

Butler County Agricultural Land Easement Purchase

Program Guide

PLEASE NOTE:

The application period has been changed to December 1st to December 31st of the year preceding that calendar year for which you wish to apply. For those applying for the 2026 calendar year, applications must be received no later than December 31, 2025.



124 West Diamond Street, PO Box 1208, Butler, PA 16001

Phone 724.284.5305 – Web: www.butlercountypa.gov

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PROGRAM HISTORY

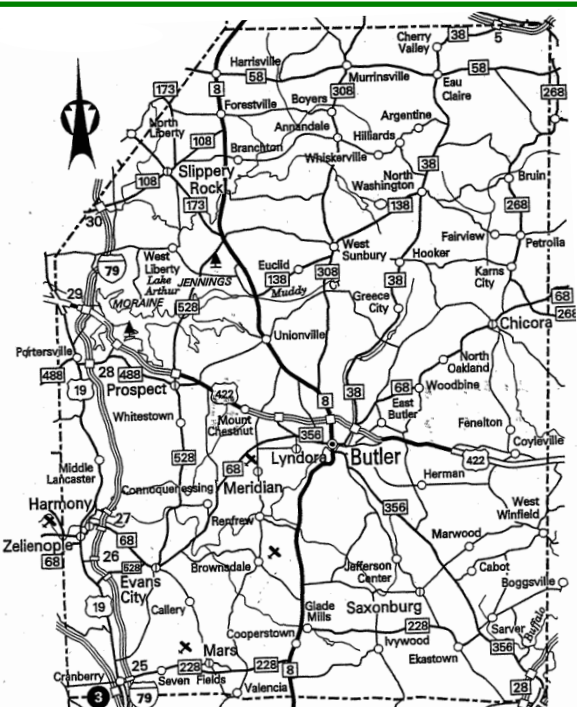
Butler County has always been an important agricultural area, being one of the more productive counties in Pennsylvania. The soils and climate of the county are conducive to the growth of many types of crops that were grown by our pioneers and later generations of farmers in Pennsylvania. Buckwheat was the favorite crop in the county's early years. In fact, so much of it was grown that Butler County was historically nicknamed "The Buckwheat County."

Today, the county boasts many fine, diversified farms both large and small. According to the 2022 Census of Agriculture, Butler County lost 5% of its farms between 2017 and 2022, and lost 1% of land used in farming. Net cash farm income during this same time period went down 20%.

Pennsylvania's Agricultural Conservation Easement Purchase Program was developed to strengthen Pennsylvania's agricultural economy and protect its prime farmland and leads the nation in those efforts. This program enables state and county government to purchase conservation easements from farmers wishing to protect their farms.

Butler County has carried out an easement purchase program since it was first approved by the state in 1996. Currently, there are 79 farms enrolled in Butler County's program totaling over 8,105 acres of productive farm land. This has returned over \$28 million dollars to the participating owners that have made the commitment to preserving their farms. In turn, this has helped assure that Butler County's vibrant and economically important agricultural industry will continue to flourish for generations to come.

As of July 2025, 79 farms in Butler County totaling over 8,105 acres are preserved.



INTRODUCTION

The agricultural conservation easement purchase program allows an owner to access the equity in the land without selling the land.



PLEASE BE ADVISED

This resource guide is intended to help landowners generally understand the easement purchase process and is in no way intended to replace rules, regulations and requirements in Pennsylvania's Chapter 138e or Butler County's Agricultural Land Preservation Program Guidelines, or any updates or changes to either. Landowners must always refer to those documents for most recent information. Also, it is strongly recommended that landowners obtain legal counsel and/or financial and tax counsel for individual advisement.

PURPOSE AND VALUE

PRESERVING OUR FUTURE

The agricultural conservation easement purchase program is a voluntary program that protects farmland from development in perpetuity. This is accomplished through a recorded Deed of Easement that places deed restrictions on the property. The land is still owned by you as long as you desire and it can be passed on to future generations or sold just like any other land, however it must remain in agricultural use.

Protecting your farm through this program ensures that it will be permanently preserved for agricultural use along with thousands of other farms in the State of Pennsylvania.

This is a significant and lengthy process that requires a lot of careful thought and planning, however it can benefit you and generations of farmers in the future.



COMPETITIVE PROGRAM PROCESS



Assistance

If you are interested in preserving your farm and have more questions about the process, program requirements, etc. the Office of Farmland Preservation staff is here to help you. Please call 724.284.5305 or email skelly@co.butler.pa.us if you need more information.

COMPETITIVE PROGRAM PROCESS

- ◆ First, determine that your land meets the minimum requirements needed to participate in the program before you apply. You can speak with staff in the office to review everything or you can access the requirements online at www.butlercountypa.gov.
- ◆ The application period runs from Dec. 1st through Dec. 31st each year for the following calendar year. All applications received will be reviewed and ranked by the Butler County Agricultural Land Preservation Board after January 1st and farm owners will be notified as soon as possible where they rank in that year's group.
- ◆ Depending on available funding, ranking and other requirements, top-ranking farms may be notified that they have been chosen to explore possible easement purchase. Please note the entire easement purchase process can take one to two years and can vary depending on each situation.
- ◆ When a farm is chosen, the owner submits a deposit to cover the cost of an appraisal to determine the easement value of the farm. This can be refunded per the conditions of the program guidelines.
- ◆ When the appraisal is completed, it is reviewed by the county's Preservation Board and an offer of purchase may be made to the farm owner. The owner reviews the appraisal and may accept the offer, reject it and withdraw from the program, or reject the offer and hire their own appraiser at their own cost to complete a second appraisal. The Board will review this second appraisal and may make a second offer to the owner based on both appraisals. Please note that all appraisals must also be reviewed and approved by the State.
- ◆ Once an offer is accepted in writing by the farm owner, a survey of the property is ordered to confirm exact acreage and the owner will sign an Agreement of Sale and Conservation Plan Agreement.
- ◆ Title work is also completed to assure the owner has "clean" title to the property. If there are mortgages or liens, these must be satisfied with any proceeds from the sale of the easement unless the owner wishes to request subordination from their lender(s).
- ◆ Once all required paperwork has been completed, submitted and accepted by the State, the farm will be presented at a State Agricultural Land Preservation Board meeting for review and approval. This Board meets six times per year.
- ◆ If the farm is approved by the State Board for easement purchase, it can take three months or more for all paperwork and payment to be completed and sent back to the county.
- ◆ A closing is set up between the county and farm owner(s) at the courthouse annex. At this closing, all paperwork is signed and all financial requirements are satisfied. The signed Deed of Easement is taken to be recorded at the Butler County Recorder of Deeds Office.

COMPETITIVE PROGRAM PROCESS... continued



FREQUENTLY ASKED QUESTIONS:

- ◆ Depending on each individual situation, the entire easement purchase process can take anywhere from 9 months to 2 years but this can always vary. If problems arise such as title complications, etc., these issues must be resolved in order for an easement purchase to take place.
- ◆ The purchase of an agricultural conservation easement can be a complex and lengthy process that varies with each farm. Purchase of an easement is entirely dependent upon availability of funding and approval by the State Agricultural Land Preservation Board. Once an easement is placed on the farm it is in perpetuity. Please take the time to seek counsel and understand the program process, the restrictions that will ultimately be placed on the property, and how this might affect your individual situation.

◆ **Am I selling my property?**

No. You are selling an agricultural conservation easement that prohibits development of the property for anything other than agricultural production. The property is still deeded in your name and you have the right to sell it, leave it to heirs, etc.

◆ **If my farm is preserved, is it open to the public?**

Not unless you give permission to someone asking to enter. It is still your private property.

◆ **Can my easement be “bought back” in the future?**

Pennsylvania Act 44 of 2011 was passed by the Legislature and ensures that easements purchased are perpetual with no option of extinguishment.

◆ **Can I preserve my farm if it is being farmed by someone else?**

Yes. As long as the land is being actively farmed you can apply for this program even if you are renting the farm to someone else who is doing the farming, however you still must have a current Conservation Plan (and manure management plan if applicable).



A Worth Township preserved farm.

COMPETITIVE PROGRAM ELIGIBILITY

Land must be actively farmed (even if it is rented to someone else for farming) and must meet the following requirements in order to be eligible for Butler County's Agricultural Land Preservation Program.



MINIMUM ELIGIBILITY REQUIREMENTS:

- ◆ All tax parcels you are applying for must be contiguous and currently recorded (at the Butler County Recorder of Deeds Office) as part of your township's agricultural security area (ASA) before you can submit an application for preservation. Having a farm enrolled in an ASA is a lengthy process and you should apply to your township as soon as possible if you are not already enrolled.
- ◆ At least fifty percent (50%) of the soils for the contiguous tax parcels you are applying for that are available for agricultural production must be Classes I-IV as defined by the USDA's Natural Resources Conservation Service (NRCS).
- ◆ At least 50% or ten (10) acres (whichever is greater) of all tax parcels you are applying for must be harvested cropland, pasture or grazing land (*does not include timber & wood product production*).
- ◆ All contiguous tax parcels for which you are applying must total at least fifty (50) acres. You can also have at least ten (10) acres but must adjoin a property with a perpetual easement held by a "qualified conservation organization" or be growing a crop unique to the area.

- ◆ You must have a current Conservation Plan for your property (and a manure management plan if applicable), developed by NRCS or another qualified consultant, and must be in compliance with that Plan. These can take time to develop, so if you do not already have one you should contact NRCS as soon as possible. If your plan was developed years ago but nothing has changed on your farm as far as crops, livestock, etc., then it could be considered "current" but you should consult with NRCS to be certain.
- ◆ Entire Butler County tax parcels must be submitted as part of your application for this program. Owners are not permitted to carve out "reserve areas" that will not be part of the final easement purchase area. However as an example, the state will require an existing well pad (non-ag area) to be eliminated from the easement purchase. This is completed during the survey process.



A preserved farm in Franklin Township.

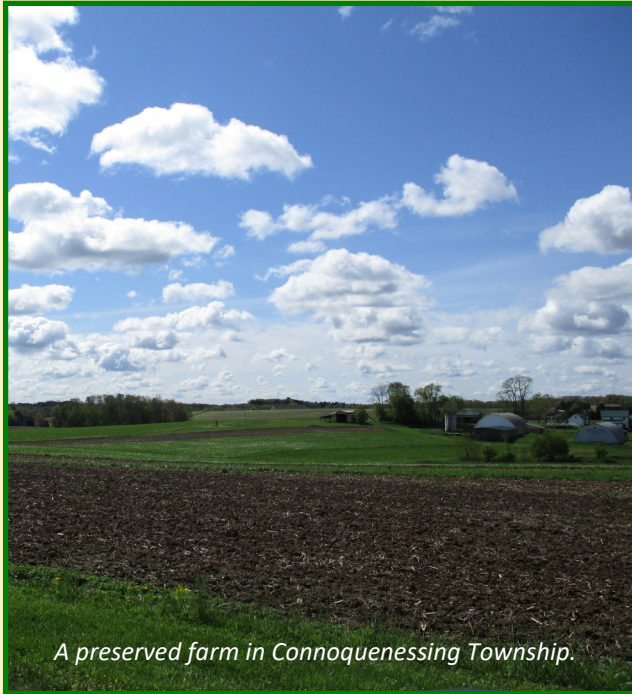
For a detailed description of the required minimum criteria to be eligible for this program, refer to Butler County's Agricultural Land Preservation Program Guidelines and Pennsylvania's Chapter 138e.

COMPETITIVE PROGRAM EVALUATION AND SCORING

SCORING:

LAND EVALUATION (SOIL) SCORE

50%



A preserved farm in Connoquenessing Township.

+

SITE EVALUATION SCORE

50% including:

- *Distance to public water and sewer
- *Public road frontage
- *Extent of development in the immediate area
- *Acreage of the farmland tract
- *Percent of the tract being harvested or grazed
- *Stewardship based on current Conservation Plan
- *Historic, scenic and environmental qualities
- *Century / Bicentennial Farm status (documented by state)
- *Consistency with Ag Board Priority Map
- *Proximity to other preserved farms
- *Percent adjoining other parcels in Ag Security Area
- *Percent of Prime Soils, Soils of Statewide Importance or Class I-IV that are not Prime or S.I.

The application period runs from Dec. 1st through Dec. 31st each year for the following calendar year.

PROGRAM GOAL

The goal of this statewide program is to preserve the best agricultural soils from development.

HOW IS MY APPLICATION SCORED?

Applications received by each year's deadline are evaluated to determine Ranking Score for that year. *Please note that applications not chosen in the current year for possible easement purchase are held and scored in subsequent yearly rounds unless the applicant withdraws.*

The Land (soil) Evaluation is half of the total score of a farm. Soil scores are calculated from national pre-defined, mapped and scored soil types that have

been developed by the USDA's Natural Resources Conservation Service. By using farm boundaries, soil types that exist on your property are mapped with acreage of each type and then they are scored using the NRCS system.

The Site Evaluation score includes a number of factors detailed above that relate to the viability of the site for present and future agricultural use including: area land use and threats, environmental characteristics and historical significance. These factors also consider development pressures and the likelihood of future development having an impact on a farm's operations.

COMPETITIVE PROGRAM NOTIFICATION AND NEXT STEPS

APPLICANT NOTIFICATION

All applicants are notified of their ranking following Butler County Agricultural Land Preservation Board scoring, and vote to accept the ranking. The Board reviews funding available for that program year and also votes to move forward with the exploration of possible easement purchases on usually one or more top ranking farms on the list as required by law.

APPRAISAL

If the Board chooses to move forward with your farm, an appraiser is hired to complete an appraisal that must meet state-required standards. You must submit a deposit towards this appraisal as defined in the current Butler County Agricultural Land Preservation Program Guidelines. This is refundable under certain circumstances, including following through with the easement purchase. The appraisal determines the fair market value of your land and the agricultural value of your land. The Board reviews this appraisal and if there are no problems, can make an offer of purchase based on these figures. The owner receives a copy of the appraisal and has thirty (30) days to thoroughly review and consider the offer. The State must also approve all appraisals. Detailed information about this process, including detailed requirements for owner review and acceptance of the appraisal and guidelines for submitting your own (second) appraisal are found in the County Guidelines.

TITLE

An attorney conducts a title search for the Board to assure clean title to the property and issue a title commitment if no problems are found. It will also identify any liens or encumbrances that could hinder an easement purchase. Since an easement purchase

cannot be made for a property with a mortgage or lien, proceeds from the purchase must be used to pay off debt or a subordination agreement can be sought. There can also be a combination of the two depending on what your lender agrees to.

AGREEMENT OF SALE

Signing a binding Agreement of Sale is required and should be thoroughly reviewed by you and your legal counsel. (See Appendix A-3)



YOUR RESPONSIBILITIES AS THE LANDOWNER:

You must:

1. *Pay a deposit to start the Board appraisal process (see Butler County Program Guidelines for current amount).*
2. *Pay the entire cost for a second appraisal if you do not agree with the Board's appraisal.*
3. *Clear up any issue on the property title if the title search indicates it is needed.*
4. *Either use the proceeds from the sale of your easement to pay off debt against the property or you must obtain a subordination agreement from your lender or lienholder. Sometimes a combination of the two is desired or required, depending on your individual situation.*
5. *Sign a binding Agreement of Sale early in the process and final Deed of Easement once state approval takes place.*

FINANCIAL INFORMATION

WHERE DOES FUNDING COME FROM?

Butler County has a variety of sources from which to draw funding for the preservation program.

County Funding

The Board of Butler County Commissioners allocates funding each year which is used as match for state funding. This currently includes Pa. Act 13 Marcellus shale unconventional gas well impact fees.

State Funding

Pa. Farmland Preservation receives a yearly allocation from bond funding, taxes on tobacco sales and an amendment to the state tax code. This is allocated to Butler County and other counties operating an agricultural conservation easement purchase program.

Township Funding

In a cooperative effort with Clinton Township using their own development fees, the township has begun their own preservation program. This removes Clinton Township farms from the “countywide” list, reducing competition in the program.

Federal Funding

Butler County can receive federal funding from the USDA’s Natural Resources Conservation Service. This is voluntary with agreement from owners whose farms qualify for this program. In these cases, the county receives half of the purchase price of the easement which can be used to preserve more farms.

Donations and Bargain Sales by the Landowner

Landowners may simply wish for their farms to be preserved regardless of being paid and in the case of donations or bargain sales don’t always have to wait the length of time needed for the competitive program for their farms to be preserved. The value of the easement is still established through an appraisal, and

this could be used to offset taxes depending individual circumstances. This saves money in the program allowing Butler County to stretch dollars further.



WHAT TYPE OF PAYMENT IS BEST FOR YOU?

Always consult a financial and/or tax advisor and determine early in the process how you wish to be paid. Owners have three choices if participating in the competitive program — lump sum payment, installments up to five (5) years, or a like-kind exchange where payment must be made to a “qualified intermediary.” The qualified intermediary holds the funding to be used for another land purchase (*as permitted by law*) by the owner. When there is a lien or mortgage on your property, proceeds from the sale of the easement must be used to satisfy the debt unless the owner desires and is able to secure a subordination agreement from the lender or lienholder.

It is required that payments be made in the name(s) as written on current, recorded property deeds. If the name is a Trust or other entity such as a Partnership, the payment must be made in the name of that entity per the requirements of the official governing document / agreement for that entity. In the case of more than one property owner names on a deed (for instance: husband and wife) or multiple payees under an entity name, then the decision must be made in writing as to what percentage each payee will receive.

EASEMENT STEWARDSHIP

EASEMENT INSPECTIONS

- ◆ Once the Deed of Easement is recorded, an initial inspection of your farm will take place within one year.
- ◆ There are different inspection requirements depending on which funding sources were used.
 - For state, county and township funding, or for easement bargain sales or donations, inspections will take place every two years thereafter.
 - For easement purchases where federal funding is involved, inspections will take place every year.

WHAT IS INVOLVED IN AN INSPECTION?

- ◆ You will be notified by certified mail that an inspection will take place and when. The inspection involves simply making sure the terms of the easement are not being violated and that the Conservation Plan is being adhered to. You do not have to be present unless you would like to be.
- ◆ Whether violations are found or not, you will be notified of inspection results. If a violation is found, most simply involve the Conservation Plan or deed violations and are easy to remedy.



YOUR RESPONSIBILITIES AS THE LANDOWNER:

You must:

1. *Keep your Conservation Plan up to date.*
2. *Stay in compliance with all terms or your Deed of Easement and applicable law.*
3. *Notify the Butler County Agricultural Land Preservation Board BEFOREHAND and as early as possible if your property deed is being changed in any way, including being re-recorded for any reason.*
4. *Notify the Butler County Agricultural Land Preservation Board BEFOREHAND and as early as possible if you are selling or transferring your land or any portion thereof that is covered by the Deed of Easement.*
5. *Consult BEFOREHAND and as early as possible with the Butler County Agricultural Land Preservation Board before you begin a rural enterprise on the farm, wish to build the extra allowable home (if that right has not been extinguished), construct new buildings, subdivide or complete a lot line revision. Some of these activities require the approval of the Board and can eliminate a lot of costly headaches in the long run.*



Looking across two preserved farms in Slippery Rock Township.

CONTACT INFORMATION AND REFERENCES

Butler County Office of Farmland Preservation

124 West Diamond Street, PO Box 1208, Butler, PA 16001

Web: www.butlercountypa.gov

Email skelly@co.butler.pa.us

Phone 724-284-5305



Pennsylvania Office of Farmland Preservation

2301 North Cameron Street, Harrisburg, PA 17110

Web: www.agriculture.pa.gov/Plants_Land_Water/farmland/pages/default.aspx

Phone: 717-783-3167



USDA Natural Resources Conservation Service

Butler Office, 625 Evans City Road, Butler, PA 16001

Web: www.nrcs.usda.gov/wps/portal/nrcs/site/national/home/

Phone: 724-482-4800



Pennsylvania Farmland Preservation Association

Web: www.pafarmland.org



APPENDICES

Application Checklist.....	A-1—page 1
Application.....	A-2—pages 1-5
Sample Agreement of Sale.....	A-3—pages 1-6

A preserved farm in Prospect Borough.

APPLICATION CHECKLIST

The items listed below should be considered and/or completed before you apply for Butler County's Agricultural Land Preservation Easement Purchase Program.

This form is for owner assistance only and does not need to be turned in with the application.

1. _____ I consulted with an attorney to consider how participating in this program will affect me.
2. _____ I consulted with a financial and/or tax advisor to consider how participating in this program will affect me.
3. _____ I have a completed or already have up-to-date Conservation Plan *(and a manure management plan if applicable)*, a copy of which I must submit with my Application.
4. _____ All tax parcels I am applying for are included and properly recorded as part of my township's Agricultural Security Area.
5. _____ All legal owners of the tax parcels included in my Application have signed the Application form.
6. _____ If my farm is a centennial or bicentennial farm, I have received approval from the state and have submitted a copy of that information with my Application.
7. _____ I have listed all mortgages, lienholders and owners of rights in surface minable minerals, etc. on the last page of the Application.
8. _____ If my farm does not border on a public road, I have documentation to prove all tax parcels I am applying for in this program have a legal, recorded right of way to access a public road.
9. _____ I read and understand my long-term responsibilities after an easement is placed on my property, the terms of the Agreement of Sale and the Deed of Easement.
10. _____ All applicable items on the Application have been completed. *(The Office of Farmland Preservation can assist with the soils section, if needed.)*

PROGRAM APPLICATION

BUTLER COUNTY AGRICULTURAL LAND PRESERVATION BOARD

AGRICULTURAL CONSERVATION EASEMENT PROGRAM APPLICATION FORM

A. General Information:

Owner(s) of Property: _____

Social Security Number(s): _____

Address: _____

Municipality: _____

Telephone Number: (_____) _____

Is your farm in an Agricultural Security Area? (Check one) Yes___ No___

What is the name of the Agricultural Security Area? (NOTE: List if more than one)

*List Book and Page number where Agricultural Security Area is recorded

Street location of farmland tract: _____

Directions from nearest State route: _____

Crops grown on farmland tract: _____

Number and kinds of livestock: _____

Total acreage of farmland tract: _____

Acres proposed for sale: _____

Deed reference: Book _____ Volume _____ Page Number _____ (or Instrument #)

Tax assessment numbers and acreage of each parcel: _____

Date of USDA Soil Conservation Plan _____ (REQUIRED)

Please submit a copy of a Nutrient Management Plan if required.

Name(s), address(es) and telephone number(s) of person(s) to contact to view the farmland tract: _____

PROGRAM APPLICATION

B. Maps:

The applicant is required to provide the following maps as part of the application:

1. **Locational Map**- A United States Geological Survey topographical map showing the location of the farmland tract and farm boundaries.- (Note: USGS Topographical maps available in Butler County Planning Commission office or phone (724-284-5305.)
2. **Soils Map**- The soils map of the farmland tract. (Available from Natural Resources Conservation Service.) The soils map shall color code types as follows:
 - Class I = Green
 - Class II = Yellow
 - Class III = Red
 - Class IV = Blue
 - Class V- VIII = uncolored

*This map shall also delineate the locations of wetlands (cross-hatched) and floodplains (bold lines) on the farmland tract.
3. **Tax Map**- Tax map(s) of the farmland tract with map reference and tax parcel numbers clearly indicated. (Available from County Assessor's Office or online at www.co.butler.pa.us)

C. Soils Report:

The applicant is required to provide a soils report for the farmland tract as part of the application. The soils report needs to include a soils narrative for each of the soils on the farm.

The applicant is required to provide a table showing the capability class and use of the land as part of the application. Information must be provided on **Form C - Soils Report** on the next two pages.

**For assistance with soil information and maps,
please contact the
Office of Farmland Preservation at 724.284.5305
or skelly@co.butler.pa.us**

PROGRAM APPLICATION

BUTLER COUNTY AGRICULTURAL CONSERVATION EASEMENT PROGRAM

APPLICATION FORM: Form C - Soils Report

Name: _____

Township: _____

Total Acres: _____

Acres Offered: _____

CAPABILITY CLASSES I-IV

Capability Class	Cropland Acres	Pasture Acres	Other	Total
I				
II				
III				
IV				
Subtotal I - IV				

1.

CAPABILITY CLASSES V-VIII

Capability Class	Cropland Acres	Pasture Acres	Other	Total
V				
VI				
VII				
VIII				
Subtotal V - VIII				

TOTALS

Capability Class	Cropland Acres	Hay/Pasture Acres	Other	Total
I-IV				
V-VIII				
TOTAL				

PROGRAM APPLICATION

Application Form C

Soils Report

Page 2

PERCENT OF TOTAL ACRES IN LAND CAPABILITY CLASSES I-IV

Step 1.

Total Acres Cropland and Pasture
in Soil Capability Classes I-IV

_____ X 100 = _____ %
Total Easement Acres

Step 2.

Is percentage in Step 1 fifty percent (50%), or greater? (yes/no) _____

Step 3.

If no, document whether 50%, or more, of total easement acreage is both available for and of soil capability classes I-IV.

PERCENT OF TOTAL ACRES IN AGRICULTURAL USE

Total Acres Cropland + Total Acres Pasture

_____ X 100 = _____ %
Total Easement Acres

PROGRAM APPLICATION

D. Liens and Mineral Rights

Please list all mortgages, lienholders, or owners of rights in surface mineable coal, limestone or other surface mineable minerals for farmland tract:

E. Selling Price

I would consider selling an Agricultural Conservation Easement to the Butler County Agricultural Land Preservation Board and/or the Common-wealth of Pennsylvania for not less than:

1. \$_____ for the entire farm, or
2. \$_____ per acre, or
3. \$_____ please check if you accept an amount to be determined by appraisal and acceptable to the buyer and the seller.

F. Signature(s)

It is necessary for all owners of the farmland tract to give their approval and consent to this application.

Signed _____ Date _____

Signed _____ Date _____

Signed _____ Date _____

Signed _____ Date _____

Please submit this application between Dec. 1st and Dec. 31st to be considered for the following calendar year. (For example, if you are applying for 2026, your application must be received by Dec. 31, 2025. **All applications are subject to all requirements of the program and availability of funds.** Applications not funded will be held for reapplication each year unless withdrawn by owner(s).

Submit application to:

Butler County Office of Farmland Preservation
124 West Diamond Street, PO Box 1208
Butler, PA 16003

Contact: Sheryl Kelly, Farmland Coordinator
Phone (724) 284-5305 / Email skelly@co.butler.pa.us

SAMPLE AGREEMENT OF SALE

WHEREAS; the County acting through the County Board has recommended that the Commonwealth and the County jointly purchase an agricultural conservation easement in the subject land; and

WHEREAS; the County Board is authorized under the Act to execute agreements for the purchase of agricultural conservation easements and to purchase agricultural conservation easements jointly in the names of the County and the Commonwealth; and

WHEREAS; the State Board and the County Board wish to provide for payment of the purchase price and the costs incident to the purchase of an agricultural conservation easement in the subject land; and

WHEREAS; the State Board and the County Board wish to provide for the enforcement of an agricultural conservation easement in the subject land.

NOW THEREFORE; in consideration of the mutual covenants herein contained, and other good and valuable consideration, the parties agree as follows:

ARTICLE I

1. Upon acceptance and execution as set forth in Article XII, this Agreement shall constitute an Agreement For The Sale And Purchase Of An Agricultural Conservation Easement between the Grantor(s) and the Grantees.
2. The provisions of the Agricultural Area Security Law, P.L. 128, No. 43, June 30, 1981 (3 P.S. Sections 901-915) as amended and the provisions of the Regulations adopted at 7 Pa. Code Ch. 138e are incorporated herein by reference and made a part thereof.

ARTICLE II

1. Grantor(s) agree(s) to sell and convey to the Grantees their successors and assigns, and Grantees agree to purchase from Grantor(s) an interest in the subject land consisting of an agricultural conservation easement as defined in the Act and this Agreement (hereinafter "agricultural conservation easement"). The agricultural conservation easement shall be conveyed to the Grantees as joint tenants under the Act with the Commonwealth being a _____ percent joint owner and the County being a _____ percent joint owner.
2. The parties agree that the purchase price of \$ _____ for the agricultural conservation easement to be purchased pursuant to this Agreement shall be paid at the time of the closing as set forth in Article VIII. The Commonwealth shall pay \$ _____ and the County shall pay \$ _____.

_____ Lump Sum Payment
_____ Like-Kind Exchange

ACEPERJF (2013)

AGREEMENT FOR THE SALE AND PURCHASE OF AN AGRICULTURAL CONSERVATION EASEMENT TO THE COMMONWEALTH OF PENNSYLVANIA AND A COUNTY JOINTLY IN PERPETUITY

THIS AGREEMENT, made this _____ day of _____, by and among _____ residing at _____

_____ ("Grantor(s)") and the Commonwealth of Pennsylvania (Commonwealth) acting through the Department of Agriculture, State Agricultural Land Preservation Board ("State Board") 2301 North Cameron Street, Harrisburg, PA 17110-9408 and _____ County, Pennsylvania, ("County") acting through its County Agricultural Land Preservation Board, _____, Pennsylvania, ("County Board") (all the parties hereinafter are collectively referred to as Grantees) is an Agreement for the Sale and Purchase of an Agricultural Conservation Easement.

WITNESSETH

WHEREAS; Grantor(s) is/are the sole owner(s) of all that certain land situate in _____ Township, _____ County, Pennsylvania consisting of _____ acres of land together with the buildings and improvements erected thereon and more particularly described in Exhibit "A" hereto ("the subject land"); and

WHEREAS; Grantor(s) intend(s) to convey an agricultural conservation easement in the subject land to the Grantees pursuant to the Agricultural Area Security Law P.L. 128, No. 43, June 30, 1981 (3 P.S. Section 901-915) as amended (hereinafter "the Act"); and

WHEREAS; the State Board, a departmental board within the Pennsylvania Department of Agriculture, is authorized under the Act to execute agreements for the purchase of agricultural conservation easements and to purchase agricultural conservation easements jointly in the names of the Commonwealth and the County; and

WHEREAS; the Commonwealth acting through the State Board, has approved the purchase of an agricultural conservation easement in the subject land jointly with the County; and

WHEREAS; the County has adopted a program for purchasing agricultural conservation easements which program has been certified by the State Board pursuant to the Act; and

SAMPLE AGREEMENT OF SALE

3. Upon payment of the purchase price and any reimbursement for costs incident to the purchase of the agricultural conservation easement as set forth in Article III, the allocation made to the County from the Agricultural Conservation Easement Purchase Fund shall be reduced by the amount paid by the Commonwealth.

ARTICLE III

1. The State Board and the County Board agree that the costs set forth in the Statement of Costs submitted to the State Board by the County Board and attached as Exhibit "B" hereto are costs incident to the purchase of the agricultural conservation easement.
2. At closing, the Commonwealth shall deliver a check in the amount of \$_____ to the Grantor(s) as payment for the Commonwealth's portion of the purchase price. At closing, the Commonwealth shall also deliver a check in the amount of \$_____ to the County as payment for the costs incident to the purchase of the agricultural conservation easement so long as these costs actually have been incurred and approved by the State Board as part of the Statement of Costs.
3. Within 10 days after the closing of the purchase of the agricultural conservation easement, the County Board shall submit to the State Board a settlement statement, including an accounting for all funds received from the Commonwealth in connection with the purchase and a copy of the executed Deed of Agricultural Conservation Easement.
4. Within 10 days after the closing of the purchase of the agricultural conservation easement, the County Board may submit a request for payment of its unreimbursed costs incident to the purchase of the agricultural conservation easement to the State Board. Payment of such costs will be approved by the State Board at its next regularly scheduled meeting so long as such costs are reasonable, within the scope of the Statement of Costs, and the allocation of funds from the Agricultural Conservation Easement Purchase Fund to the County is sufficient to pay for such costs.
5. If the closing of the purchase of the agricultural conservation easement is not held within the time established pursuant to this Agreement, the County shall return immediately all funds received from the Commonwealth in connection with this Agreement.

ARTICLE IV

Grantor(s) represent(s), warrant(s) to, and covenant(s) with the Grantees that:

1. Grantor(s) are adult individuals having the full power, capacity and authority to enter into this Agreement.
2. Grantor(s) have been advised and encouraged to have legal counsel review this Agreement on their behalf prior to signing it.
3. Grantor(s) have read this Agreement and understand its contents and that it restricts the use of the subject land to agricultural production and, knowing this, voluntarily enter into this Agreement.
4. The information and statements set forth in the Application Form, Locational Map, Soils Report and Crop Report furnished by the Grantor(s) to the County Board pursuant to 7 Pa. Code Section 138e.61 is true and correct and that all facts necessary to prevent the information and statements from being misleading have been disclosed.
5. Grantor(s) acknowledges that any violation of the terms of this Agreement or the Deed of Agricultural Conservation Easement, when delivered, shall entitle Grantees, their successors, assigns or designees to obtain an injunction against such violation from a court of competent jurisdiction along with an order requiring Grantor(s), his heirs, executors, administrators, successors or assigns to restore the subject land to the condition it was in prior to the violation, and recover any costs or damages incurred including reasonable attorney's fees. Such relief may be sought jointly, severally, or serially.

ARTICLE V

The County Board represents, warrants to, and covenants with the Grantor(s) and the State Board that:

1. The County Board has been duly established by the County and is validly existing under the laws of the Commonwealth of Pennsylvania.
2. The County Board has adopted rules and regulation for the administration of a countywide program for the purchase of agricultural conservation easements within agricultural security areas.
3. The County Board is in compliance with the Constitution and laws of the Commonwealth, including the Act and the Regulations issued pursuant to the Act and has full power and authority to consummate all transactions, execute all documents, including this Agreement, and perform all acts contemplated in this Agreement in the name of the County.

SAMPLE AGREEMENT OF SALE

3. Agricultural production consists of, and is limited to, the production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of the crops, livestock or livestock products if more than 50% of the processed or merchandised products are produced on the subject land.

Crops, equine, livestock and livestock products include, but are not limited to:

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

4. This agricultural conservation easement shall not prevent the actions permitted under Section 14.1(c)(6)(i)-(v) of the Act.

5. This agricultural conservation easement shall be perpetual in duration.

6. Grantees' exercise or failure to exercise any right conferred by the agricultural conservation easement shall not be deemed to be management or control of activities on the subject land for purposes of enforcement of the Act of October 18, 1988, (P.L. 756, No. 108), known as the Hazardous Sites Cleanup Act.

7. Grantor(s), his heirs, executors, administrators, successors or assigns agree to hold harmless, indemnify and defend Grantees, their successors or assigns from and against all liabilities and expenses arising from or in any way connected with all claims, damages, losses, costs or expenses, including reasonable attorneys' fees, resulting from a violation or alleged violation of any State or Federal environmental statute or regulation, including but not limited to, statutes or regulations concerning the storage or disposal of hazardous or toxic chemicals or materials. The obligation imposed by this paragraph shall not merge with the Deed of Agricultural Conservation Easement, but shall survive the closing.

4. The County Board has reviewed the information and statements set forth by the Grantor(s) in the Application Form, Locational Maps, Soils Report, and Crop Report furnished to the County Board by the Grantor(s) pursuant to 7 Pa. Code Section 138e.61 and has found that the subject land is in an agricultural security area and qualifies for the purchase of an agricultural conservation easement under the Act and Regulations.

5. The County Board has furnished a Summary Report, Title Report and proposed legal description for the subject land to the State Board pursuant to 7 Pa. Code Section 138e.91 and has recommended the Commonwealth purchase an agricultural conservation easement in the subject land.

6. The County Board has complied with all provisions of the Act and Regulations in reviewing and recommending that the Commonwealth purchase an agricultural conservation easement in the subject land.

7. The information and statements contained in the Summary Report, Title Report and Proposed Legal Description furnished to the State Board by the County Board pursuant to 7 Pa. Code Section 138e.91 are true and correct and that all facts necessary to prevent the information and statements from being misleading have been disclosed.

ARTICLE VI

The State Board represents, warrants to, and covenants with the Grantor(s) and the County Board that:

1. The State Board is a departmental board within the Pennsylvania Department of Agriculture.

2. The State Board is in compliance with the Constitution and laws of the Commonwealth, including the Act and the Regulations, and has full power and authority to consummate all transactions, execute all documents, and perform all acts contemplated by this Agreement in the name of the Commonwealth.

ARTICLE VII

1. Grantor(s) shall not develop or use the subject land for any purpose other than agricultural production.

2. Grantees or their designees or either of them jointly or severally, shall have the right to prevent the development or use of the subject land for any purpose other than agricultural production.

SAMPLE AGREEMENT OF SALE

ARTICLE VIII

1. The closing of the sale and purchase set forth in this Agreement shall occur on a date to be established by the parties which date shall be no more than 120 days from the date of complete execution of this Agreement by the Commonwealth. Closing shall be held at _____ or in another location in _____ County, Pennsylvania as agreed among the parties in writing.
2. At closing, Grantor(s) shall deliver to Grantees a fully executed Deed of Agricultural Conservation Easement in the form attached as Exhibit "C" hereto. Grantor(s) further agrees to execute and deliver to Grantees any other documents necessary to record such Deed of Agricultural Conservation Easement. The County Board shall record the Deed of Agricultural Easement immediately following the closing.

ARTICLE IX

1. At the time of the closing as set forth in Article VIII of this Agreement, the agricultural conservation easement shall be free and clear of all liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, and other encumbrances except as set forth below:
2. Grantees' obligation to purchase this agricultural conservation easement set forth in this Agreement is conditioned upon Grantor(s) being able to convey the agricultural conservation easement free and clear of all encumbrances except as set forth in this Article IX. Should Grantor(s) be unable to convey the agricultural conservation easement as set forth in this Agreement, Grantees may, at Grantees' sole option and discretion terminate this Agreement or extend the time for closing by a period of up to thirty days. Should Grantor(s) be unable to convey the agricultural conservation easement as set forth in this Agreement at the expiration of such thirty days extension, this Agreement shall terminate and Grantees shall have no further obligation to proceed to closing.
3. At closing, the County Board shall provide a title insurance policy naming the grantees as the insured and issued by a Title Insurance Company that is authorized to issue title insurance in the Commonwealth of Pennsylvania. Such title insurance policy shall fully insure Grantees' interest in the subject land. All exceptions to such title insurance policy, except as noted in paragraph 1, shall be removed prior to closing. The cost of such title insurance policy shall be paid by the County Board and shall be considered a cost incident to the purchase of the agricultural conservation easement set forth in this Agreement.

ARTICLE X

The information and statements set forth in the Application Form, Locational Map, Soils Report, and Crop Report, furnished by the Grantor(s) to the County Board pursuant to 7 Pa. Code Section 138e.61, and the Summary Report, Title Report, and Proposed Legal Description furnished to the State Board by the County Board pursuant to 7 Pa. Code Section 138e.91 are incorporated in and made a part of this Agreement by reference thereto. Should any of the information set forth in the documents referenced in this Article X be other than as represented in such documents, the State Board may, at the State Board's sole option and discretion, terminate this Agreement, waive such nonconformity, or extend the time for the closing of the sale and purchase set forth in this Agreement for thirty days. A waiver of a nonconformity pursuant to this Article X must be in writing and signed by an authorized official of the State Board. Should the State Board choose to extend the time for the closing of the sale and purchase pursuant to this Article X, the State Board shall provide Grantor(s) and the County Board with a written statement of the nonconformity which must be corrected prior to closing. Should Grantor(s) fail to correct such nonconformity within such thirty day period, the Grantees' obligation to purchase the agriculture conservation easement set forth in this Agreement shall terminate.

ARTICLE XI

1. All taxes imposed upon this sale and purchase of an agricultural conservation easement or the recording of the Deed of Agricultural Conservation Easement by any taxing authority shall be paid by the Grantor(s) at the time of closing.
2. All fees levied for the recording of the Deed of Agricultural Conservation Easement shall be paid by the County at the time of the closing. The obligations imposed on the respective parties by this Article XI shall not merge with the Deed of Agricultural Conservation Easement, but shall survive the closing.

ARTICLE XII

Upon execution by the Grantor(s) this document shall constitute an offer by the Grantor(s) to sell and convey an agricultural conservation easement to the Grantees. This offer shall be deemed to be accepted by the Grantees at such time as the State Board approves the recommendation of the County Board to purchase an agricultural conservation easement in the subject land. This Agreement shall become effective only upon acceptance by the Grantees and approval and execution by all persons designated on the signature page or pages of this Agreement. The failure of the Grantees to accept and execute this Agreement shall terminate the obligations of all parties to this Agreement.

SAMPLE AGREEMENT OF SALE

IN WITNESS WHEREOF, the parties to this Agreement have executed it in their own name or through their respective duly authorized officers, as of the date first above written.

GRANTOR(S)

Attest:

Signature [Date]

Printed Name

SS#/EIN#

Signature [Date]

Printed Name

SS#/EIN#

Signature [Date]

Printed Name

SS#/EIN#

Signature [Date]

Printed Name

SS#/EIN#

COUNTY OF
PENNSYLVANIA, COUNTY
AGRICULTURAL LAND
PRESERVATION BOARD

Attest:

By: [Date]

Name:
Title:

By: [Date]

Name:
Title:

County Federal I.D. No.

ARTICLE XIII

1. The time set for the closing and all other times set forth in this Agreement, shall be considered to be of the essence of this Agreement. The failure of a party to perform an action within the time required in this Agreement shall be considered to be a material breach of this Agreement.
2. This Agreement is expressly conditioned upon the availability of funds for the purpose of funding the purchase of the agricultural conservation easement provided for herein. In the event that such funds are not available, Grantees' obligations under this Agreement shall terminate.
3. Any amendment or modification of the terms of this Agreement shall have no force or effect unless it is in writing and signed by all parties hereto.
4. This agreement and all other agreements executed pursuant hereto shall be deemed to be contracts made under the laws of the Commonwealth of Pennsylvania and for all purposes, shall be construed in accordance with the laws of such Commonwealth.
5. The Grantor(s) and the County Board shall comply with the provisions of the Contractor Integrity Clause, Exhibit D and the Nondiscrimination Clause, Exhibit E, attached hereto and incorporated herein.
6. No terms or provisions of this Agreement shall be deemed waived, and no breach excused, unless such waiver or consent to a breach shall be in writing and signed by an authorized official of the Commonwealth. Any waiver of a provision or consent to a breach, whether expressed or implied, shall not constitute a waiver of, or consent to, any other subsequent breach.
7. This Agreement may be assigned by Grantor(s) without the prior consent of Grantees (if applicable).

[INTENTIONALLY LEFT BLANK]

SAMPLE AGREEMENT OF SALE

I hereby certify that I am the Solicitor for the County and the County Board, that I have reviewed this Agreement and the documents referenced in the Agreement, and that they are properly executed and in the proper form and are in accordance with the laws of the Commonwealth of Pennsylvania and the County.

[Date]

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF AGRICULTURE, STATE
AGRICULTURAL LAND PRESERVATION
BOARD

Attest:

By: _____ [Date]
Name: _____

By: _____ [Date]
Secretary of Agriculture
Chairman, State Agricultural Land
Preservation Board

Approved for form and legality:

By: _____ [Date]
Chief Counsel
Department of Agriculture

Contract Form Approval: Form No. 2-FA-2.0
OGC approval: 04/03/13
OAG approval: 06/14/13

I hereby certify that funds are available under the listed appropriation symbols:

Comptroller [Date]