, wetlands, soil quality, topography or other natural or man-made features, and which further excludes any tract of two acres or less designated as the site upon which the landowners’ principal residence or housing for seasonal or full-time employees is permitted pursuant to Section 14.1 (c)(6)(iv) of the Act (3 P.S. Section 914.1 (c)(6)(iv).

20. **Local government unit** – Any city, borough, township or town or any home rule municipality, optional plan municipality, optional charter municipality or similar purpose unit of government, which may be created or authorized by statue.

21. **Main Parcel** - Parent tract from which the parcel for annexation is taken.

22. **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 either the Commonwealth or a local government unit, or both, shall be eligible to purchase agricultural conservation easements covering the entire tract.

23. **Parcel for Annexation** - The tract of land of at least 10 acres to be attached to the Receiving Parcel.


25. **Receiving Parcel** - A tract of land subject to an agricultural conservation easement to which the parcel for annexation shall be annexed.

26. **Residue Parcel** - The tract of land of at least 52 acres remaining after the annexation.

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

28. **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.

29. **Tract** - A tract shall be considered to be that area of land offered by the landowners for agricultural conservation easement purchase, which meets or exceeds the minimum criteria. The tract may consist of multiple tax parcel identification numbers and/or deeds.

30. **Utility** - Any surface, subsurface or aerial transmission medium for electricity, oil, gas, water, sewage, telecommunications.
# Application to the Berks County Agricultural Conservation Easement (ACE) Program

## Landowner Information:

<table>
<thead>
<tr>
<th>Name(S):</th>
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<table>
<thead>
<tr>
<th>Address:</th>
<th></th>
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<table>
<thead>
<tr>
<th>Telephone:</th>
<th></th>
<th>Email:</th>
</tr>
</thead>
</table>

Optional Alternate Contact (If different from landowner, i.e. Relative, Farm Operator, Power of Attorney, etc.):

<table>
<thead>
<tr>
<th>Name</th>
<th>Street</th>
<th>City</th>
<th>State</th>
<th>Zip Code</th>
<th>Phone</th>
</tr>
</thead>
</table>

Relationship: 

I/we grant permission to contact this individual, concerning the application of my/our farm to the ACE Program.

## Farm Identification Information:

<table>
<thead>
<tr>
<th>Township(s):</th>
<th>County(s):</th>
<th></th>
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</table>

<table>
<thead>
<tr>
<th>Farm Address:</th>
<th></th>
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<table>
<thead>
<tr>
<th>Directions from nearest State Route:</th>
<th></th>
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<table>
<thead>
<tr>
<th>Tax Parcel Identification Number(s) (PIN(s)):</th>
<th></th>
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<table>
<thead>
<tr>
<th>Deed Reference(s):</th>
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List existing Deed Restrictions:

(Deed restrictions would include, but are not limited to: Restrictions that would limit non-agricultural or agricultural uses; cellular towers; others interest in the land, such as water rights, sewage easements, right of ways, etc.)

List Businesses, Buildings or Activities on the Farm that are Not Related to Agriculture:

<table>
<thead>
<tr>
<th>Is the farm enrolled in an Agricultural Security Area?</th>
<th>Yes ( ) No ( )</th>
</tr>
</thead>
</table>

If no, have you applied to be in an Agricultural Security Area? 

---

Berks County Agricultural Center  
1238 County Welfare Road, Suite #260  
Leesport, PA 19533 - 9199  
(610) 378-1844  Fax (610) 378-7983  
www.countyofberks.com/alp
CROPS GROWN ON FARMLAND TRACT: ____________________________________________

NUMBER & KINDS OF LIVESTOCK: _____________________________________________

IS THERE A CONSERVATION PLAN FOR THE FARM?  YES ( ) NO ( )

IF YES, UNDER WHAT NAME? ___________________________________________________

IS THERE A NUTRIENT MANAGEMENT PLAN FOR THE FARM?  YES ( ) NO ( )

IF YES, UNDER WHAT NAME? ___________________________________________________

FARM ACREAGE: ___ = ___

TOTAL ACREAGE OF THE FARM MINUS EXCLUDED ACREAGE EQUALS TOTAL ACREAGE OFFERED

PLEASE PROVIDE THE ACREAGE FOR THE FOLLOWING LAND USES:

<table>
<thead>
<tr>
<th>CROPLAND:</th>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>FARM ACRES:</td>
<td>EXCLUSION:</td>
<td>ACRES OFFERED:</td>
<td></td>
</tr>
<tr>
<td>___________</td>
<td>___________</td>
<td>___________</td>
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<thead>
<tr>
<th>PASTURE:</th>
<th></th>
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<tbody>
<tr>
<td>FARM ACRES:</td>
<td>EXCLUSION:</td>
<td>ACRES OFFERED:</td>
<td></td>
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<tr>
<td>___________</td>
<td>___________</td>
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<table>
<thead>
<tr>
<th>WOODLAND:</th>
<th></th>
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<tbody>
<tr>
<td>FARM ACRES:</td>
<td>EXCLUSION:</td>
<td>ACRES OFFERED:</td>
<td></td>
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<tr>
<td>___________</td>
<td>___________</td>
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<tr>
<th>BUILDINGS AND ROADS:</th>
<th></th>
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<tbody>
<tr>
<td>(i.e.: House, barn, yard, etc.)</td>
<td>FARM ACRES:</td>
<td>EXCLUSION:</td>
<td>ACRES OFFERED:</td>
</tr>
<tr>
<td>___________</td>
<td>___________</td>
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<tr>
<th>OTHER:</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>(Cemeteries, cell towers, quarries, etc.)</td>
<td>FARM ACRES:</td>
<td>EXCLUSION:</td>
<td>ACRES OFFERED:</td>
</tr>
<tr>
<td>OR</td>
<td>___________</td>
<td>___________</td>
<td>___________</td>
</tr>
<tr>
<td>CREP, CRP, WRP, GRP, WHIP</td>
<td>FARM ACRES:</td>
<td>EXCLUSION:</td>
<td>ACRES OFFERED:</td>
</tr>
<tr>
<td>___________</td>
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<tr>
<th>TOTAL ACRES:</th>
<th></th>
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<tbody>
<tr>
<td>(Must match acres offered in application.)</td>
<td>FARM ACRES:</td>
<td>EXCLUSION:</td>
<td>ACRES OFFERED:</td>
</tr>
<tr>
<td>___________</td>
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LANDOWNER SIGNATURES: (ALL LANDOWNERS’ SIGNATURES ARE REQUIRED)

If selected, you are advised to meet with your attorney and accountant as you proceed through the Berks County ACE Program, as this is a legal and financial process.

<table>
<thead>
<tr>
<th>NAME</th>
<th>DATE</th>
<th>NAME</th>
<th>DATE</th>
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<table>
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<tr>
<th>FOR OFFICE USE ONLY</th>
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</thead>
<tbody>
<tr>
<td>PIN(s):</td>
</tr>
<tr>
<td>APP. ACREAGE:</td>
</tr>
<tr>
<td>ASA:</td>
</tr>
<tr>
<td>FUT./DES.:</td>
</tr>
<tr>
<td>COMP PLAN:</td>
</tr>
</tbody>
</table>
EXAMPLE ON A 100 ACRE FARM

County Board’s Appraisal values:
Market Value $9,500 per acre $950,000
Farmland Value $7,400 per acre $740,000
Easement Value $2,100 per acre $210,000

Landowners’ Appraisal Values:
Market Value $9,900 per acre $990,000
Farmland Value $7,200 per acre $720,000
Easement Value $2,700 per acre $270,000

THE FARMLAND VALUE SHALL EQUAL THE SUM OF

1. The farmland value determined by the landowners’ appraiser = $7,200 per acre or $720,000

2. One-half the difference between the farmland value determined by the County Board’s appraiser and the farmland value determined by the landowners’ appraiser, if the farmland value determined by the Board’s appraiser exceeds the farmland value determined by the landowners’ appraiser.

   $7,400 per acre or $740,000 = Farmland value by the County Board’s appraiser
   Less $7,200 per acre or $720,000 = Farmland value by the landowners’ appraiser
   $200 per acre or $20,000 divided by 2 = $100 per acre or $10,000

   $7,200 per acre or $720,000 + $100 per acre or $10,000

   Re-Calculation of farmland value: $7,300 per acre or $730,000

THE MARKET VALUE SHALL EQUAL THE SUM OF

1. The market value determined by the County Board’s appraiser = $9,500 per acre or $950,000

2. One-half of the difference between the market value determined by the landowners’ appraiser and the market value determined by the County Board’s appraiser, if the market value determined by the landowners’ appraiser exceeds the market value determined by the County Board’s appraiser.

   $9,900 per acre or $990,000 = Market value by the landowners’ appraiser
   Less $9,500 per acre or $950,000 = Market value by the County Board’s appraiser
   $400 per acre or $40,000 divided by 2 = $200 per acre or $20,000

   $9,500 per acre or $890,000 + $200 per acre or $20,000

   Re-Calculation of market value: $9,700 per acre or $970,000

CALCULATION OF REVISED EASEMENT VALUE

Revised market value = $9,700 per acre or $950,000
Revised Agricultural value = $7,300 per acre or $740,000
Revised easement value = $2,400 per acre or $240,000
Notice to Be Heard Memorandum

TO: All Adjoining Landowners
FROM: Tami S. Hildebrand, Director
DATE: 
RE: Agricultural Conservation Easement

The Berks County Agricultural Land Preservation Board is pleased to announce that the farm listed below, which adjoins your property, is being considered for the purchase of an agricultural conservation easement. If an easement is purchased, the farm can never be developed or used for any purpose, other than agriculture. The easement severely restricts subdivision and allows only one additional residential structure for the landowners or employee of the farm. The landowners will also be required to maintain sound farming practices in accordance with a prescribed conservation plan. All preserved farms are inspected annually to ensure that the restrictions of the easement are being followed. By Pennsylvania State law, you, as a neighbor, must be notified and be given the right to be heard on one or more of the five criteria listed below. Please contact the Berks County Agricultural Land Preservation Office at (610) 378-1844 with any questions or concerns. If you want more information about the program, please visit our website at www.countyofberks.com/alp.

This announcement will hereby serve to notify the citizens of “Name of Township(s)”, Berks County, that the Berks County Agricultural Land Preservation Board has received and reviewed an application for an agricultural conservation easement purchase for the farm owned by “Landowner Name(s)” located on “Street address” consisting of “Acreage” and will be recommending that the State Agricultural Land Preservation Board approve the easement sale.

An “agricultural conservation easement” would prevent the farmland in question from being developed or improved for any purpose other than agricultural production. The complete definition and explanation of agricultural conservation easement is found at Section 2 of the “Agricultural Area Security Law” (3 P.S. § 901-914.2)

A Commonwealth Court decision requires that the State Board give you (as an landowners of land adjoining a proposed agricultural conservation easement purchase) NOTICE AND OPPORTUNITY TO BE HEARD on the question of whether the State Board should approve this purchase.

The State Board’s authority to review this agricultural conservation easement purchase recommendation, and your authority to challenge this recommendation, is limited. Section 141(e)(1) of the Agricultural Security Law describes the boundaries of this authority.

The State Board may reject the recommendation made by a county for purchase of an agricultural conservation easement whenever:
1. The recommendation does not comply with a county program certified and approved by the State Board for purchasing agricultural conservation easements.

2. Clear title cannot be conveyed.

3. The farmland which would be subject to the agricultural conservation easement is not located within a duly established agricultural security area established or recognized under this act.

4. The allocation of state and county fund established pursuant to subsection (h) is exhausted or is insufficient to pay the purchase price.

5. Compensation is not provided to owners of surface-mineable coal distributed or affected by the creation of such easement.

The State Board shall meet to consider approving the application for purchase of the agricultural conservation easement at issue on “Date” at “Time” in “Room #” of the Pennsylvania Department of Agriculture Building, located at 2301 North Cameron Street in Harrisburg, PA.

YOU HAVE THE RIGHT TO PRESENT RELEVANT EVIDENCE, TO OFFER TESTIMONY OR TO CROSS-EXAMINE WITNESSES AT THIS MEETING. You may be represented by your attorney, if you so choose. Only evidence that is relevant to the five factors listed above may be considered by the State Board.

IF YOU WISH TO PARTICIPATE in this meeting, you must notify Doug Wolfgang, Director, Bureau of Farmland Preservation, 2301 North Cameron Street, Room #402, Harrisburg, PA 17110-9408, by letter postmarked no later then “Date”, of your intention to participate and the specific factors (of the five listed above) which you wish to challenge. Failure to follow this procedure shall result in the State Board denying you the opportunity to be heard.
Conservation Plan Agreement

Landowner Information:

Name(s): __________________________________________________________

Address: _________________________________________________________

Telephone Number: ________________________________________________

Farmland Information:

Street Location: ____________________________________________________

Township: _______________________________ Acreage: ____________________

Deed Recorded at: _________________________________________________

WHEREAS, the deed of agricultural conservation easement requires that all agricultural production on the subject land shall be conducted in accordance with a conservation plan;

WHEREAS, ______________________________________________________ has prepared a conservation plan for the subject land, identified as plan number ______________, dated __________________________, or as amended, located on file in the Berks County Agricultural Land Preservation office, incorporated herein by reference.

AND THEREFORE, the Grantor(s) do hereby agree to comply with the conservation practices and implementation schedule in the conservation plan, and acknowledge that failure to comply would violate the terms of the deed of agricultural conservation easement.

IN WITNESS WHEREOF, the undersigned have agreed to the following:

EXHIBIT F
(I)(We) acknowledge and agree to comply with the conservation practices and implementation schedule as indicated in the conservation plan. If the management or operation of this property changes or when the conservation plan is more than ten years old, I will modify the conservation plan as necessary.

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Date
Agricultural Security Area Program
Act 43 of 1981, as amended

The Agricultural Security Area program began in 1981 as a tool for strengthening and protecting agriculture in Pennsylvania. Landowners, working together, initiate the process of establishing such areas where agriculture is the primary activity. When enrolled, participating farmers are entitled to special consideration from local and state government agencies thus encouraging the continuing use of the land for productive agricultural purposes.

Agricultural Security Areas are intended to promote more permanent and viable farming operations by strengthening the farming community's sense of security in land use and the right to farm. Agricultural Security Areas are created by local municipalities in cooperation with individual landowners who agree to collectively enroll at least 250 acres in an Agricultural Security Area.

Benefits to Landowners Joining an Agricultural Security Area

1. The local governments refrain from enacting ordinances and regulations which restrict farming operations and farm structures within an Agricultural Security Area.
2. When defining a public nuisance, the local government will provide exceptions for normal agricultural activities occurring within an Agricultural Security Area, unless the law protects public health and safety.
3. State agencies or programs, which could negatively affect farmers, shall act in a manner that will encourage the continuation of viable agriculture in the areas.
4. Limitations are placed on the use of land condemnation procedures—eminent domain—by State and local agencies unless approval is obtained from the Agricultural Land Condemnation Approval Board (ALCAB).
5. Landowners have the opportunity to apply to the Agricultural Conservation Easement (ACE) Program once enrolled into an Agricultural Security Area*. The ACE Program can provide financial benefits to those landowners that sell an agricultural conservation easement to Berks County.

* The ACE Program has other criteria that must be met in addition to the ASA enrollment prior to applying.

Who Should Enroll Into an ASA
Landowners whose land meets the following requirements:

- The property must be at least 10 acres in size. It does not have to be adjoining other property enrolled in an Agricultural Security Area.
- The property must be viable agricultural land. Cropland, pasture, and woodland can all be included in an Agricultural Security Area.
- At least 50% of the land should be in soil capability classes I-IV, as defined by the county soil survey. Options exist if this requirement is not met.
- The property must be zoned to permit agricultural uses.
How to Enroll Your Land In an ASA

1. Complete an agricultural security area application form and attach a copy of your tax map. Application forms and tax maps may be obtained by contacting our office, the Berks County Agricultural Land Preservation Board, at (610) 378-1844, by visiting our website at www.countyofberks.com/alp, or at the township where you reside.

2. Mail the application to your township office by certified mail with return receipt, provided your township has an Agricultural Security Area.*

* Please Note: If your land is located in a township without an ASA, please contact our office for additional information and options.

Township Review and Approval

- All townships within Berks County that have an ASA have more than 250 acres enrolled.
- New parcels of farmland may be added to an established ASA at any time. Note: Many townships have specific enrollment periods for ease in processing.
- Townships review enrollment in Agricultural Security Areas every seven years.

Participation in Act 43, the Agricultural Security Area Law, is voluntary.

Both enrollment in an Agricultural Security Area and participation in the Berks County Agricultural Conservation Easement (ACE) Program are voluntary.

Additional Information is Available, including:

ASA Enrollment Form
ASA Township Enrollment Periods
ASA Handbook
ASA Legislation
ASA Seven-Year Review Fact Sheet
Seven-Year Review Process
Information on the ACE Program
Application to the ACE Program

Updated March, 2009