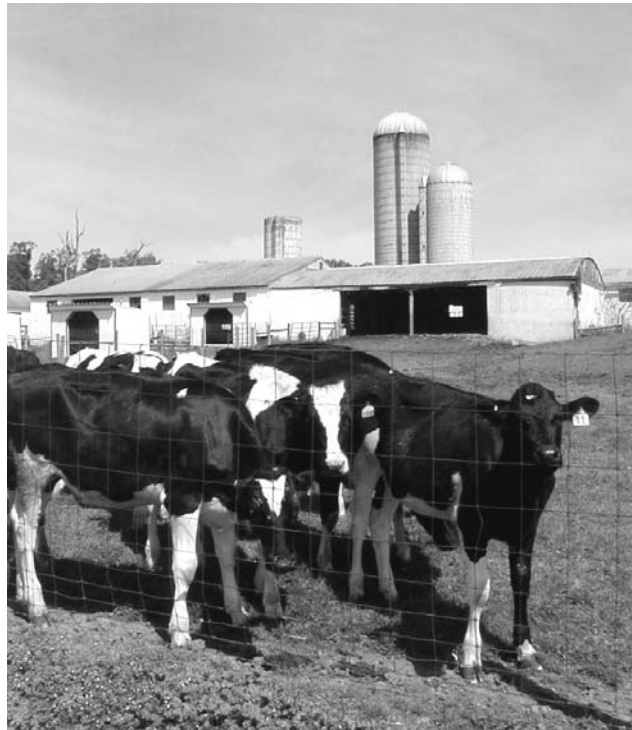


**Commonwealth of Pennsylvania**  
**County of Chester**  
**Agricultural Conservation Easement**  
**Purchase Program**



**Program Guidelines**  
**Application Deadline December 1, 2011**

**Chester County**  
**Commissioners**  
**Terence Farrell**  
**Kathi Cozzone**  
**Ryan Costello**

**Chester County**  
**Agricultural Land**  
**Preservation Board**



# THE COUNTY OF CHESTER

Commissioners:  
D. T. Marrone, Chairman  
Irene B. Brooks  
Patricia M. Baldwin

OFFICE OF THE COMMISSIONERS  
Courthouse, Fifth Floor, North Wing  
West Chester, PA 19380  
(215) 344-6100



## CHESTER COUNTY AGRICULTURAL CONSERVATION EASEMENT PROGRAM

Resolution No. 34 of 1989

WHEREAS, the County of Chester is an agricultural leader in the Commonwealth and is the eighth most productive farm county east of the Mississippi River; and

WHEREAS, our 1,600 farms produced nearly \$290 million in agricultural products in 1987, making agriculture a leading industry in Chester County; and

WHEREAS, Chester County is currently losing over 100 acres of productive farmland each week; and

WHEREAS, the Board of Commissioners has determined that Chester County should participate in the Commonwealth's Agricultural Conservation Easement Program as one means to slow the unacceptably high level of farmland loss; and

WHEREAS, a requirement of Pennsylvania Act 43, P.L. 128, No. 43, the Agricultural Area Security Law, as amended December 14, 1988, P.L. 1202, No. 149, is that counties must appoint a County Agricultural Land Preservation Board to administer the County Farmland Protection Program;

Now, THEREFORE, it is resolved that the Agricultural Land Preservation Board is hereby appointed to administer the Agricultural Conservation Easement Program for Chester County.

Molly K. Morrison  
Molly K. Morrison  
Chief Clerk

D.T. Marrone  
D.T. Marrone, Chairman  
Board of County Commissioners

July 11, 1989  
Date

Irene B. Brooks  
Irene B. Brooks  
Commissioner

Patricia M. Baldwin  
Patricia M. Baldwin  
Commissioner

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## **PROGRAM OVERVIEW**

### **Welcome**

The Chester County Board of Commissioners and the Chester County Agricultural Land Preservation Board wish to take this opportunity to thank you for your interest in the Commonwealth of Pennsylvania and County of Chester Agricultural Conservation Easement Program. This manual is an effort to provide you with information pertinent to the agricultural conservation easement efforts in Chester County and the specific details of this program (including application forms). If we can be of any further assistance, please contact the Chester County Agricultural Land Preservation Board staff at the County's Department of Open Space Preservation, 601 Westtown Road, Suite 390, P.O. Box 2747, West Chester, PA 19380-0990, phone 610-344-5656 and/or visit our website at [www.chesco.org/agriculture](http://www.chesco.org/agriculture).

### **Background and Statistics**

Chester County remains an agricultural leader in Pennsylvania and the eastern half of the United States. Chester County is the second leading farm county for total value of agricultural products sold in the Commonwealth and the 47th most agriculturally active county out of the 3,141 counties in the United States.

Over the past 25 years, much of Chester County's productive farmland has been converted to other uses. In 1982, Chester County's 486,182 acres contained approximately 220,000 acres of farmland. By 1997, only 175,363 acres remained in farming. This reduction in farmland from 45% of the County land in 1982 to 34.8% by 2002 equates to a loss of over 8 acres per day during this period.

The Chester County Agricultural Land Preservation Board, through the authorization of the Chester County Board of Commissioners, implements two agricultural conservation easement programs on behalf of the Commissioners of Chester County. The first program, known as the Commonwealth/County Program, is administered under the authorization of and pursuant to Pennsylvania Act 43, P.L.128, No. 43, the Agricultural Area Security Law, as amended. This program enables state, county, and municipal governments, with non-profit entities, to purchase agricultural conservation easements, also known as "development rights", from farmland owners. The goal of the program is to permanently preserve high-quality farmland for agricultural production or of viable agricultural land used for commercial equine activity. Other than selling the development rights, the landowner retains all other rights and responsibilities of private land ownership. The farm may be resold and/or subdivided per program regulations. The Commonwealth/County Program was approved in 1988, and currently Pennsylvania leads the nation in farmland acres preserved. The Commonwealth/County Program is fully described in this manual.

In 2001, the Board of County Commissioners created and funded a second agricultural preservation program designed to complement the County's existing preservation efforts. This program provides a unique opportunity for partnerships between the landowner, the County, and other public and private entities. Municipalities, businesses, non-profit organizations, private foundations and contributors can be the source of the matching funds and landowners may offer bargain sales. The Challenge Grant program is detailed in a separate manual that may be obtained by contacting the Chester County Agricultural Land Preservation Board or visiting [www.chesco.org/openspace](http://www.chesco.org/openspace) then clicking on "Grant Manuals and Applications" in the left hand navigation bar area.

Preserving agriculture (including commercial equine activity) as a major component of Chester County's economy and lifestyle is a priority of the Chester County Board of Commissioners. Much work has taken place in the past several years in assisting landowners and municipal officials with PA Act 43 - The Agricultural Security Area Law. As of December 2010, 43 townships have adopted agricultural security areas with over 124,000 acres enrolled. The Board of Commissioners reaffirmed its commitment to farmland retention with the adoption, in 1996, of the County Comprehensive Plan, *Landscapes*. This plan enhances efforts to protect the rural landscape by proposing a variety of growth management tools and techniques in an attempt to curb sprawl and redirect development to existing urban and suburban centers and away from the rural landscape. It is within the rural landscape that Chester County intends to target farmland preservation efforts. It is the objective of Chester County "to preserve the open, rural character of

Chester County, and support agriculture as the primary land use in the rural landscape and as a significant sector of a growing, diversified economy”.

### **Agricultural Conservation Easement Deed**

An agricultural conservation easement deed is the instrument used in the sale of an agricultural conservation easement to the state or county. It is a legally binding document filed in the land records with the deed of a farm property, restricting its use substantially to agriculture and directly associated uses, and for which compensation is paid. The easement deed permits the construction of buildings that are directly associated with the agricultural production of the operation. It also grants the right to construct one additional dwelling unit for purposes of providing housing for farm workers at the operation or as the principal residence of the landowner. The easement binds the current owner and future owners, carrying with the land. A copy of an agricultural conservation easement may be obtained by contacting any of the Chester County Agricultural Land Preservation staff at 610-344-5656.

Agricultural conservation easements may be acquired through voluntary donation or sale of farmland development rights only within established Agricultural Security Areas of at least 500 acres. All easements shall be perpetual in duration. The price paid for purchase of an easement in perpetuity shall be equal to or less than the easement value, as determined by an appraisal. The County Board shall be responsible for authorizing appraisals in order of score, as determined by the Numerical Ranking System except as otherwise may be directed under the Urgent Situation provisions set forth.

### **Applications**

Applications for easement sale will be accepted through December 1, at 4:30 p.m. Applications postmarked on or prior to December 1 will also be considered. An application is enclosed in this booklet. Assistance from county staff with the application is available upon request. Applications will be evaluated to determine compliance with the minimum criteria contained in Subchapter B, Section 138e.16 – known as the State Regulations and attached in this manual on page 4. An application shall contain all supporting data that is specified on the last page of the application. Applications meeting the minimum criteria will be prioritized using the Numerical Ranking System (attached as Addendum I) that evaluates farm parcels based upon the quality of the soil for agricultural production, the level of development pressure, farmland potential, the ability to add to a cluster of existing protected farmland, and the percentage of donated value. Consideration of an application is based on the available funding. Applicants who are not offered the opportunity to participate in the program due to funding limitations will have their applications carried over into subsequent years until they are eligible for funding consideration or choose to withdraw. Applicants who wish to change some aspect of their application must submit any changes to the County on or before the application deadline in order to remain eligible for consideration in this Program. The easement purchase procedure for acquiring an agricultural conservation easement is fully described in Addendum IV. The time frame for each acquisition may vary. If you have specific time concerns, please bring them to the attention of the Chester County Agricultural Land Preservation Staff.

### **Subdivision**

Subdivision of a farm subject to an agricultural conservation easement into smaller farm tracts is permitted in accordance with the subdivision regulations that are fully described in Addendum VI. Generally subdivisions of land into parcels of 50 acres or more, that leave a residual parcel of at least 50 acres and which preserve the economic viability of farming, have a current conservation plan in place and are on schedule with implementation of the best management practices as required receive favorable consideration by the Agricultural Land Preservation Board.

### **STATEMENT OF PURPOSE**

It is the purpose of this program to protect viable agricultural lands by acquiring agricultural conservation easements, which prevent the development or improvement of the land for any purpose other than agricultural uses.

Further, it is the purpose of this program to:

- (1) Encourage landowners to make a long-term commitment to agriculture by offering them financial incentives and security of land use;
- (2) Protect normal farming operations in agricultural areas from incompatible non-farming 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 and resources 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 State and local governments with nonprofit entities in order to increase the funds available for agricultural conservation easement purchases.

### **MINIMUM CRITERIA FOR APPLICATION**

Election by CCALPB: The Agricultural Area Security Law (at 3 P.S. Section 914.1(d)(1)(v)(II)) affords the county the option to acquire an agricultural conservation easement on farmland tracts of as few as 35 contiguous acres under certain circumstances. The CCALPB does NOT elect to exercise this option.

#### **Commonwealth Minimum Criteria:**

The County program shall consider the quality of the farmland tract, using the USDA-NRCS Soil Classifications.

- (1) The farmland tract shall be located in a recorded Agricultural Security Area consisting of at least 500 acres as required in Act 43, Section 14.1(e)(1)(iii). All parcels of the farmland tract application must be properly recorded in an ASA
- (2) The farmland tract shall encompass:
  - (a) at least 50 acres, or
  - (b) at least 10 acres producing a crop unique to the area, or
  - (c) at least 10 acres contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization", as defined in Section 170(h)(3) of the Internal Revenue Code.
- (3) In the farmland tract, at least 50% of the soils shall be available for agricultural production and in capability classes I through IV, as defined by the USDA Natural Resources Conservation Service.
- (4) The farmland tract shall contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.
- (5) Act 14 of 2001, Act 138 of 1998 and Act 46 of 2006 are incorporated into the minimum criteria and can be found in Addendum VII of this Program Manual.

In addition, the above minimum criteria apply to easements purchased solely by the Commonwealth or jointly between Commonwealth and County. Please reference Act 46 in the addendum section of these Program Guidelines.

#### **County Only Minimum Criteria:**

In addition to Commonwealth criteria, Chester County also requires the following minimum criteria for county only easements:

- (1) The farmland tract shall be located in a recorded Agricultural Security Area consisting of at least 500 acres as required in Act 43, Section 14.1(e)(1)(iii). All parcels of the farmland tract application must be properly recorded in an ASA.
- (2) The farmland tract shall encompass:
  - (a) at least 50 acres, or
  - (b) at least 25 acres if tract is owned and operated as an integral piece of an agricultural operation unit that has a tract of at least 25 acres already permanently preserved. The tracts need not be adjacent.
  - (c) at least 10 acres producing a crop unique to the area, or
  - (d) at least 10 acres contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization", as defined in Section 170(h)(3) of the Internal Revenue Code.
- (3) In the farmland tract, at least 50% of the soils shall be available for agricultural production and in capability classes I through IV, as defined by the USDA Natural Resources Conservation Service.
- (4) The farmland tract shall contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.

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

**CHESTER COUNTY AGRICULTURAL CONSERVATION EASEMENT APPLICATION**

***DEADLINE FOR SUBMISSION Delivered or Postmarked December 1, 4:30 P.M.***

We \_\_\_\_\_, applicants, hereby offer to sell an agricultural conservation easement on farm property located on \_\_\_\_\_ Road(s), in \_\_\_\_\_ Township, Chester County, Pennsylvania. The property is identified as follows in the land records of Chester County, Deed Book(s) \_\_\_\_\_ Page(s) \_\_\_\_\_. Conservation easement sale to the Chester County Agricultural Land Preservation Board is offered in consideration of a mutually agreed price per acre to be determined by appraisal and the bargain sale offered by the applicant.

**DATE:** \_\_\_\_\_

**APPLICANT(s) NAME (printed):** \_\_\_\_\_

**SIGNATURE(s):** \_\_\_\_\_

By signature, applicant hereby authorizes the Conservation Plan preparer to release copies of the Conservation Plan and Nutrient Management Plan (Act 6, if applicable) to the County Agricultural Land Preservation Board and PA Bureau of Farmland Preservation.

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

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

**Total Farm Acreage:** \_\_\_\_\_ **Acres Proposed for Easement Sale:** \_\_\_\_\_

If applying a portion of the farm, attach a map to your application and identify the omissions from the proposed easement. Please note, normal procedures will exclude existing structures with minimum setbacks from the easement area. There is no need for applicant to show this exclusion.

**Farm located in** \_\_\_\_\_ **Township(s) Agricultural Security Area (ASA).** ASA must be recorded in the County Recorder of Deeds office. Please provide Deed and Page reference numbers of the recording. Parcels are recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_.

**Directions from Nearest State Route:** \_\_\_\_\_

**County Tax Parcel #**

**For Each Parcel:** \_\_\_\_\_

Please check that the above parcel numbers includes all parcels concerned in the easement and are correct. These are the identifiers used to track this application throughout the process.

**If the farmland tract is less than 50 acres, is the tract:**

- (a) Producing a crop unique to the area Yes  No
  - (b) Adjacent to a property with a perpetual easement Yes  No
- If yes: please list name and tax parcel(s) of landowner with perpetual easement

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

Tax Parcel Number(s): \_\_\_\_\_

**Subdivision**

Do you have a subdivision plan or other matter before the township for consideration? Yes  No

*Please note: Subdivision of land between the time of easement sale application and easement sale settlement is PROHIBITED. Please contact staff for clarification or review Addendum VI of the Program Manual.*

**List any Mortgage(s), Lien Holder(s), or owners of mineral rights:** \_\_\_\_\_

Title issues such as mortgages, liens, etc. must be resolved prior to the agricultural conservation easement proceeding to settlement. Should discovery be made that any of the issues pertaining to title prohibits the sale of an agricultural conservation easement, the property owner is responsible for the incidental cost (title, survey, etc.) incurred by the County.

**Verification of Agricultural Production**

Please describe in detail the type and operation of the farm: \_\_\_\_\_

**Crop & Livestock Report For Recent Calendar Year On Land Proposed for Easement** (Please fill in with as much information as possible. If more space is needed – please attach a separate sheet).

Commodity	Acres Grown	Yield Per Acre	Annual Sales
Livestock	Average Numbers	Product Sold	Annual Sales

**Commercial Equine Activity**

Are you engaged in any commercial equine activities on the proposed eased land? Yes \_\_\_ No \_\_\_

Check the type of commercial equine activity you engage in on the proposed eased land (check all that apply)

- \_\_\_ boarding equine
- \_\_\_ training equine
- \_\_\_ instructing people in handling, driving or riding equine
- \_\_\_ use of equine for riding or driving
- \_\_\_ pasturing of equines
- \_\_\_ other equine activities

Do you collect a fee for commercial equine activities? Yes \_\_\_\_\_ No \_\_\_\_\_

Average fee collected for commercial equine activities \$ \_\_\_\_\_

**Stewardship Practices**

Does the land applied have a USDA Soil Conservation Plan? Yes  No   
 If yes, please attach copy of plan map.  
 Date of Plan \_\_\_\_\_ Plan Number \_\_\_\_\_

Does the land applied have a Nutrient Management Plan?  
 Yes  No  If yes please fill in the blanks below:  
 Date of Plan \_\_\_\_\_ Plan Number \_\_\_\_\_

NOTE: An approved conservation plan and implementation agreement is required before settlement on the sale of an agricultural conservation easement through this program. After settlement, participating farms will be visited annually to make sure the conservation plan is up to date, that the conservation practices are working and implementation of the approved plan is on schedule.

Please describe the conservation practices currently used on the farm: \_\_\_\_\_

Is your farm leased to another farmer? Yes  No

If yes, who farms it? Name: \_\_\_\_\_

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

Who should be contacted to arrange a meeting to view the farm and discuss the Program?

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

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

### Bargain Sale

- ❖  By checking this box, I, the farmland owner, acknowledge and understand that applicants who score 60 points or more and who agree to participate in the FRPP program or offer to donate 50% or more of the easement value (and sell the development rights for a value of 50% of the cap or less – whichever is less) may be offered the chance to participate in this program ahead of applicants who offer a smaller donation.

The sale of an agricultural easement for a price that is less than the appraised value of the easement (i.e. bargain sale) has been included in the Numerical Ranking System. Please indicate if you are interested in a bargain sale.

Yes  No  If yes, indicate specific percentage of the bargain sale you are offering \_\_\_\_%.

**Minimum donation for ranking points is 10%. Donations over 50% may result in priority consideration. Please refer to the Ranking System in Addendum I – 2 and the preceding paragraph.**

The Agricultural Land Preservation Board and the County of Chester make no representations regarding the applicant's ability to receive favorable tax treatment as a result of this transaction. *All applicants are advised to consult their own attorney or tax consultant for advice in this regard.*

**Will the proceeds be used in a Like Kind Exchange? \_\_\_\_\_ Is there a signed agreement? \_\_\_\_\_**

If there is a signed agreement, is the exchange property a Chester County Farm? Yes  No

### Availability of Public Water and Sewer

(Please check the box next to the description that applies to the property offered for consideration in this application.)

#### Public Water

- Public water is available within 1 mile  
 Public water is available within 5 miles  
 As far as I know – there is no public water available within 5 miles

#### Public Sewer

- Public sewer is available within 1 mile  
 Public sewer is available within 5 miles  
 As far as I know – there is no public sewer service available within 5 miles

### Road Frontage

Approximate extent of road frontage. (Please check the box next to the description that applies to the property offered for consideration in this application.)

- More than 1 mile  
 1/2 - 1 mile  
 Less than 1/2 mile

### Extent of Non-Agricultural Use

(Please check the box next to the description that applies to the property offered for consideration in this application.)  
Are there 15 or more developed lots?

- Adjacent to your farm
- Within 1/4 mile
- Within 1/2 mile
- Within 1 mile
- There are not 15 developed lots within a mile.

**Land Use** (Please fill in the blank).

Percent or Acreage of farm in:

Pastureland \_\_\_\_\_

Cropland \_\_\_\_\_

Other (i.e. non-pastured wetlands, natural areas) \_\_\_\_\_

Is timber harvested from woodlands? \_\_\_\_ If yes, please list commodity, acres grown and yield information on page 2 of this application.

### Proximity to other farmland easements

If your farm is within 1 mile of a farm that is under a perpetual conservation easement, please provide any information about the eased land (i.e. owner's name, organization holding the easement, tax parcel number, etc...).

---

### Historic, Scenic and Environmentally Sensitive Qualities

Is farm adjacent to a park\* or protected natural area\*\*? Yes  No

If yes, please identify \_\_\_\_\_

\* Park = passive, low intensity recreational use by individuals or small groups in natural surroundings.

\*\* Protected Natural Area = Land, other than farmland, owned in fee by or under easement with a private conservation organization or public entity for conservation purposes.

Does farm contain, or is it adjacent to, National Historic Resource or District\*\*\*? Yes  No

If yes, please identify \_\_\_\_\_

\*\*\* For Historic Resource verification, please provide a non-returnable photograph of the historic building.

### Proximity to Other Easement Sale Applications

Do you know of any other farm sale applications submitted in this round within 1 mile of your farm? Yes  No

If yes, please list owner's name \_\_\_\_\_

### Percent of Surrounding Land in Agriculture

Approximately what percentage of land within a 1-mile radius of your farm is in agriculture? \_\_\_\_\_%

**Have any development rights been transferred from your land or any land use restrictions, including deed restrictions, subdivision restrictions, or any other covenants, exist on your property?**

Yes  No

## DEADLINE FOR SUBMISSION DECEMBER 1

Please Note: **Subdivision of land between the time of easement sale application and easement sale settlement is PROHIBITED.**

If your property is approved for an appraisal by the CCALPB, a \$500 appraisal deposit will be required at that time if the landowner wishes to proceed. A current conservation plan or a commitment and timeline for obtaining a plan will also be required. See the Program Guideline Appendix for the Appraisal Deposit and Conservation Plan Policy.

**Please place a check next to the appropriate comments.**

- A tax map, soils map, or USDA topographic map of farmland tract with proposed easement area delineated.
- If you are applying a portion of your farm, all land to be excluded from the easement sale other than the existing buildings must be excluded at the time of application and delineated on the above mentioned map submitted with the application.
- A picture of the historic buildings contained on the farm or adjacent to the farm.
- Signatures of all applicants.
- Make sure all applied parcels are in the recorded ASA of your township.
- I would like to learn how private non-profit organizations can assist with my preservation goals.
- Permission is granted to release address to local organizations, so I may receive information concerning agriculture meetings, conferences, etc.
- I wish to keep my application active and under consideration this year and subsequent years until it is withdrawn or until an updated application is submitted to take its place.

Submit to: County Department of Open Space Preservation  
Agricultural Land Preservation Board  
Government Services Center, Suite 390  
601 Westtown Road, West Chester, PA 19380-0990  
610-344-5656, fax 610-344-4012

*No data from this application is available pursuant to the Right to Know Act until an Agreement of Sale for agricultural conservation easement purchase is fully executed. Applications will remain active until withdrawn by the applicant or until funds are available and the owner is offered the opportunity to participate. Updates to the application must be submitted by the annual submission deadline. Updates received after the submission deadline will only be accepted if they are permitted by the Policies and Procedures for application modifications as stated in Addendum III of these guidelines. If they are not submitted prior to the annual deadline and are not otherwise permitted by the Policies and Procedures, then the modifications will be incorporated into the application the following (and subsequent) rounds as offered by the County Commissioners and Commonwealth.*

# ADDENDUM I

## CHESTER COUNTY NUMERICAL RANKING SYSTEM

### LAND or SOILS EVALUATION = 40%

Soils of a farm are organized into soil groups established through the Land Evaluation Site Assessment System and each group is assigned a relative value for agricultural productivity. Multiplication of the acreage of each soil group by its relative value determines the soils or Land Evaluation Score.

### SITE ASSESSMENT = 60%

Development Potential (10%)  
Farmland Potential (25%)  
Clustering Potential (25%)

### DEVELOPMENT POTENTIAL (10%)

1. Availability of Public Water and Sewer Points

Farm is within 1 mile of public water and sewer..... 30

1a. (Alternate) In cases where farm is not within one mile of both public water and sewer, what is concentration of Prime Agricultural Soils (Class I and II soils) for Onsite Waste Disposal Potential

More than 50% Class I and II Soils ..... 30  
Between 45-49% ..... 20  
Between 40-44% ..... 10

2. Extent of Road Frontage Points

More than 1 mile ..... 40  
1/2 - 1 mile..... 30  
Less than 1/2 mile..... 20

3. Extent of Non-Agricultural Use in Area - Proximity of farm to 15 or more developed lots Points

Adjacent..... 30  
within 1/4 mile..... 25  
within 1/2 mile..... 20  
within 1 mile..... 18

**CHESTER COUNTY NUMERICAL RANKING SYSTEM** - continued

FARMLAND POTENTIAL (25%)

1.	Percent of Farm Used for Harvested Cropland, Pasture and Grazing Land	<u>Points</u>
	95% or greater .....	15
	75% - 94% .....	10
	50% - 74% .....	5
2.	Possession of Soil Conservation Plan .....	<u>Points</u>
	Soil Conservation Plan on record.....	10
	Plan in the process of development.....	5
3.	Stewardship of the Land and Use of Conservation Practices and Best Management Practices. Implementation of Plan and/or Practices:	<u>Points</u>
	100% .....	20
	75% - 99% .....	15
	50% - 74% .....	10
4.	Acreage of Proposed Farm Tract	<u>Points</u>
	75 or more acres .....	5
	50 - 74 acres.....	3
	Less than 50 acres adjoining other easement(s).....	1
5.	Historic, Scenic and Environmentally Sensitive Qualities	<u>Points</u>
	Adjacent to Park* or Protected Natural Area** .....	5
	Adjacent to National Historic Resource or District .....	1
	<p>* Park - Passive, low intensity recreational use by individuals or small groups in natural surroundings.  ** Protected Natural Area - Land other than farmland owned in fee by or under easement with a private conservation organization or public entity for conservation purposes.</p>	
6.	Bargain Sale. Percentage less than appraised easement value or percentage less than the \$12,000 per acre cap – whichever is less – which the applicant is willing to accept. <u>NOTE: Applications with a score of 60 or more that include a bargain sale of 50% or more (a maximum of \$6,000 per acre – whichever is less) may be considered ahead of higher ranking farms that offer less of a donation.</u> The bargain sale may be considered a charitable contribution deduction. Please consult your tax advisor.	<u>Points</u>
	.4 for each percent donation (maximum of 40 points)	40 points maximum
	Minimum donation for points is 10%.	
	EXAMPLE – 20% x .4 = .....	8 Points
7.	Applicant History of Agricultural Conservation Easement Purchase Offers.....	<u>Points</u>
	Never Received or Rejected Offer on same application tract .....	5
	Rejected Offer on same application tract .....	0

**CHESTER COUNTY NUMERICAL RANKING SYSTEM** – continued

CLUSTERING POTENTIAL (25%)

1. Compatibility with Rural Resource Areas Map, Landscapes<sup>2</sup>, the County Comprehensive Plan. Percentage of the Township in which farm is located that is designated Agricultural and/or Rural Landscape.

	<u>Points</u>
75% - 100% .....	10
50% - 74% .....	5
25% - 49% .....	3
10% - 24% .....	1

2. Proximity of Subject to Preserved Farmland\*

	<u>Points</u>
Adjacent .....	25
Within 1/4 mile .....	20
Within 1/2 mile .....	15
Within 1 mile .....	10

3. Proximity of Subject to Other Sale Applications in Same Round

	<u>Points</u>
Adjacent .....	20
Within 1/4 mile .....	15
Within 1/2 mile .....	10
Within 1 mile .....	5

4. Percent of Land Enrolled in the Agricultural Security Area Adjacent to Subject

	<u>Points</u>
100% .....	20
75% - 99% .....	17
50% - 74% .....	13
25% - 49% .....	10
10% - 24% .....	5

5. Acreage of Preserved Farmland within 1 Mile of Subject

	<u>Points</u>
350 acres or greater .....	25
Between 250 and 349 acres.....	20
Between 150 and 249 acres.....	15
Between 50 and 149 acres .....	10

\*Preserved Farmland includes land, predominately agricultural, that is owned in fee simple by, or under a perpetual conservation with, a qualified conservation organization as defined in Section 170(h)(3) of the Internal Revenue Code, or a public entity for agricultural preservation purposes.

## ADDENDUM II

### SCORE CALCULATION OF A FARM PARCEL

#### LAND EVALUATION or Soils Component (40% OF SCORE)

1. Determine the average relative value of the soils of a farm:
  - A. Locate farm parcel on Chester County soil survey map and delineate farm application.
  - B. Determine the name and acreage of each soil type on farm and sort each soil type into the respective Soil Group, as provided in the "Land Evaluation Site Assessment Identification of Soil Groups Worksheet".
  - C. Multiply the number of acres of soils in each soil value group by the relative value in Column 5 of the "Chester County Agricultural Worksheet" (or use Column 6 if conservation practices are not implemented).
  - D. Add the products of the multiplication performed in Step C.
  - E. Divide the total value obtained in Step D by the total applied acreage of the farm parcel. The quotient will represent the average relative value for the farm.
  - F. Multiply the average relative value obtained in Step E by .4 to adjust for soils being a maximum of 40% of the system.

#### SITE EVALUATION (60% OF SCORE)

2. Assess the farm parcel for each factor listed in the "Site Assessment" portion of the "Numerical Ranking System":
  - A. Multiply the Development Potential total x (.10); Multiply the Farmland Potential total x (.25); Multiply the Clustering Potential total x (.25).
  - B. Add the relative Development Potential + Farmland Potential + Clustering Potential.
  - C. The total equals the relative site assessment score.
3. Determine the total score for the farm parcel by adding the relative value from the Land Evaluation soils analysis (maximum 40 points) to the Site Assessment total (maximum 60 points) for a total score (maximum 100 points).

**SCORE CALCULATION OF A FARM PARCEL**- continued

**CHESTER COUNTY AGRICULTURAL WORKSHEET**

Value Group	Capability Class	Important Farmland Category	Acres	Relative Value with Conservation Practices	Relative Value Without Conservation Practices
1	I	Prime	11,487	100	100
2	IIe-IIIs	Prime	249,994	80	65
3	IIe-IIIs	State	83,036	74	52
4	IIIe-IIIs	State	44,885	49	27
5	IVe-IVs	Other	34,509	39	4
6	Vw-VIII	Other	62,489	0	0

## Land Evaluation and Site Assessment Identification of Soil Groups

### Group Number 1

Map Symbol	1c	Soil Name	Slope	Acres Number
cda	1	chester si	0-3	427
cda2	1	chester si	0-3	2,269
cma	1	conestoga	0-3	915
cma2	1	conestoga	0-3	706
cn	1	conagree s	0-3	962
gea	1	glenelg ch	0-3	1,429
gea2	1	glenelg ch	0-3	8,508
gga3	1	glenelg si	0-3	27
haa2	1	hagerstown	0-3	955
haa	1	neshaminy	0-3	1,289
saa	1	sassafras	0-3	0
			TOTAL	11,487

### Group Number 2

Map Symbol	1c	Soil Name	Slope	Acres Number
agb2	2e	aldino sil	3-8	133
bdb	2e	bedford si	3-8	318
bdb2	2e	bedford si	3-8	694
brb2	2e	brandywine	3-8	830
btb2	2e	brecknock	3-8	412
bx2	2e	bucks silt	3-8	3,015
cdb	2e	chester si	3-8	5,374
cdb2	2e	chester si	3-8	9,873
cdb3	2e	chester si	3-8	181
ckb2	2e	chrome gra	3-8	1,406
cmb2	2e	conestoga	3-8	7,818
ecb	2e	edgemont c	3-8	3,100
ecb2	2e	edgemont c	3-8	6,821
geb	2e	glenelg ch	3-8	6,147

Group Number 2 - continued

## Land Evaluation and Site Assessment Identification of Soil Groups

Map Symbol	1c	Soil Name	Slope	Acres Number
geb2	2e	glenelg ch	3-8	116,982
geb3	2e	glenelg ch	3-8	3,613
ggb3	2e	glenelg si	3-8	434
gnb	2e	glenville	3-8	7,320
gnb2	2e	glenville	3-8	18,622
hab2	2e	hagerstown	3-8	7,158
hob2	2e	hollinger	3-8	156
mgb2	2e	manor loam	3-8	13,473
mgb3	2e	manor loam	3-8	1,213
mob2	2e	montalto c	3-8	1,622
nab2	2e	neshaminy	3-8	7,977
pmb2	2e	penn silt	3-8	14,892
ptb2	2e	penn and l	3-8	797
mga2	2s	manor loam	0-3	160
aga	2w	aldino sil	0-3	91
bda	2w	bedford si	0-3	803
bea	2w	beltsville	0-3	0
bya	2w	butlertown	0-3	0
ch	2w	chewacla s	0-3	8,651
gna	2w	glenville	0-3	3,496
leb	2w	lehigh sil	3-8	13
leb2	2w	lehigh sil	3-8	50
ln	2w	lindside s	0-3	870
pda	2w	readington	0-3	1,221
ro	2w	rowland si	0-3	827
rp	2w	rowland si	0-3	822
wna	2w	woodstown	0-3	0
sab2	3e	sassafras	3-8	0
coa	3w	conowingo	0-3	461
TOTAL				257,846

## Land Evaluation and Site Assessment Identification of Soil Groups

### Group Number 3

Map Symbol	1c	Soil Name	Slope	Acres Number
rdb	2e	readington	3-8	488
rdb2	2e	readington	3-8	1,629
byb2	3e	butlertown	3-8	0
cdc	3e	chester si	8-15	12
cdc2	3e	chester si	8-15	138
cdc3	3e	chester si	8-15	114
cmc2	3e	conestoga	8-15	582
cmc3	3e	conestoga	8-15	829
ecc	3e	edgemont c	8-15	4,588
ecc2	3e	edgemont c	8-15	2,505
ecc3	3e	edgemont c	8-15	1,829
gec	3e	glenelg ch	8-15	4,214
gec2	3e	glenelg ch	8-15	20,417
gec3	3e	glenelg ch	8-15	27,379
hac2	3e	hagerstown	8-15	551
hac3	3e	hagerstown	8-15	774
hoc2	3e	hollinger	8-15	77
hoc3	3e	hollinger	8-15	92
moc2	3e	montalto c	8-15	495
moc3	3e	montalto c	8-15	202
nac2	3e	neshaminy	8-15	617
nac3	3e	neshaminy	8-15	788
bo	3w	bowmansville	0-3	792
ota	3w	othello si	0-3	0
we	3w	wehadkee s	0-3	13,924
			TOTAL	83,036

## Land Evaluation and Site Assessment Identification of Soil Groups

### Group Number 4

Map Symbol	1c	Soil Name	Slope	Acres Number
beb2	3e	beltsville	3-8	174
brc	3e	brandywine	8-15	111
brc2	3e	brandywine	8-15	596
brbc3	3e	brandywine	8-15	597
btc2	3e	brecknock	8-15	125
btc3	3e	brecknock	8-15	22
ckc2	3e	chrome gra	8-15	688
ckc3	3e	chrome gra	8-15	444
gnc2	3e	glenville	8-15	476
lec3	3e	lehigh sil	8-15	22
mgc	3e	manor loam	8-15	3,217
mgc2	3e	manor loam	8-15	5,154
mgc3	3e	manor loam	8-15	20,115
peb3	3e	penn shaly	3-8	307
pmc2	3e	penn silt	8-15	3,743
pmc3	3e	penn silt	8-15	4,181
ptc2	3e	penn and l	8-15	577
ptc3	3e	penn and l	8-15	356
woc2	3e	worsham si	8-15	48
cob2	3w	conowingo	3-8	1,189
laa	3w	lawrence s	0-3	1,198
lab	3w	lawrence s	3-8	866
mn	3w	melvin sil	0-2	679
			Total	44,885

## **Land Evaluation and Site Assessment Identification of Soil Groups**

### **Group Number 5**

Map Symbol	1c	Soil Name	Slope	Acres Number
brd	4e	brandywine	15-25	170
brd2	4e	brandywine	15-25	226
brd3	4e	brandywine	15-25	658
btd2	4e	brecknock	15-25	8
btd3	4e	brecknock	15-25	12
ckd2	4e	chrome gra	15-25	165
ckd3	4e	chrome gra	15-25	208
ecd	4e	edgemont c	15-25	581
ecd2	4e	edgemont c	15-25	803
ecd3	4e	edgemont c	15-25	1,010
ged	4e	glenelg ch	15-25	1,297
ged2	4e	glenelg ch	15-25	1,957
ged3	4e	glenelg ch	15-25	6,306
hod3	4e	hollinger	15-25	278
mgd	4e	manor loam	15-25	2,470
mgd2	4e	manor loam	15-25	1,968
mgd3	4e	manor loam	15-25	13,177
mod3	4e	montalto c	15-25	135
nad	4e	neshaminy	15-25	124
nad3	4e	neshaminy	15-25	272
pec3	4e	penn shaly	8-15	379
pmd	4e	penn silt	15-25	64
pmd2	4e	penn silt	15-25	283
ptd2	4e	penn and l	15-25	69
cra	4w	croton sil	0-3	1,116
crb	4w	croton sil	3-8	773
			TOTAL	34,509

## **Land Evaluation and Site Assessment Identification of Soil Groups**

### **Group Number 6**

Map Symbol	1c	Soil Name	Slope	Acres Number
wab2	5w	watchung s	3-8	342
waa	5w	watchung s	0-3	441
caa	5w	calvert si	0-3	278
gu	5w	guthrie si	0-3	1,631
woa	5w	worsham si	0-3	12,682
bre	6e	brandywine	25-40	553
bte3	6e	brecknock	25-35	26
cke2	6e	chrome gra	25-40	445
hoe3	6e	hollinger	25-35	96
mhe	6e	manor loam	25-35	2,046
mhe3	6e	manor loam	25-35	7,063
ped3	6e	penn shaly	15-25	912
asb2	6s	aldino ver	0-8	102
bsb	6s	brandywine	0-8	227
bsd	6s	brandywine	8-25	1,558
bvb	6s	brecknock	0-8	59
bvd	6s	brecknock	8-25	56
cgb	6s	chester ve	0-8	331
cgc	6s	chester ve	8-15	401
edb	6s	edgemont v	0-8	494
edd	6s	edgemont v	8-25	1,363
gmd	6s	gleneig ve	15-25	334
gsb	6s	glenville	0-8	55
mmb	6s	manor very	0-8	153
mmd	6s	manor very	8-25	571
mrh	6s	montalto v	0-8	868
msb	6s	mount luca	0-8	9
msb	6s	neshaminy	0-8	402
msd	6s	neshaminy	8-25	716
pnb	6s	penn very	0-8	609

## Land Evaluation and Site Assessment Identification of Soil Groups

### Group Number 6 - continued

Map Symbol	1c	Soil Name	Slope	Acres Number
pnd	6s	penn very	8-25	1,279
wcb	6s	watchung v	0-8	221
cab	6w	calvert si	3-8	62
cab2	6w	calvert si	3-8	156
wob	6w	worsham si	3-8	3,777
wob2	6w	worsham si	3-8	3,700
ece	7e	edgemont c	25-35	399
ece2	7e	edgemont c	25-35	906
gee	7e	glenelg ch	25-35	414
gee3	7e	glenelg ch	25-35	479
mkf	7e	manor soil	35-50	2,425
pse2	7e	penn soils	25-35	10
pse3	7e	penn soils	25-35	497
psf	7e	penn soils	35-50	137
bsf	7s	brandywine	25-50	663
bvf	7s	brecknock	25-50	2
edf	7s	edgemont v	25-60	1,228
gme	7s	glenelg ve	25-35	281
lhb	7s	lehigh ver	0-8	7
lhd	7s	lehigh ver	8-25	1
mmf	7s	manor very	25-60	1,288
mrd	7s	montalto v	8-25	711
mrf	7s	montalto	25-45	88
nsf	7s	neshaminy	25-45	308
pnf	7s	penn very	25-50	123
wsb	7s	worsham ve	0-8	1,575
gp	8	gravel pit	--	4
ma	8	made land	--	0
mc	8	made land	--	0

### Group Number 6

## **Land Evaluation and Site Assessment Identification of Soil Groups**

(Continued.)

Map Symbol	1c	Soil Name	Slope	Acres Number
md	8	made land	--	10
me	8	made land	--	1,689
mf	8	made land	--	0
qu	8	quarries	--	203
tm	8	tidal marsh	0-1	0
w	8	water	--	2,008
			TOTAL	62,489

## ADDENDUM III

### POLICIES OF THE CHESTER COUNTY AGRICULTURAL LAND PRESERVATION BOARD

Act 14, Act 138, and Act 46 inclusion	Act 14 of 2001, Act 138 of 1998, and Act 46 of 2006 are incorporated into this program by reference with the exception that the payment cap of \$12,000 per acre shall be imposed by the CCALPB on all projects, as referenced in Addendum VI.
Application Deadlines:	State program - <b>December 1</b>
Application Modifications:	Applications may be modified after the deadline for application if the modification consists of increased acreage that has a neutral or positive impact on the applicant's score, to increase the amount of funds from non-county sources, or if determined to be in the best interest of the CCALPB. The CCALPB reserves the right to grant a waiver to an application for the removal of land from an application if it is in the best interest of the ALPB program.
Appraisal Deposit Policy:	A \$500 deposit will be required of any applicant approved for an appraisal. In situations where applicants have rejected two previous easement purchase offers and have reapplied for easement sale, it is the policy of the Chester County Agricultural Land Preservation Board to require the applicants to pay, in advance of the appraisal assignment, all appraisal update fees or for a new appraisal, if required, instead of the \$500 deposit fee. The appraisal fee or deposit fee shall be refunded to the applicant if no easement purchase offer is made by the Board or if the easement purchase proceeds to settlement. Any appraisal fees or deposit fee shall be forfeited if an offer is rejected.
Bargain Sale: Full Bargain Sale of Agricultural Conservation Easement:	The ALPB will gladly work with a landowner that is interested in selling the development rights of one's farm to the County of Chester for \$1.00. This type of sale can be a very effective estate-planning tool. Please talk to your tax advisor for tax advantages. Farms offering a \$1.00 sale must meet minimum criteria for application, per section 138e.16 of the State Regulations. Appraisal (138e.63), survey and title work (138e.67) must be consistent with PROCEDURE FOR PURCHASING AN EASEMENT in SUBCHAPTER D of the State Regulations. Incidental cost obligations shall be on a case by case basis and will be determined by Agricultural Land Preservation Board review and the availability of County funds. All incidental costs for easement sales of \$1.00 shall be reimbursed to Chester County by the Pennsylvania Department of Agriculture, pending State Farmland Preservation Board review and approval, for farms meeting minimum criteria for application per section 138e.16.
Bargain Sale: Full Bargain Sale of Woodland or Stream Corridor Conservation Easement:	The purpose of the stream corridor or woodland conservation easement is to preserve those portions of a farm that a landowner may not be including in their agricultural conservation easement sale application. Often stream corridor or sloping woodland areas contribute little to the land evaluation on one's agricultural easement sale application and,

therefore, have been omitted from preservation effort. Designed as a complement to the agricultural conservation easement sale, the stream or woodland conservation easement attempts to preserve the entire farm. The stream corridor or woodland conservation easement is a perpetual legally binding document restricting the land to agricultural, associated uses, and to the conservation of resources in that area. The woodland or stream corridor conservation easement is a \$1.00 sale of one's development rights and is contingent upon an associated agricultural easement sale.

It may be possible for the landowner to be eligible for a charitable contribution deduction from a \$1.00 sale of such an easement. Please consult a professional tax adviser. Minimum criteria for the stream corridor or woodland conservation easement include: 1) situated adjacent to, and contingent upon, an agricultural sale application, 2) contain at least 10 acres, 3) must not break the contiguity of the agricultural application tracts, 4) Landowner is responsible for survey and appraisal, 5) survey shall include a soils overlay.

**Bargain Sale/Donation/Partial Bargain sale of an Agricultural Conservation Easement:**

A landowner has the option of selling the Agricultural Easement for a price that is less than the appraised value of those rights. Applicants to the Agricultural Conservation Easement Program who are willing to undertake such a bargain sale must specify such on the application. As one may see in the Numerical Ranking System, an application receives points for offering a bargain sale. In situations where the applicant's appraised established easement value is above the payment cap of \$12,000 established by the Chester County Agricultural Land Preservation Board, the applicant's stated donation will be applied to the \$12,000 payment cap. The Bargain Sale option may have tax advantages to the landowner, their estate and/or heirs. Please consult your tax advisor to determine if you can claim the difference between the appraised value and the sale value as a charitable contribution deduction.

**Conservation/Nutrient Management Plans:** All agricultural operations shall be conducted in accordance with a Conservation Plan and a Comprehensive Nutrient Management Plan (if required by the Nutrient Management Act, Act 38). Conservation Plans and Conservation Plan Agreements must be approved and signed before an easement purchase agreement of sale is placed on the Commonwealth agenda, or in the case of County only, prior to settlement. Preparation and completion of these plans are the responsibility of the landowner applicant. Landowners/applicants will be provided with a list of local businesses qualified to write conservation plans that have completed conservation plans locally or within the immediate region when they are contacted for their appraisal deposit. Landowner/applicants are required to inform the County of the selected vendor and plan completion date when they submit their appraisal deposit or immediately thereafter. Additionally, a copy of the signed contract with a certified plan writer for timely completion of the conservation plan must be submitted with or before acceptance of any offer to purchase applicants development rights. All costs associated with the preparation of these plans are the responsibility of the landowner unless the landowner offers and accepts a 50% bargain sale. In instances of a 50% bargain sale, at its sole and absolute discretion the County may elect to prepare the conservation

plan and thereby assume the related costs at the time of production. Alternatively and at its sole discretion, the County may require the landowner to retain responsibility for timely preparation of the plan with the associated costs eligible for reimbursement pursuant to Act 43. If the County requires 50% bargain sale landowner applicants to prepare and pay for the plan completion, the County will reimburse the landowner for conservation plan expenses for which invoices, bills and payment records are presented. This reimbursement will occur at settlement of the easement acquisition or as soon thereafter as possible.

#### Construction of Buildings/ Structures

The construction or use of a building or other structure on the restricted land other than a building or structure existing in the date of the granting of the easement is prohibited, except that: the erection of fences for agricultural production and protection of watercourses is permitted; the construction of one additional residential structure is permitted; and the construction or use of a building or other structure for agricultural production is permitted. A renovation, modification, or addition of an existing agricultural building or structure is permitted.

#### Customary, Part-Time, or Off-Season Minor or Rural Enterprises and Activities Regulations:

Subchapter I, Section 138e.241(2), the County Board intends that agricultural conservation easements shall not prevent "customary part-time or off-season minor or rural enterprises and activities." For purposes of definition, these are limited to the following:

1. Direct sale to the public of agricultural products produced principally on the farm, provided that at least 50 percent such products are produced by the farm operator;
2. The accommodation of tourists and visitors within principally residential and/or agricultural structures of the farm property so long as this use is incidental to the agricultural and open space character of the property;
3. Religious uses including the conduct of religious ceremony on the property and family cemeteries;
4. Structures associated with the production of energy for use principally on the farm, including wind, solar, hydroelectric, methane, wood, alcohol fuel and fossil fuel systems and structures and facilities for the storage and treatment of animal wastes;
5. The provision of services or production and sale, by persons in residence, of incidental agricultural goods, services, supplies, and repairs and/or the conduct of traditional trades and the production and sale of home occupation goods, arts and crafts, so long as these uses remain incidental to the agricultural and open space character of the farm and are limited to occupying residential and/or principally agricultural structures on the property;
6. Agricultural-related services or activities associated with customary part-time or off-season minor rural enterprises or activities incidental to agricultural production. These services and activities are permissible as long as they remain incidental to the agricultural and open space character of the farm. No excavating, paving, gravelling, construction of permanent structures, or other activities that would diminish the productive capacity of the soils are

permitted in connection with such activities. The CCALPB reserves the right to review and approve these activities on a case-by-case basis. This provision is retroactive to August 16, 1989 when the County Program was approved by the State Board;

7. The installation of communications antennae on existing structures along with associated equipment and structures shall be permitted, provided that the installation and construction of any permanent non-agricultural equipment or structures associated with the communications antennae shall be located within the existing curtilage at the base of the existing structure supporting the communications antennae and such associated equipment or structures shall remain incidental to the agricultural and open space character of the property;

8. Passive agricultural composting use is permitted for on-farm use only if a soil conservation plan that addresses the composting use is approved by the Chester County Conservation District. The Conservation Plan must be implemented. In addition, an owner or operator of land encumbered with an agricultural conservation easement may accept spent mushroom substrate generated for field spreading only in accordance with an approved conservation plan and only from sources operating in compliance with an approved Mushroom Farm Environmental Management Plan (MFEMP);

9. Other similar uses may be considered upon written request to the Chester County Agricultural Land Preservation Board.

Excepted Parcels:

All parcels of land to be withheld from an easement application, other than the existing building envelope, shall be delineated on a map and submitted to the Agricultural Land Preservation Board at the time of application. All survey costs associated with the withheld parcels shall be the responsibility of the landowner. The Chester County Agricultural Land Preservation Board shall pay all survey costs for the existing building envelope.

Expanded Use of PA Farmland and  
The Forest Land Assessment/  
Roll-Back Tax Interest:

Pursuant to and in accordance with Senate Bill 723 (Act 46 of 2006), CCALPB intends to use accrued interest from the source of funds herein to establish an escrow account for future use to costs attributable to monitoring and enforcement of agricultural conservation easements purchased pursuant to Act 43 including prosecution of easement violations. The Chester County Agricultural Land Preservation Board (ALPB) adopts, as a matter of policy, the position to set aside necessary funds in a dedicated account, for the purpose of funding additional costs associated with monitoring and enforcement of agricultural conservation easements purchased pursuant to Act 43. Funds may be administratively disbursed from this account provided the expenditures are reviewed and approved by the ALPB at a regularly scheduled board meeting. This policy and the corresponding funding levels shall be subject to annual review and revision by the ALPB.

Involvement with USDA Programs:

Structures and facilities associated with irrigation, farm pond impoundments, and soil and water conservation practices including but not limited to wetland development or restoration, wildlife wetland habitat management, wildlife upland habitat management and riparian

forest buffer resource management systems used for erosion and sediment control and water quality improvement.

Limits on Spray Irrigation:

To the extent consistent with Act 43, the program may permit certain types of spray irrigation. CCALPB further stipulates that in order for irrigation to occur the following must be met: the irrigation must be consistent with the needs and goals of the agricultural operation and the agricultural conservation easement; the use of spray irrigation and associated best management practices must be contained in a Conservation Plan for the operation; the agricultural operator must control the timing and quantity of effluent application and such authority shall not be transferable to any public or private utility.

Parcel Annexation/  
Property Deed Consolidation:

The CCALPB reserves the right, where applicable, to require parcel annexation through a deed consolidation or deed merger.

Perpetual Easements:

Chester County will only consider conservation easements for purchase that are perpetual in duration.

Payment Caps:

It is the policy of the CCALPB of Commissioners that not more than \$12,000 per acre of Township, County, and/or State funds shall be paid for perpetual easements.

Right to refuse application consideration:

The Chester County Agricultural Land Preservation Board may decide to not consider a property for easement sale if the land is subject to a deed restriction, conservation easement, covenant, restriction imposed by a subdivision, agricultural preservation ordinance, or a legal document that is consistent with the deed of agricultural conservation easement in terms of resource protection.

Subdivision:

All farms entering into an agreement of sale after February 22, 1996 (effective date of subdivision regulations) shall be subject to Subdivision Regulations as attached in the addendum of the Program Guidelines. Subdivision of land between the time of easement sale application and easement sale settlement is PROHIBITED. Please contact staff for clarification and see Appendix VI for additional details on subdivision regulations.

Title Issues:

The Chester County Agricultural Land Preservation Board may decide to not proceed with the agricultural conservation easement process upon discovery of issues of title which prevent such an agricultural conservation easement to occur on the land. Should these concerns present themselves, the land owner is responsible for the incidental costs incurred by the County.

Transfer of Development Rights:

As long as farmland meets this program's eligibility criteria, owners of farmland located in areas municipally zoned as eligible to transfer development rights (TDR) may apply to sell all – or all remaining (in the event some have been transferred) – development rights to the CCALPB. If the CCALPB purchases development rights on farmland in a TDR zone, the CCALPB shall encourage the farm owner and municipality where the farmland is located to retire any residual transferable development rights.

Urgent Situations:	The CCALPB may consider preserving a farm sooner than the ranking indicates if the farm is subject to an Urgent Situation. The farm should score over 60 points or score within 75% of the top ranked farm and have a current application. CCALPB has the discretionary authority to authorize appraisals and preserve a farm out of ranking order if there is potential to leverage additional funding such as federal, township, or private contribution equal to donation of 50% or more (at \$6,000/acre or less – whichever is less) pursuant to these program guidelines.
Well and Septic Infrastructure:	The CCALPB will not permit private septic or private water infrastructure to be placed on land subject to an agricultural conservation easement that is intended to service a parcel that is not subject to a permanent farmland preservation easement.
Withdrawal from Consideration:	In situations where the applicant withdraws from easement sale consideration or breaches the agreement of sale prior to closing, it shall be the applicant's responsibility to reimburse the County for all incidental costs incurred. These may include but are not limited to appraisal fees, survey fees and title fees.
Woodland Cap:	For farms containing more than 15 percent woodland (excluding Christmas tree farms) easement purchase offers will not exceed 90 percent of appraised easement value.

# ADDENDUM IV

## PROCEDURE FOR PURCHASING EASEMENTS

The Chester County Agricultural Land Preservation Board intends to follow the procedures contained in Subchapter D - State Regulations, for easement purchases. Several sections, but not all detailed below.

### SUBCHAPTER D - PROCEDURE FOR PURCHASING AN EASEMENT

#### § 138e.61. Application.

- (a) A separate application shall be required for each farmland tract offered for easement purchase. The application shall consist of a completed application form, location maps, a soils report and a crop report.
- (b) The CCALPB shall develop and make available to a county resident an application form which requires the following information:
  - (1) The name, address, telephone number and signature of all owners of the farmland tract.
  - (2) The county, municipality and agricultural security area in which the farmland tract is located.
  - (3) The total acreage of the farm as shown on the deed or instruments of record.
  - (4) The number of acres in the farmland tract proposed for easement purchase.
  - (5) The street address of the farm, and directions from the nearest State route.
  - (6) The most current deed reference--book, volume and page--or other reference to the place of record of the deed. In the case of multiple deeds, numbers for all the deeds shall be provided.
  - (7) County tax map numbers, including tax parcel number, or account number of each parcel.
  - (8) The date of the conservation plan, if any, which has been approved by the county conservation district or CCALPB. This expense may be reimbursed as a cost incident to easement purchase in accordance with section 14.1(h)(6) of the act (3 P.S. § 914.1(h)(6) and § 138e.69 (relating to statement of costs).
  - (9) The date of any nutrient management plan. The cost of preparing this plan may be reimbursed as a cost incident to the easement purchase in accordance with section 14.1(h)(6) of the act (3 P.S. § 914.1(h)(6) and § 138.e.69 (relating to statement of costs if the landowner offers and accepts a bargain sale of 50% or greater.
  - (10) The name, address and telephone number of the person to be contacted to view the farmland tract.
- (c) The applicant or the county shall provide both of the following location maps with the application:
  - (1) A United States Geological Survey topographical map or a portion of the map showing the location of the farmland tract, with the farmland tract boundaries clearly and correctly delineated and showing the location of acreage being excepted from the easement.
  - (2) A tax map or official map used for tax assessment purposes showing the farmland tract with all tax parcel numbers clearly indicated.

- (d) The applicant or CCALPB shall provide a soils report and a color-coded soils map for the farmland tract proposed for easement purchase. The soils report shall also contain a list of soil mapping unit names, symbols and land capability classes on the farmland tract. The soils map shall use as a base soil survey maps published by the USDA-NRCS. A county with a digital mapping database system for soils may provide the soils map in digital form in an appropriate scale acceptable to the Department. The soils map shall color code soil types as follows:

Land Capability Class I	=	Green
Land Capability Class II	=	Yellow
Land Capability Class III	=	Red
Land Capability Class IV	=	Blue
Land Capability Class V – VIII	=	Uncolored
Wetlands	=	Cross-Hatch, or shown on a separate map

- (e) The applicant shall provide crop production information for the farmland tract for the most recent crop year that comparable statistics are available from the Pennsylvania Agricultural Statistics Service as follows:

Commodity	Acres Grown	Yield/Acre
1.		
2.		
3.		
4.		

- (f) The applicant shall provide a livestock report for the farmland tract for the most recent calendar year that comparable statistics are available from the Pennsylvania Agricultural Statistics Service as follows:

Livestock	Average Numbers	Product Sold	Amount Sold
1.			
2.			
3.			
4.			

- (g) If the applicant grows crops or produces livestock that are of a type not reported by PASS, the CCALPB shall obtain two years of production data from the applicant in order to determine if the application meets the minimum criteria as set forth in Section 138e.16

§138e.62. Evaluation of application.

- (a) The CCALPB shall review the application to determine if it is complete and meets the minimum criteria in §§ 138e.11-138e.21 (relating to requirements for certification of county program).
- (b) If the application is complete and the minimum criteria are met, an agent or member of the CCALPB shall view the farmland tract and discuss the county program with the applicant.
- (c) The CCALPB shall evaluate timely applications which meet the minimum criteria and rank them according to the county farmland ranking system.

§ 138e.63. Order of appraisal.

Farmland ranking score and bargain sales of 50% or more on farms with a score of 60 or more shall combine to determine the order in which farmland tracts are selected by the CCALPB for appraisal. Selection for appraisal shall be made in descending order of farmland ranking score unless the application qualifies for consideration as an Urgent Situation and an appraisal is subsequently authorized by the CCALPB.

§ 138e.64. Appraisal

- (a) An offer to purchase an easement shall be based upon one or more appraisal reports which estimate the market value and the farmland value of the farmland tract, as those terms are defined in § 138c.3 (relating to definitions). The initial appraisal shall be at the CCALPB's expense. This expense may be reimbursed as a cost incident to easement purchase in accordance with section 14.1(h)(6) of the act (3 P.S. § 914.1(h)(6) and § 138e.68 (relating to statement of costs).
- (b) An appraisal of market value and farmland value shall be based on an analysis of comparable sales, and shall be conducted in accordance with standards in the most recent edition of the *Uniform Standards of Professional Appraisal Practice*, published by the Appraisal Standards Board of the Appraisal Foundation. If an appraiser cannot practicably conduct an appraisal based on an analysis of comparable sales, the appraiser may conduct an appraisal using another methodology only if that methodology is an acceptable methodology under the *Uniform Standards of Professional Appraisal Practice* and the appraisal report clearly describes the information considered, the appraisal procedures followed and the reasoning that supports the analyses, opinions and conclusions.
- (c) The value of a building or other improvement on the farmland tract will not be considered in determining the easement value.
- (d) The appraiser shall be a State Certified General Real Estate Appraiser who is qualified to appraise a property for easement purchase. An appraiser shall be selected by a CCALPB on the basis of experience, expertise and professional qualifications.
- (e) The appraiser shall supply a minimum of three copies of a narrative report which contains the following information and is in the following format:
  - (1) Introduction
    - (i) Letter of transmittal.
    - (ii) The appraiser's certificate of value as to market value, farmland value and easement value.
    - (iii) A table of contents.
    - (iv) A summary of salient facts and conclusions.
    - (v) The purpose of the appraisal.
    - (vi) The definitions, including definitions of market value, farmland value and easement value.
  - (2) Description of property.
    - (i) A brief area of neighborhood description.
    - (ii) A description of appraised property.
      - (A) A legal description.
      - (B) Property data and zoning.
      - (C) A brief description of improvements.
      - (D) Color photos of subject property's fields and improvements.

- (E) Tax map or official map used for tax assessment purposes showing the subject property and its relationship to neighboring properties.
- (F) A legible sketch or aerial photograph of subject property showing boundaries, roads, driveways, building locations, rights of way and land use.
- (G) A location map showing the location of the subject farmland tract in a county or municipality.
- (H) Soils map showing property boundaries.

(3) Analyses and conclusions.

- (i) An analysis of highest and best use.
- (ii) The valuation methodology: market value.
  - (A) Comparable sales data.
  - (B) An adjustment grid.
  - (C) A location map of comparable sales showing the location of the subject farmland tract with respect to the comparables. A single location map shall be submitted with respect to each county from which comparable sales are drawn.
- (iii) The market value estimate.
- (iv) The valuation methodology: farmland value.
  - (A) Comparable sales data.
  - (B) An adjustment grid.
  - (C) A location map of comparable sales showing the location of the subject farmland tract with respect to the comparables. A single location map shall be submitted with respect to each county from which comparable sales are drawn.
- (v) A farmland value estimate.
- (vi) The easement value.
- (vii) An appendix containing a brief statement of the appraiser's professional qualifications and a copy of the appraiser's current certification issued in accordance with the Real Estate Appraisers Certification Act (63 P.S. §§ 457.1-457.19)

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

comparable sale is located, and shall be sufficiently identified and described so it may be located easily. If the comparable sales map depicts the county in which the property that is the subject of the appraisal is located, that property shall also be sufficiently identified and described so it may be located easily.

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

§ 138e.65. Easement value and purchase price.

- (a) Easement Value. An easement shall be purchased in perpetuity. The maximum value of an easement for purposes of making an offer to purchase an easement under § 138e.66(b) (relating to offer of purchase by CCALPB) shall be the difference between the market value and the farmland value contained in the county appraisal report.
- (b) Maximum purchase price. The purchase price offered for the purchase of an easement under § 138e.66(b) may not exceed, but may be less than, the value of the easement.

- (c) Chester County may take up to two years to encumber each annual State allocation of funds.
- (d) Chester County may utilize the long-term installment provisions of Act 43, as amended.

§ 138e.66. Offer of purchase by county board.

- (a) In determining whether to offer to purchase an easement following receipt of the county appraisal report, the CCALPB shall consider the following:
  - (1) The farmland ranking score, as calculated in accordance with § 138e.15 (relating to farmland ranking system).
  - (2) The cost relative to total allocations and appropriations.
  - (3) The factors or considerations set forth in the county program as those factors or conditions under which an offer to purchase would be made in something other than descending order of farmland ranking score. An example of a factor or consideration under which a county program might provide for the making of an offer to purchase in something other than descending order of farmland ranking score would be a bargain sale of 50% or more (or \$6,000 per acre minimum based on a \$12,000/acre cap), or the landowner being unable to obtain clear title to the farmland tract within a time specified in the county program.
- (b) If the CCALPB determines to offer to purchase an easement on the farmland tract, the CCALPB, or a representative of the CCALPB, shall meet with the applicant to review the county appraisal report and resolve any outstanding issues relative to the mandatory conservation plan. An offer to purchase an easement shall be submitted to the applicant in writing and accompanied by the county appraisal report.
- (c) Within 30 days of receipt of the written offer from the CCALPB an applicant may do one of the following:
  - (1) Accept the offer, in which case the CCALPB and the applicant shall enter into an agreement of sale. The agreement of sale shall be conditioned upon the approval of the State Board and be subject to receipt by the CCALPB of a complete and up to date conservation plan, a signed conservation plan implementation agreement, as well as the ability of the applicant to provide good title to the premises, free of encumbrances such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interest, and other encumbrances which would adversely impact the county and Commonwealth's interest in the farmland tract.
  - (2) Reject the offer and advise the CCALPB that the application is withdrawn.
  - (3) Advise the CCALPB that the applicant is retaining, at applicant's expense, an independent State-certified general real estate appraiser to determine the easement value. ....  
The appraiser shall be qualified, and the appraisal shall be completed in accordance with the procedure § 138e.64 (relating to appraisal). The appraisal shall be submitted to the CCALPB within 120 days of receipt of the CCALPB's offer to purchase. The CCALPB 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 applicant's appraisal shall be submitted to the CCALPB. The applicant's decision to obtain an independent appraisal under this paragraph does not

constitute a rejection of the CCALPB's offer. The CCALPB's offer shall remain open unless increased by the CCALPB under subparagraph (ii) or rejected by the applicant under subparagraph (iii) or (iv).

- (i) If the applicant retains an independent appraiser, the easement value shall be the difference between the agricultural value and the nonagricultural value, determined as follows:
  - (A) The agricultural value shall equal the sum of:
    - (I) The farmland value determined by the applicant's appraiser.
    - (II) One-half of the difference between the farmland value determined by the CCALPB's appraiser and the farmland value determined by the applicant's appraiser, if the farmland value determined by the CCALPB's appraiser exceeds the farmland value determined by the applicant's appraiser.
  - (B) The nonagricultural value shall equal the sum of:
    - (I) The market value determined by the CCALPB's appraiser.
    - (II) One-half of the difference between the market value determined by the applicant's appraiser and the market value determined by the CCALPB's appraiser, if the market value determined by the applicant's appraiser exceeds the market value determined by the CCALPB's appraiser.
- (ii) If the easement value determined under subparagraph (i) is less than the easement value determined by the county appraiser, the CCALPB may offer a purchase price equal to the county's offer under subsection (b).
- (iii) Regardless of the easement value, the purchase price may not exceed \$12,000 per acre of County, Municipal, and/or State funds.
- (iv) Within 30 days of receipt of the applicant's appraisal, the CCALPB shall do one of the following:
  - (A) Submit a written offer to purchase in an amount in excess of the amount offered under subsection (b) to the applicant; or
  - (B) Notify the applicant, in writing, that the offer made under subsection (b) remains open and will not be modified.
- (v) The applicant shall, within 15 days of receipt of the CCALPB's written offer under subparagraph (iv)(A) or receipt of the CCALPB's written notice under subparagraph (iv)(B) notify the CCALPB in writing that the applicant does one of the following:
  - (A) Accepts or rejects the offer made under subsection (iv)(A); or
  - (B) Accepts or rejects the offer made under subsection (b).

- (vi) The failure of the applicant to act as set forth in subparagraph (v) shall constitute a rejection of the CCALPB's offer.
- (vii) If the offer of purchase is accepted, the CCALPB and the applicant shall enter into an agreement of sale containing the same requirements and subject to the same conditions in subsection (c) (1).
- (4) The failure by the applicant to act within 30 days of receipt of a written offer under subsection (b) shall constitute rejection of the offer.
- (d) An agreement of sale shall be in a form provided by the State Board.

§ 138e.67. Requirements of the agricultural conservation easement deed.

- (a) The owners of the subject farmland tract shall execute a deed conveying the easement. This deed shall include the provisions of § 138e.241 (relating to deed clauses).
- (b) The deed shall be in recordable form and contain:
  - (1) A legal description setting forth the metes and bounds of the farmland tract subject to the easement.
  - (2) At least one course and distance referencing a fixed marker or monument of a type commonly placed in the field by a surveyor. Fixed markers may include iron pins, pk mails, spikes, concrete monuments or stones.
  - (3) A transfer clause stating that any person conveying or transferring land subject to an agricultural conservation easement shall, no less than 30 days prior to the change in ownership (settlement), notify the CCALPB and the Department of Agriculture of the name and address of the person(s) to whom the subject land will be conveyed or transferred and the price per acre or portion thereof to be received by the landowner from such person. (14.1(j)(2)).
- (c) The legal description may not contain a closure error greater than one foot per 200 linear feet in the survey.
- (d) The farmland tract on which an easement is to be purchased shall be surveyed unless the legal description contained in the deed recorded in the land records of the county in which the farmland tract is located satisfies the requirements of subsections (b) and (c). A survey required by the provisions of this paragraph shall comply with the boundary survey measurement standards of one foot per 10,000 linear feet (1:10,000) as published by the Pennsylvania Society of Land Surveyors.
- (e) For purchases made entirely with State funds, the Commonwealth shall be the sole grantee.
- (f) For purchases made using a combination of State and county funds, or municipality and Commonwealth or County funds, the grantees shall be the Commonwealth, county, and municipality if providing the funds under joint ownership as defined in the act.
  - (1) Neither the Commonwealth, county, nor municipality may sell, convey, extinguish, lease, encumber, restrict or otherwise dispose of its interest in the easement without the consent of the other.
  - (2) Upon the sale, conveyance, extinguishment, lease, encumbrance or other disposition of the easement, the Commonwealth, county, and municipality shall receive a pro rata share of the proceeds based upon their respective contributions to the purchase price.

- (g) A copy of the deed shall be submitted to the State Board for approval prior to execution and delivery.
- (h) All properties within Chester County upon which conservation easements are placed shall recite in verbatim the language of the easement as set forth in the deed whenever interest in said properties is conveyed or transferred to another person. (14.1(j)(1-3)).

§ 138e.68. Title insurance.

- (a) The CCALPB shall provide a title commitment to the State Board upon submission of its recommendation for the purchase of an easement.
- (b) At settlement, the CCALPB shall provide a title insurance policy issued by a title insurance company authorized to conduct business in the Commonwealth by the Insurance Department. A marked-up title commitment may serve as a policy until the policy is issued. The cost of such title insurance shall be a cost incident to the easement purchase payable or reimbursable from a county's allocation under the act.

§ 138e.69. Statement of costs.

- (a) For purposes of Section 14.1(h)(6) of the act (3 P.S. § 914.1(h)(6)), the CCALPB shall submit, on a form provided by the Department, a statement of costs. This statement of costs shall include the cost of the agricultural conservation easement and the costs incident to the purchase of the easement, and shall be submitted to the State Board along with the application for review described in § 138e.91 (relating to recommendation for purchase). The incidental costs may include:
  - (1) The county appraisal costs.
  - (2) The necessary legal fees for title search, preparation of documents and attendance at closing.
  - (3) The recording fees.
  - (4) The survey costs.
  - (5) The costs of providing adjoining landowners with required notices and of providing necessary advertisements.
  - (6) Reimbursements to a nonprofit land conservation organization that has acquired an easement at the request of the CCALPB, for the purpose of transferring the easement to the county or the Commonwealth, or both. These costs include the easement purchase price, reasonable costs of financing the purchase, appraisal costs, necessary legal costs, recording fees and survey costs.
  - (7) The cost of title insurance.
- (b) The statement of costs shall specify the amount of funding requested from the Commonwealth for the purchase, and the amount of county and municipality funds allocated for the purchase.
- (c) After settlement, the CCALPB shall submit a revised statement of costs if actual costs were greater or less than the costs estimated in the initial statement of costs.
- (d) If the actual costs are less than the estimated costs, the CCALPB shall promptly refund the difference to the Department by check payable to "Commonwealth of Pennsylvania".

§ 138e.70. Summary report.

- (a) General. A recommendation by the CCALPB for the purchase of an easement shall be accompanied by a summary report consisting of a narrative report and appendix as described in subsections (b) and (c).
- (b) Narrative report. The narrative report shall consist of the following:
  - (1) A description of the farm, including the name of all landowners, location in relation to the nearest town, number of acres proposed for purchase and type of agricultural production on the farm.
  - (2) A description of the quality of the farmland tract, including soil capability classes of the soils available for agricultural production.
  - (3) The farmland ranking score, including a statement of the relative ranking of the farmland tract among other tracts considered by the county in the same round of applications.
  - (4) A description of the likelihood of conversion to other uses if the easement is not purchased.
  - (5) A description of the nature and scope of developmental pressure in the municipality or area.
  - (6) A description of the nature and scope of conservation practices and best land management practices, including soil erosion and sedimentation control and nutrient management.
  - (7) A discussion of the purchase price summarizing the appraisals, including the agricultural and nonagricultural value, negotiations for purchase and the percentage of the appraised easement value accepted by the landowner.
  - (8) A statement of costs as described in § 138e.69 (relating to statement of costs).
  - (9) A certification by the CCALPB that the information presented to the State Board is true and correct.
- (c) Appendix. The appendix of the summary report shall, at a minimum, consist of the following:
  - (1) The application form.
  - (2) Location maps, including tax, topographic and soils maps.
  - (3) A soils report.
  - (4) Any crop report required by the county program.
  - (5) Any livestock report required by the county program.
  - (6) An evaluation of the farmland ranking score, showing how the farm scored in comparison to other farms.
  - (7) A quitclaim deed, or subordination, release or letter approving the purchase from a mortgagee, lien holder or owner of rights in surface mineable coal.

§ 138e.71. Notification of owners of land adjoining proposed easement purchase

- (a) General. A county board shall provide the owners of land adjoining a farmland tract with respect to which an easement purchase is proposed with notice of the proposed purchase and notice of an opportunity to be heard at the State Board meeting at which the easement purchase recommendation is to be considered. At a minimum, this notice shall identify the property being considered for easement purchase, reference the time and place of the State Board meeting at which the easement purchase recommendation is to be considered and reference the criteria at

section 14.1(e)(1) of the act (3 P.S. § 914.1(e)(1)) upon which the State Board could disapprove a recommended easement purchase. Service of this notice may be accomplished by personal service or mail as described in subsections (b) and (c).

- (b) Personal service. The notice described in subsection (a) may be accomplished by personal service upon the landowners entitled to notice. If service is accomplished by personal, the county board shall submit verification of service to the State Board in advance of the State Board meeting at which the easement purchase recommendation is to be considered.
- (c) Certified mail. The notice described in subsection (a) may be accomplished by certified mail, return receipt requested, addressed to the landowner entitled to the notice. If service is accomplished by certified mail, the county board shall submit verification of service, including a copy of the return receipt, to the State Board in advance of the State Board meeting at which the easement purchase recommendation is to be considered.

§ 138e.72. Transactions affecting ownership of easement.

- (a) General prohibition. Neither the Commonwealth nor the county may sell, convey, extinguish, lease, encumber or restrict in whole or in part its interest in an agricultural conservation easement for 25 years from the date of the purchase of the easement. This prohibition will not be construed to prevent a public entity, authority or political subdivision from exercising the power of eminent domain and condemning restricted land in accordance with section 14.1(c)(5) of the act (3 P.S. § 914.1(c)(5)).
- (b) Disposition of proceeds. Upon the sale, conveyance, extinguishment, lease, encumbrance or other disposition of the easement, Commonwealth and the county shall receive a pro rata share of the proceeds based upon their respective contributions to the purchase price

# ADDENDUM V

## LAND TRUST REIMBURSEMENT PROGRAM

### PURPOSE:

The purpose of these regulations is to implement the Land Trust Reimbursement Program Provisions of Act 46 of 2006 which re-establishes this grant program under the Agricultural Area Security Law (14.6).

- a) Eligible expenses for reimbursement include:
  - 1. Appraisals
  - 2. Legal services
  - 3. Title searches
  - 4. Document preparation
  - 5. Title insurance
  - 6. Closing fees
  - 7. Survey costs
- b) Limitations:
  - 1. Reimbursement shall be limited to \$5,000 per easement.
  - 2. The term of an agricultural conservation easement shall be perpetual.
- c) Eligibility: To be eligible under this subsection, a land trust shall be an eligible nonprofit entity and shall:
  - 1. register with the State Board;
  - 2. coordinate agricultural conservation easement purchase activities with the eligible county in which the activity occurs or coordinate such activities with the State Board, if the activity does not occur within an eligible county; and
  - 3. Submit an application to the State Board, with the statement of costs incidental to the acquisition, the deed of easement and any other documentation required by the State board, within 60 days of closing the easement.
- d) Registration: To become registered with the State Board, the nonprofit entity shall:
  - 1. Send a letter of request to the Pennsylvania Bureau of Farmland Preservation stating the organization's desire to be registered with the State Agricultural Land Preservation Board for the purpose of receiving reimbursement grants under the 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 stated purposes; and
  - 4. Include a letter from the Director or Chairperson of the County Agricultural Land Preservation Board in which the land is located indicating that the land trust coordinates its farmland preservation activities with those of the County Board.

# ADDENDUM VI

## SUBDIVISION REGULATIONS

### FOR LAND SUBJECT TO AGRICULTURAL CONSERVATION EASEMENTS IN CHESTER COUNTY

#### PURPOSE:

The purpose of these regulations is to implement the subdivision provisions of Pennsylvania's Agricultural Area Security Law (the Act), 3 P.S. § 901-915

No subdivision will be permitted which will:

- (a) Harm the economic viability of the farmland for agricultural production; or
- (b) 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 as the landowner's principal residence or housing for seasonal or full-time farm employees is permitted pursuant to section 14.1(c)(iv) of the Act.

#### APPLICATION OF THESE REGULATIONS:

These regulations shall apply only to easements for which an agreement of sale has been signed on or after the date that these regulations have been approved by the State Board.

These regulations apply only to subdivision of land upon which exists an easement under the Act at the time a land owner begins the process of seeking subdivision approval.

Subdivision of land between the time an application for an easement under the Act is submitted and the time said easement purchase is completed is **prohibited**. Any subdivision during this period will cause the application to be denied. The application may be resubmitted after subdivision is complete.

#### DEFINITIONS:

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

**Economic viability of farmland for agricultural production:** The capability of a particular tract of restricted land (other than a tract of two acres or less upon which construction and use as the landowner's principal residence or housing for seasonal or full-time farm employees is permitting pursuant to section 14.1(c) (iv) of the Act), to meet all of the criteria set forth in State Board Regulations at the time of application for subdivision.

**Harm the economic viability of the farmland for agricultural production:** To cause a particular tract of restricted land to fail to meet the criteria set forth in State Board Regulations at the time of application for subdivision or to create, through subdivision, a tract of restricted land that would fail to meet the aforesaid criteria set forth in State Board Regulations at the time of application for subdivision. Specifically excepted is a tract of two acres or less upon which construction and use as the landowner's principal residence or housing for seasonal or full-time farm employees is permitted pursuant to section 14.1(c) (iv) of the Act.

**Land development:** Either of the following activities:

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

**Land which has been devoted primarily to agricultural use:** Acreage which is a part of restricted land and is harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land containing 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 impracticable 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 landowner's principal residence or housing for seasonal or full-time employees is permitted pursuant to section 14.1(c)(iv) of the Act.

**Pennsylvania Municipalities Planning Code:** The Act of December 21, 1988 (P.L. 1329, No 1 170) (53 P.S. sec 10101-11201)

**Subdivision:** The division or redivision 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, or lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

PROCEDURE:

- (a) An application for subdivision shall be submitted on a form prescribed by the Chester County Agricultural Land Preservation Board (CCALPB). The Forms may be obtained from the administrator of the (CCALPB).
- (b) Upon receipt of the completed application, the administrator for the CCALPB shall note the date upon which the application is received and forward written notification to the county planning office and county farmland preservation office. The CCALPB shall note the date upon which each reviewing agency receives said notice. These agencies (reviewing agencies) shall have 60 days from the receipt (receipt presumed to be within 3 days of mailing) to review, comment and make recommendations on the proposed application to the CCALPB. The CCALPB will only consider comments and recommendations received beyond said deadline if the landowner agrees in writing.
- (c) Upon receipt of the application the CCALPB shall review it to determine whether subdivision complies with these regulations, the Act and State Regulations. Within 120 days of receipt of the application, the CCALPB shall decide whether to approve or deny the application. This deadline may be extended with the written approval of the landowner and the reviewing agencies. Failure of the CCALPB to approve or reject an application for subdivision before said 120 day period will result in the deemed approval of the application. Approval shall be conditioned upon approval by the State Board. Notice of the decision shall be mailed to the applicant on the next business day following the decision.
- (d) If the application to subdivide land is approved, the CCALPB administrator shall forward to the State Board on the next business day: a copy of the application, the comments and recommendations of the reviewing agencies.
- (e) If the application to subdivide land is rejected, the application shall be returned to the landowner with a written statement of the reasons for the rejection. Within 30 days after the receipt (receipt presumed to be within 3 days of mailing) of the statement of rejection, the landowner may appeal the rejection in accordance with 2 PA.C.S. CH. 5 Subch B (relating to practice and procedure of local agencies) and CH. 7 Subch. B (relating to judicial review of local agency action).
- (f) At all times, the burden of proof is upon the landowner.

### CRITERIA FOR SUBDIVISION:

A landowner may subdivide a tract of land subject to an Agricultural Conservation Easement (the easement) per the Act if the CCALPB finds the conservation plan is up to date and the landowner has completed or is on schedule to complete its implementation, that such subdivision does not harm the economic viability of the farmland for agricultural production, does not convert land devoted primarily to agricultural use to another primary use, or violate any one or more of the following criteria:

- (a) Subdivision is not inconsistent with any provision of the Act, State Regulations, County regulations, The Municipalities Planning Code or local land use law or regulations;
- (b) The size of the parcels of land after subdivision is not inconsistent with the agricultural use of the property as it existed prior to subdivision. However, no subdivision will be allowed if it results in a tract of land which is less than 50 acres in size unless the tract is at least 10 acres in size and is either utilized for a crop unique to the area or is contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization" as that term is defined at section 170(h)(3) of the Internal Revenue Code or an IRS 501 (c) (3) non-profit land trust or by a qualified public entity.
- (c) The soil types of the parcels of land after subdivision is not inconsistent with the agricultural use of the property as it existed prior to subdivision;
- (d) The location of any structures to be built (which are permitted by the Act) is not inconsistent with the agricultural use of the property as it existed prior to subdivision;
- (e) The subdivision is not inconsistent with any Soil conservation plan in existence prior to the subdivision;
- (f) The subdivision is not inconsistent with the easy administration and enforcement of the laws and regulations pertaining to the easement;
- (g) Subdivision is not inconsistent with or detrimental to any conservation easement of adjoining property;
- (h) The shape and location of the subdivided tracts are not inconsistent with the agricultural use of the property as it existed prior to subdivision;
- (i) The land to be subdivided is not (as of the time of the vote on the application) in violation of the easement or any soil conservation plan; and law or regulation Federal, State or local.

### RESERVATION OF RIGHT TO CONSTRUCT AFTER SUBDIVISION:

If the restricted land is subdivided prior to the construction of a residential structure under authority of the Act, the landowner shall do the following:

1. Inform the county board, at the time an application for subdivision under these regulations is submitted, of the specific subdivided tract where said residential structure is to be built; and
2. Ensure that the deed to the subdivided tract where said residential structure is to be built clearly sets forth the reservation of this right to build said residential structure; and
3. Ensure that the deeds to any remaining subdivided tracts recite that no residential structure may be constructed on said subdivided tracts.

### NOTICE OF SUBDIVISION REGULATIONS:

The CCALPB shall file these regulations at the Office of the Recorder of Deeds for Chester County and reference the place of filing of these regulations in the deed of agricultural conservation easement. These regulations will be recited verbatim in the deed of agricultural conservation easement.

## ADDENDUM VII

### CHESTER COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM AMENDMENT

In accordance with the regulations at 7 PA Code § 138e.43 (relating to revision of county programs), the county board, hereby, revises the County Agricultural Land Preservation Program in compliance with Act 14 of 2001, Act 138 of 1998, and Act 46 of 2006 amendments of the Agricultural Area Security Law, Act 43. The revisions to the county program are incorporated into the applicable sections and new sections have been added on an as needed basis.

#### DEFINITIONS

##### **Agricultural Conservation Easement**

In the first sentence of the definition, the use of the term “the land” has been replaced by the words “a parcel.”

##### **Agricultural Production**

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

##### **Eligible Nonprofit Entity**

**An entity that provides the State board or an eligible county satisfactory proof of all of the following:**

1. **That the entity is tax exempt under section 501 (c) (3) of the Internal Revenue Code of 1986 (Public Law 99-154, 26 U.S.C. § 501(c) (3))**
2. That the entity has experience acquiring, whether through purchase, donation or other transfer, an agricultural or other conservation easement.

##### **Local Government Units**

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

##### **Parcel**

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

#### SPECIAL PROVISIONS FOR PARCELS NOT ENTIRELY WITHIN AN ASA

Act 14 of 2001 and Act 46 of 2006 amended the Agricultural Area Security Law (Act 43) to prescribe certain conditions which would allow for the purpose of an agricultural conservation easement (ACE) on a parcel that is not entirely within an agricultural security area (ASA). The county governing body authorized the CCALPB on 7/11/1989 to administer a program for the purchasing of agricultural conservation easements from landowners whose land is either within an agricultural security area or in compliance with the criteria set forth below as it applies to the Act 14 amendment. The CCALPB shall follow the Chapter 138e.43 Revision of County Program procedures and approvals as amended.

1. Consistent Standards. The standards and procedures for the selection and purchase of an agricultural conservation easement set forth in this county program are applicable to the selection and purchase of easements crossing local government unit boundaries and county boundaries.
2. Parcels Crossing Local Government Unit Boundaries. The CCALPB 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. State-only easements are not included. Township-only easement purchases do not apply.
  - 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.
3. Parcels Crossing County Boundaries. The CCALPB 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. State-only easements are not included. Township-only easement purchases do not apply.
  - b. The land is part of a parcel of farmland that is transected by the dividing line between the purchasing county and an adjoining county, with the portion within the purchasing county being in an agricultural security area of 500 or more acres and the portion within the adjoining county's local government unit not being within an agricultural security area.
  - c. One of the following shall apply:
    - i. The main dwelling (mansion house) is located on the parcel, and the house is located entirely in the purchasing county with the local government unit that has an ASA.
    - ii. The main dwelling (mansion house) is located on the parcel, on the dividing line between counties and the owner of the parcel has chosen the purchasing county with the local government unit that has an ASA 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 in the purchasing county with the local government unit that has an ASA.
4. Recording Responsibilities. Upon the purchase of an agricultural conservation easement as described above in items 2 and 3, 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. The purchasing county will take all steps necessary to ensure the local government unit 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 following:

1. Agricultural Conservation Easements within the county.
2. Agricultural Conservation Easements acquired pursuant to the criteria set forth for the purchase of agricultural conservation easements that cross local government unit boundaries including any portion of an agricultural conservation easement extended into an adjoining county.

## LOCAL GOVERNMENT UNIT PARTICIPATION

Any local government unit that has created an agricultural security area may participate along with an eligible county and the Commonwealth in the preservation of farmland through the purchase of agricultural conservation easements.

1. The local government unit, in conjunction with a 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 the eligible 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:
  - i. 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 a county or both a 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.
  - ii. 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.
  - iii. 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 easement 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 recorder of deeds of the county 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.
6. 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.

## EASEMENT VALUE AND PURCHASE PRICE

Maximum Purchase Price. The purchase price offered for the purchase of an easement in the perpetuity under Chapter 138e.66(b) may not exceed, but may be less than, the value of the easement. Regardless of the easement value, the overall (state, county, and local government unit) purchase price for an agricultural conservation easement in perpetuity may not exceed \$12,000 per acre or limit established by the county board in this county program.

9-26-06  
Date

Melba Matthews  
Chairman, Chester County Agricultural  
Land Preservation Board



## **ADDENDUM VIII**

### **BY-LAWS FOR THE CHESTER COUNTY AGRICULTURAL LAND PRESERVATION BOARD**

#### **ARTICLE I - NAME**

The organization shall be known as the Chester County Agricultural Land Preservation Board, herein also referred to as the Board.

#### **ARTICLE II - PURPOSE**

The Chester County Agricultural Land Preservation Board (ALPB) was established by the resolution of the Chester County Board of Commissioners, dated July 11, 1989, to administer Agricultural Conservation Easement Programs on behalf of Chester County Board of Commissioners (Board). This includes but is not limited to programs administered in cooperation with the Commonwealth of Pennsylvania and any other agricultural easement acquisition programs deemed desirable by the Board. The ALPB is authorized by the Board to undertake any and all administrative actions necessary to effectively implement all agricultural easement programs authorized by the Board.

#### **ARTICLE III - AUTHORIZATION**

The Chester County Agricultural Land Preservation Board was established by the authority granted to the Chester County Board of Commissioners by Pennsylvania Act 43, P.L. 128, No. 43, as amended.

#### **ARTICLE IV - MEMBERSHIP**

Section 401: Representation - The Chester County Agricultural Land Preservation Board shall be appointed by the Board of County Commissioners as follows:

- (1) One (1) less than the majority shall be active resident farmers of the County and shall serve initial terms of three (3) years;
- (2) One (1) member shall be a current member of the governing body of a township or borough located within the County and shall serve an initial two (2) year term;
- (3) One (1) member shall be a commercial, industrial, or residential contractor and shall serve an initial one (1) year term;
- (4) The remaining members shall be selected at the pleasure of the County governing body and shall serve initial terms of one (1) year.

Section 402: Size of Membership - The Board shall have no less and no more than nine (9) members appointed by the Chester County Board of Commissioners, of which no less than four (4) members shall serve initial terms of one (1) year.

Section 403: Terms of Office - Upon expiration of the initial terms set forth above, all terms of members shall be three (3) years.

Section 404: Vacancies - Appointments to fill vacancies on the Board shall be made by the Chester County Board of Commissioners for the balance of the term vacated.

## ARTICLE V – OFFICERS

Section 501: Officer Titles – The Board shall be governed by a Chairman, a Vice-Chairman, and a Secretary.

Section 502: Duties of Officers

- (1) The Chairman shall preside at all meetings of the Chester County Agricultural Land Preservation Board, call special meetings, establish committees, appoint committee chairmen, and delegate other tasks and assignments as may be appropriate.
- (2) The Vice-Chairman shall preside at all meetings of the Chester County Agricultural Land Preservation Board in the absence of the Chairman.
- (3) The Secretary shall be responsible for seeing that all meetings are recorded.

## ARTICLE VI – ELECTION OF OFFICERS

Section 601: Terms of Office – All officers shall serve for a term of one (1) year and may succeed themselves.

Section 602: Date of Election – Election of officers shall be made annually at the first meeting after July 1. Annually, the Chairman of the Board of County Commissioners shall designate one (1) member of the Board to act as Chairman of the Board.

Section 603: Nomination of Officers – All officers, except Chairman, shall be nominated by members of the Board and shall be themselves members of the Board. A nominated candidate must be present at the meetings and may decline nomination.

Section 604: Election – An officer shall be considered elected upon having received a simple majority vote of members present.

Section 605: Vacancies – If a vacancy occurs in any office other than Chairman, the Board shall fill the vacancy at an election to be held at the first meeting after the vacancy occurs. Officers elected to unexpired terms are eligible for nomination for reelection to a full one (1) year term. The Chairman of the Board of County Commissioners shall fill any vacancy in the office of the Chairman of the Board.

## ARTICLE VII - MEETINGS

Section 701: Meeting Dates - Meeting dates, times and places, shall be established by the Board and may be changed at any time pending a majority vote.

Section 702: Special Meetings - Special meetings may be called by the Chairman upon five (5) days notice, and at the request of five (5) members of the Board.

## ARTICLE VIII - QUORUM

A quorum for official transaction of Board business shall be a simple majority of all members of the Board.

## ARTICLE IX - VOTING

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 by-laws (see ARTICLE X).

#### ARTICLE X - AMENDMENTS

These by-laws can be amended only by a simple majority vote of all members of the Board, not merely those present, and shall be subject to approval by the Board of Commissioners. Notice of any proposed amendment must be made to all members and to the Board of Commissioners at least twenty-one (21) days prior to the vote being held.

#### ARTICLE XI - PARTICIPATION BY BOARD MEMBERS

The County Board members shall be able to participate in the Agricultural Conservation Easement Program provided they comply with the Act of October 4, 1978 (P.L. 833, No. 170), known as the Public Official and Employee Ethics Law.

# ADDENDUM IX

## County-Only Funded Easements

- A. Intent- In order to effectively preserve the agricultural land within Agricultural Security Areas, the Chester County Agricultural Land Preservation Board intends to acquire perpetual agricultural conservation easement using county-only funding. Acceptance of conservation easement will be determined by the agricultural Land Preservation Board using the minimum eligibility criteria established by the Board.
- B. Description - The Agricultural Conservation Easement is a legally binding document which is recorded in the Recorder of Deeds office, restricting its use to agriculture and directly associated uses, for which county compensation is paid. The Agricultural Conservation Easement is held by the County of Chester in perpetuity and the enforcement of the deed restrictions is the responsibility of the county as contained in the easement document (Reference to Article 9. Enforcement and Chapter 138e.204(a) Rules and regulations of Act 43.)
- C. Minimum Criteria for a County-Only Easement
- (1) The farmland tract shall be located in a recorded Agricultural Security Area consisting of at least 500 acres as required in Act 43, Section 14.1(e)(1)(iii). All parcels of the farmland tract application must be properly recorded in an ASA.
  - (2) The farmland tract shall encompass:
    - (a) at least 50 acres, or
    - (b) at least 25 acres if tract is owned and operated as an integral piece of an agricultural operation unit that has a tract of at least 25 acres already permanently preserved. The tracts need not be adjacent.
    - (c) at least 10 acres producing a crop unique to the area, or
    - (d) at least 10 acres contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization", as defined in Section 170(h)(3) of the Internal Revenue Code.
  - (3) In the farmland tract, at least 50% of the soils shall be available for agricultural production and in capability classes I through IV, as defined by the USDA Natural Resources Conservation Service.
  - (4) The farmland tract shall contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.
- D. Procedures for Acceptance
- (1) The Agricultural Land Preservation Board will provide a County-only Deed of Easement document prepared by the State.
  - (2) Agricultural Land Preservation Board reviews the properties for compliance with the County-only minimum eligibility criteria and ranks the applications.
  - (3) An appraisal report is initiated by the Board to determine the easement value.
  - (4) The landowner in fee simple ownership and the Agricultural Preservation Board shall enter into an Agreement of Sale document prepared by the State.
  - (5) The County Agricultural Land Preservation Board will follow the closing procedure, recording and reporting to the State for reimbursement of incidental costs as per Chapter 138e.103 (c) through (f), Expenditures of Matching Funds.

# ADDENDUM X

## Commercial Equine Activities Amendment

### Chester County Agricultural Land Preservation Program Amendment

In accordance with the regulations at 7 PA Code Sec.138e.43 (relating to revision of county programs), the County Board, hereby revises the County Agricultural Land Preservation Program in compliance with Act 61 of 2005 amendments of the Agricultural Area Security Law, Act 43 to take effect for the 2006 applicants. This Act is retroactive and applies to easements executed after June 29, 1981. The revisions to the county program are described by section.

#### DEFINITIONS

##### Commercial Equine Activity

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

##### Agricultural Security Areas

Section 14.05(a) of Act 43 is amended to include "or of viable agricultural land a portion of which is used for commercial equine activity", to the first sentence of this section.

#### COUNTY PROGRAM

Sections 14.1 (B)(2)(I) and (C)(6) of Act 43 are amended to include "establishing minimum criteria for eligibility of viable agricultural land a portion of which is used for commercial equine activity".

#### RESTRICTIONS AND LIMITATIONS

Section 14.1 (C)(6)(iii) of Act 43 is amended to allow "Construction and use of structures on the subject land necessary for agricultural production "or a commercial equine activity".

Section 14.1 (C)(6)(VI) of Act 43 allows for "Commercial equine activity on the subject land".

#### AMENDMENT OR ADDITION OF SECTION

Section 4 of Act 61 of 2005 states, "The amendment or addition of section 14.1 (C)(6)(III) and (VI) of the Act shall apply to easements executed after June 29, 1981".

# ADDENDUM XI

## CHESTER COUNTY AGRICULTURAL LAND PRESERVATION BOARD AGRICULTURAL EASEMENT INSPECTION/ENFORCEMENT PROCEDURE

### 1. Inspections

(a) The CCALPB shall inspect eased land at least annually to determine compliance with the applicable deed of easement. The first inspection shall be completed within 1 year to the date of easement sale

(b) Written notice of an inspection to be conducted shall be mailed by certified mail to the owner at least 10 days prior to the inspection.

(c) An inspection shall be performed between the hours of 8 a.m. and 5 p.m. on a weekday that is not a legal holiday or a date and time agreeable to the county and the landowner.

(d) Within 10 days of conducting an inspection, the CCALPB shall prepare a written inspection report setting forth the following information:

(1) The identification of the land inspected.

(2) The name of the owner of the farmland at the time the easement was originally acquired and the name of the current owner of the land inspected.

(3) A description of modifications in the number, type, location or use of any structures on the land since the date of the filing of the deed of easement.

(4) A description of deviations from the conservation plan observed on the restricted land

(5) A statement of whether the provisions of the deed of easement are being observed.

(6) A statement indicating whether a structure has been constructed on the restricted land, the month and year construction was completed, and a description of the structure and its location on the land.

(e) A copy of the inspection report shall be mailed by certified mail to the owner.

(f) The CCALPB and/or the State Board (if applicable) may inspect the restricted land without prior notice if they have reasonable cause to believe that any provision of the easement has been or is being violated.

### 2. Notification to landowner

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

(b) The written notice required by this section shall be sent by certified mail and shall set forth the following information:

(1) A copy of the inspection report.

(2) A copy of the deed of easement.

(3) A description of the action or condition which constitutes the alleged violation.

- (4) A statement of the measures necessary to correct the alleged violation.

## **2. County Assistance**

The landowner shall be granted 20 days from the date of the notification letter to meet with the CCALPB to discuss remedial actions. The CCALPB, in conjunction with the Chester County Soil Conservation District, shall offer its assistance through either a site visit and/or meeting with interested parties at the Government Services Center to discuss implementation of remedial actions. At this time, a sequence of remedial actions and an implementation schedule shall be discussed, agreed to, and a statement of agreement shall be signed by the landowner and the CCALPB. In the agreement, the landowner shall agree to review the implementation schedule with the land user, if the landowner and land user are two separate persons. However, the landowner agrees to all legal responsibility for implementation of the schedule further implied as compliance with the easement. It shall also be agreed that the corrective measures shall be completed in a period not to exceed one year from the date of this meeting.

## **3. Follow-up Inspection**

(a) a follow-up inspection of the property shall be conducted by the CCALPB 30 days after remedial measures as stated in the agreement are scheduled to commence.

(b) A Statement of compliance shall be sent to the landowner following the inspection.

(1) If the landowner is not in compliance with the agreement, the CCALPB shall send a statement of non-compliance to the landowner, advising the landowner that the CCALPB has referred this matter to counsel who shall wait 7 days from the date of the non-compliance letter to file papers with the Chester County Court of Common Pleas requesting an injunction; cost and attorney's fees to be reimbursed.

(2) If the landowner is in compliance with the schedule, the compliance letter shall verify corrective procedures implemented and those remaining on the schedule and remind the landowner that corrective measures must be completed by the date ending the established one year period.

## **4. Enforcement Actions**

(a) Upon violation of the statement of agreement or if corrective measures have not been completed within the established one year period, the CCALPB shall commence and prosecute an action in the Chester County Court of Common Pleas seeking an order requiring correction of the violation, enjoining further violation of the terms of the easement, and other appropriate relief, including costs and attorney's fees.

(b) The owner of the restricted land shall bear all costs associated with the correction of a violation of the easement, including;

- (1) Costs of work required and materials used to correct the violation.
- (2) Administrative costs incurred by the CCALPB and the State Board.
- (3) Court costs and reasonable attorney's fees incurred by the CCALPB and the State Board in enforcing the easement.



**CHESTER COUNTY AGRICULTURAL LAND PRESERVATION BOARD**

	<u>Occupation</u>	<u>Term Expires</u>
Melba Matthews, Chairman Chester Springs	Farmer	7/1/13
John Diament, Vice Chairman Uwchland	Building Contractor	7/1/11
Harold Kulp, Secretary Pottstown	Farmer	7/1/13
Richard Abbott Cochranville	Township Supervisor	7/1/11
Amy McKenna Coatesville	At Large	1/31/14
William P. Moore West Grove	Farmer	7/1/11
Judy Noyalas Parkesburg	Farmer	7/1/13
Eli Silberman Unionville	At Large	7/1/13
Vacant	At Large	
Thomas Abrahamsen West Chester	Solicitor	