



**STATE OF MARYLAND  
DEPARTMENT OF AGRICULTURE  
MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION**

**INSTRUCTIONS FOR COMPLETING  
THE APPLICATION TO SELL AN EASEMENT**

**WHAT YOU SHOULD KNOW BEFORE YOU APPLY**

The deadline to submit an Application to Sell an Easement is July 1 of each year. Please supply four copies of the application and documentation (one original and three copies) to your County Program Administrator. Please contact your Program Administrator for assistance with this application.

The acceptance of applications is subject to available funding. If the State of Maryland purchases your development rights, you voluntarily give up your rights in perpetuity to develop your farm for any purpose other than agricultural and forestry use. This means that for whatever compensation mutually agreed upon by you and the Maryland Agricultural Land Preservation Foundation, you will preserve the land for agricultural and forestry use with no expectation for any other use of that land now or in the future, forever.

It is the current policy of the State Board of Public Works that, if more acreage is found by a subsequent survey than was reported when the option contract is approved, the offer cannot be adjusted upward to cover additional acreage; however, if less acreage is found by a subsequent survey, the offer will be adjusted downward for the acreage reduction. If there is a substantial change in the acreage calculation, the validity of the appraisal and the property's ranking may be at issue, and the property may have to be re-appraised and re-ranked. If acreage is verified within 2% of the acreage provided in the easement application form, and for which verification of acreage has been provided, payment is based on the original acreage, minus one acre surrounding each pre-existing dwelling.

You may not alter your property while there is a pending offer. This includes entering into any agreements, covenants, easements, or mortgages, or requesting lot exclusions. If there is a need to re-finance your property during the Easement process, please notify the MALPF staff.

**PREPARATION TO COMPLETE THE APPLICATION**

Please allow yourself sufficient time to complete your application and submit it to your County Program Administrator prior to the July 1 deadline (you should consult with your Program Administrator to coordinate with him or her to allow sufficient time to make the July 1 deadline). Because the easement acquisition process is long and complicated, the Foundation cannot accept applications that are submitted later than the deadline. Any applications received or postmarked after the July 1 deadline will be returned.

To complete your application, you will need to visit your local soil conservation district for certification that your soil conservation plan is adequate and up-to-date. Additionally, you may need to visit the county land records office for copies of your deeds. You must provide the basic dimensions of residential and agricultural structures on your property. Please ensure that you have obtained a current aerial map of your property from your County Program Administrator. If your property contains 25 contiguous acres or more of forested land, to avoid a delay of the settlement of an easement, please read the instructions regarding Forest Stewardship Plans carefully.

**BEFORE SUBMITTING YOUR APPLICATION**

Please ensure that you have: (1) answered all questions on the application (except Questions 13-17), (2) attached all required documentation, (3) obtained the necessary signature(s), and (4) submitted the original and three copies of the application. If the application is incomplete, it will be returned to you and will not be processed further unless you provide the required missing information. Retain a copy for your records. The law allows you up to 30 days to provide information that is found missing in the review of the application. Please be prompt in completing your application. Not submitting the additional information needed to complete your application within the 30 day deadline may result in your having to resubmit your application in a subsequent year.

## PART A

### LANDOWNER(S) NAME(S)/ COUNTY/ NUMBER OF PRE-EXISTING DWELLINGS/WITHHELD ACREAGE

Provide your name(s), county, acreage, number of pre-existing dwellings and easement acres. The total property acreage minus one acre for each pre-existing dwelling equals the easement payment acres.

The calculation of easement acreage is very important for a proper appraisal. Please make certain you complete this section accurately.

- a. Enter the property acreage.
- b. Determine and enter the total number of pre-existing dwellings, tenant houses, or permanently affixed trailers, i.e., those with electrical and sewage hook-ups and wheels removed. If you have questions about what constitutes a pre-existing dwelling in your county, please contact your County Program Administrator. Please ensure that the number of pre-existing dwellings indicated on this form is accurate. The property is appraised based on the information provided on this application; therefore, the number of pre-existing dwellings may not be changed after the application is received by the Foundation and sent for appraisal. If you change the number of pre-existing dwellings after you submit this form, you must withdraw your application and apply in a subsequent year with the amended number. If the Foundation purchases an easement on this property, you or any subsequent owner may not, at any point in the future, claim as a pre-existing dwelling, a structure, foundation, or other evidence of a previous dwelling which is not acknowledged on this application. In the appraisal process, each pre-existing dwelling is valued as an exercised development right affecting the offer made to you by the Foundation. Please clearly locate all pre-existing dwellings (and all other structures) on the aerial map (see PART B #10).
- c. Enter acreage to be withheld from the easement. The Foundation generally discourages the exclusion of acreage from the easement. The Foundation's policy allows the exclusion of acreage only under certain conditions. Your County Program Administrator will advise you regarding the Foundation's policy. Provide an explanation for withholding the acreage on a separate sheet. If withheld acreage is not within a priority funding area and would require forest mitigation when developed, sufficient acreage must be withheld to accommodate that mitigation. Please be aware that withholding acreage from the easement will decrease the appraised value. The appraisers will deduct the total development potential associated with the excluded acreage. If approved, the easement will cover the entire property, minus the withheld acreage. If the Foundation's Board of Trustees does not approve the withheld acreage during its review of the application, you will have the option to apply to sell an easement on the entire property, or you may withdraw your application.
- d. Subtract the number of pre-existing dwellings (one acre for each pre-existing dwelling) and acres withheld from the total property acreage. The sum must be the same acreage as that entered in the second paragraph of Part A.

### ASKING PRICE

Indicate the **per acre** price you are willing to sell an agricultural land preservation easement to the Maryland Agricultural Land Preservation Foundation. In thinking about your asking price, take into consideration that the calculation of the easement value by the Foundation is based on the development value of the raw land and does not include the value of any improvements on the property. The Foundation makes offers based on your asking price or the calculated easement value or a cap set by the County, whichever is the least amount. If you have questions in deciding what your asking price should be, please consult with your County Program Administrator who can provide information about recent acquisition and appraisal values in your county for Foundation properties.

### ELECTIONS

1. In the Deed of Easement, I hereby elect to (check one):
  - reserve family lots, subject to density restrictions,
  - reserve one (1) unrestricted lot, or
  - waive all rights to lots.

Family lots are for the use of the owner and his or her children to construct a dwelling only for his/her/their personal use. Since family lots are released only to the owner and/or his or her children, are not for commercial development, and may not be transferred to other individuals, they are not considered marketable and are not counted against the development rights on the property in the appraisal. Do not select the number of family lots at this time. Family lots, up to a maximum of three, may be requested anytime after recordation of the easement or when there is no pending easement application. The density requirements for family lots are as follows: one lot for the first 20 acres; a second lot for the next 50 acres (requires a total of 70 acres); and three lots for the next 50 acres (requires a total of 120 acres). If a county's density requirement to construct dwellings is more restrictive than the Foundation's, the county's density requirement prevails. Eligibility to request family lots ends upon the transfer of the property or the death(s) of the original seller(s) of the easement, whichever comes first.

Unrestricted lots are considered marketable because they can be released from the easement to any person, may be transferred to unrelated individuals, and the right to the unrestricted lot survives the transfer of the property to a subsequent owner. Therefore, when an unrestricted lot is selected, the value of one development right is subtracted from the total available development rights in the appraisal of the value of the property. The easement will cover the entire property. When you or a future landowner decides on the location of the unrestricted lot, you must apply to the Foundation for approval of the location. When the location is approved, you must pay back to the Foundation the per acre amount that you received for the easement.

The Foundation recognizes that some applicants may wish to extinguish all rights to new dwellings on their properties. If you wish to waive all rights to new building lots on your property, please select the third option.

You may not change the lot option you have selected unless you withdraw your application and apply in a subsequent year.

**2. In Election 1, I chose to reserve one unrestricted lot. At a future date (after easement recordation), I will:**

- **exclude an existing dwelling under my unrestricted lot option, or**
- **exclude a lot for an as yet unbuilt dwelling under my unrestricted lot option, or I do not wish to choose now how the unrestricted lot right will be exercised.**

Only respond to Election 2 if you have elected to reserve the unrestricted lot in Election 1. If, in Election 1, you have elected the family lot option or waived lot rights, please skip Election 2 and respond next to Election 3.

For those choosing an unrestricted lot right, your response to Election 2 will affect the instructions provided by the Foundation to the appraisers in establishing the value of your property. Because the appraised fair market value is the critical determinant of the easement value on which the offer is based, if you choose the first option to exclude an existing dwelling under the unrestricted lot option, you will not be able to change your choice during this easement offer cycle unless you withdraw your easement application and reapply for a future easement offer cycle. Once you have settled on the easement, you will **not** be able to alter your choice of the first option under this election. If you need additional information on this election, please consult your County's Program Administrator or Foundation staff.

Your signature on this section indicates your acceptance of the terms specified. All landowners of record must sign the application.

## **PART B**

### **1. LANDOWNER INFORMATION**

Enter your name, mailing address, home/ work telephone numbers and FID number, if applicable:

If the property is owned by a husband and wife with a mutual address, both names should be included in the

same information block.

If the property is owned by a corporation, partnership or other business organization, enter the corporate or business name and list the corporate or business officer's name and title, address and telephone number as designated in the corporate resolution. Attach a separate list of full names of stockholders, partners, members, or co-owners and their relationship to each other, as applicable.

Enter the Federal I.D. Number if the applicant is a business or trust. The Comptroller requires Social Security numbers or Federal I.D. Numbers before an easement check can be issued; individual applicants will be required to provide Social Security numbers (of all owners of record) on the option contract if an offer is accepted.

#### ADDITIONAL REQUIREMENTS PERTAINING TO CERTAIN TYPES OF OWNERSHIP:

A property owned by **multiple individuals** must list all of the individuals and their relationship to each other, if a family lot reservation has been elected.

A property owned by a **corporation** is required to submit a Resolution attesting that the offer to sell an easement has been reviewed and favorably voted upon by the corporation's Board of Directors. The Resolution should also authorize one or more persons to act on behalf of the corporation to sign all necessary documents associated with the sale of an easement. If the corporation is to be treated as a "family corporation" for purposes of a family lot reservation, list all of the stockholders of the corporation and their relationship to each other.

A property owned by a **partnership** (limited or general) is required to submit a Resolution attesting that the offer to sell an easement has been reviewed and favorably voted upon by the partners. The Resolution should also authorize one or more persons to act on behalf of the partnership to sign all necessary documents associated with the sale of an easement. The partnership must also submit a copy of its partnership agreement and all amendments thereto. If the partnership is to be treated as a "family partnership" for purposes of a family lot reservation, list all of the partners of the partnership and their relationship to each other.

A property owned by **limited liability company (LLC)** is required to submit a Resolution attesting that the offer to sell an easement has been reviewed and favorably voted upon by the members. The Resolution should also authorize one or more persons to act on behalf of the LLC to sign all necessary documents associated with the sale of an easement. The LLC must also submit a copy of its operating agreement and all amendments thereto. If the LLC is to be treated as a "family LLC" for purposes of a family lot reservation, list all of the members of the LLC and their relationship to each other.

A property owned by a **Trust (or Trustees)** is required to submit a copy of the Trust Agreement and all amendments thereto. If the Trust has elected a family lot reservation, list all beneficiaries of the Trust and their relationship to each other.

## **2. CHILDREN**

Enter the first, middle and last name of all children of landowners. This information is pertinent to your future development rights if the Foundation purchases your easement and you have elected to reserve a family lot. Please indicate the family relationship of each child to the applicant owners.

Note: If an owner should die before requesting lots for eligible children, the Foundation may deny any requests to release lots for the children. As a form of insurance against such an occurrence, a landowner may formally state the intent to create a child's lot for specifically named eligible children in a letter to the Foundation that is placed in the property file of the landowner. The landowner may include language in his/her will, which clearly indicates his/her intention to create lots for the named children. By presenting the Foundation's letter of approval, a letter from the Foundation acknowledging receipt of the letter of intent or the will, a landowner's children may complete the lot release transaction after the landowner's death. However, even if a landowner has formally documented his intention to create lots, any uncompleted lot release transactions are null and void when the property is sold or ownership is transferred outside of the family.

**3. LOCATION OF PROPERTY**

Enter the Tax Map, Grid and Parcel number of the property. (If you do not have this information, please obtain it from your Program Administrator.) Enter the address of the property on which the application pertains if the property address is different than the mailing address.

**4. DEED REFERENCE(S)**

All deeds and surveys with metes and bounds descriptions that cover the entire property should be listed here. The Liber and Folio should be stamped either on the top or bottom of all documents that have been recorded in the county land records. The Liber is the first number and the Folio is the second number shown recording the document. Please contact your County Program Administrator if you need assistance.

**5. EXISTING PROPERTY RESTRICTIONS**

List any restrictive covenants, easements, or restrictive long term contracts on your property (e.g., forest conservation easements, open space easements, CREP easements, forest mitigation easements, wetland mitigation easements, historical easements, environmental easements or residential covenants). You should be aware that such restrictions may reduce the acreage on which MALPF can purchase easements. The title search conducted on behalf of the Foundation will reveal all restrictions. Early notification of restrictions may provide the Foundation adequate time to resolve any issues that may otherwise delay settlement.

**6. MORTGAGES OR LIENS**

If there are mortgages or other liens on the property (including equity line of credit, tax liens or judgments) please check "Yes." The name, address, telephone number must be supplied for any mortgage or other lien holders on the property. Their signatures agreeing to the terms of the Deed of Easement will be required on the Option Contract and Deed of Easement if you are successful in selling your development rights.

NOTE: If the intent of the landowner(s) is to satisfy the current mortgage or lien from the proceeds of easement sale, he/she may attach a separate, signed statement, indicating that he/she will pay the lien holder in full at the time of settlement. If this process is followed, the signature of the lien holder will not be required on the option contract/Deed of Easement, but information concerning the lien will be required.

**7. OTHER INTERESTS**

If an entity other than you owns or leases any interest, including options, in the property, he/she must agree to the terms of the Deed of Easement if the Foundation extends an easement offer to you. If you are successful in selling your development rights, signatures will be required on the Option Contract and Deed of Easement. If such a situation exists on the property, check "Yes" on the appropriate line and enter the name, address and telephone number of the individual(s) or company. Use an additional sheet of paper if necessary.

Please remember to disclose farming leases and the term of the lease. It is also important to note whether the lease includes an option to buy or a right of first refusal. Other examples of third party interests include the following: life estate over all or part of the property, remainder interest over all or part of the property, the interest of beneficiaries (if the property is in a trust), the interest held by an estate of a deceased co-owner when property was held as tenants in common, the interest of neighbors who have a septic easement, right-of-way or some other right in the property.

Please note: In Garrett County or Allegany County, a natural gas rights owner or lessee may not be required to subordinate its interest to the Foundation's interest if the Foundation determines that exercise of the natural gas rights will not interfere with an agricultural operation.

**8. LAND USE**

Enter the approximate acreage of various land uses on the property. The sum of the acreage figures entered here should equal the total acreage entered on Part B, 5(d).

9. **STRUCTURES**

For each farm and/or residential structure (dwellings, barns, sheds, chicken houses, etc.), enter the structure name and the approximate dimensions or capacity of the structure. Obtain a current aerial map from your County Program Administrator. Indicate the structures on the aerial map using the corresponding letters used in this section.

10. **FARMING OPERATION**

Describe the current type of farm operation on the property. Indicate whether it is operated by you or your family (owner operated) or leased for agricultural use. Also, indicate whether the farm operation is part of a larger operation.

11. **QUALIFYING SOILS**

This information will be provided by the Program Administrator. The Program Administrator is responsible for determining whether the property meets the minimum soils criteria.

12. **ZONING**

Zoning information to be provided by the County Program Administrator.

13. **CERTIFICATION OF SOIL CONSERVATION AND WATER QUALITY PLAN**

An official of your county's Soil Conservation District must certify by signing the application that a current soil conservation and water quality plan exists for the property. The plan shall list all existing erosion and water quality problems on the subject property and include a list of solutions to these problems along with a schedule of implementation. The plan must be created or updated within the last ten years. If the plan has been in existence, the landowner must be following the plan according to its schedule for implementation. The landowner is responsible for continuing to implement the plan during the application period and after settlement.

14. **FOREST STEWARDSHIP PLAN**

If you have a Forest Stewardship Plan in effect on the property, please submit a copy of the plan. The Forest Stewardship Plan is not required for application, but properties with over 25 acres of woodland will be required to have one prior to settlement.

15. **NUTRIENT MANAGEMENT PLAN**

If you have a Nutrient Management Plan in effect on the property, please submit a copy of the Annual Implementation Review Sheet. At this time, the Nutrient Management Plan is not required for application. Also, it has not yet been determined if it will be required for settlement.

16. **REQUIRED DOCUMENTATION**

a. All deeds or surveys which describe the property.

One of the following is recommended:

- A copy of the Title Deed(s) with plottable metes and bounds description; or
- A copy of a recorded plat delineating the property; or
- A Boundary survey certified by a registered surveyor with written metes and bounds description of the property.

If you do not have verifiable acreage and have not provided this office with one of the above recommended documents, there may be a delay in processing your application. Submission of either a title deed or recorded plat shall not preclude the requirement of a survey. A survey will be required if it is determined that there does not currently exist an adequate description of the property.

- b. Contact your County administrator for assistance.
- c. Contact your County administrator for assistance.
- c. A recent appraisal (optional). Please consult MALPF staff before contracting for an appraisal if you intend to provide your own appraisal specifically for this application to ensure that your appraisal meets program requirements. MALPF contracts through the Department of General Services for two fair market appraisals of the property by independent fee appraisers.