

MALPF FY 20 Application Instructions

What You Should Know Before Applying:

Work with your County Program Administrator for the completion of a **typed** application. Once completed and signed by the property owners and County Administrator, provide a total of **two** applications, each with supporting documentation (one original and one **color** copy) to the MALPF Administrator by July 1st of the application year.

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.

If a property consists of multiple parcels and/or deeds, every parcel submitted under one application must be owned under identical common ownership. Separate fee deeded parcels are permitted under one application if the parcels are contiguous and owned by identical persons(s)/entity.

PART A:

1. Total property (a.k.a. parent tract) acreage determination:

When inserting the total acres of your parent tract (see definition below), please use only contiguous acreage and identify how the acreage was determined. A current survey (dated contemporaneous with or after the conveyance deed) is the best source for the most accurate acreage. If there isn't a current survey, the parent tract acreage can be determined by comparison of the acreage provided by the State Department of Assessments and Taxation (SDAT) to the acreage provided in the conveyance deed. If the difference between SDAT and the conveyance deed is 5% or less, the higher acreage may be used. If the difference between SDAT and the conveyance deed is more than 5% different, the County Program Administrator can assist you by using a Geographic Information System (GIS) to determine which acreage is the more accurate. It may also be possible to use the GIS acreage if approved by Foundation staff.

Definition Parent Tract: The term parent tract, as used by the Maryland Agricultural Land Preservation Foundation (MALPF), is the total property described in the MALPF's Application To Sell An Easement. It refers to that entire contiguous acreage that is under common ownership. This may be a single tax map parcel or may include multiple tax map parcels, but should include the entire acreage on any parcel, even if only a portion of that parcel is being considered for easement sale.

- It is the total area Before any withheld acreage
- It is the total area Before any excluded acreage (any area to be encumbered by the easement that the landowner will not be paid for)
- It does not include any tax map parcel which may be contiguous and under common ownership, but for which no portion is being considered for easement sale under this application.

2. Pre-existing dwelling(s):

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

preexisting 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.

3. Withheld acreage:

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.

If the Foundation approves your request to withhold acres, and an easement offer is extended, at the settlement of the sale of the easement, the Foundation's policies also require a Restrictive Covenant to be placed on the withheld acres to forever limit those acres to a maximum of three development rights, or less, depending on what current county zoning regulations dictate.

4. Permitted Use Envelope Designation:

The Foundation recognizes that there may be existing or planned conditions or uses on your property that may be restricted or disallowed once the MALPF easement is completed. Such uses may include current or planned operations or activities, such as mulching, a community farmer's market or farmstand, an events destination, or machinery/equipment repair, among other types of operations. While the current or planned operation may be permitted by the Foundation, certain restrictions or limitations may be required. If you desire to ensure the ability to develop, maintain, or expand an operation without any restrictions from the MALPF easement, at the time of the application you may request a permitted uses envelope for a designated area within which such use can continue (permitted use envelope).

If the Foundation approves the request for a permitted use envelope, a survey will be required to delineate the designated area and the acreage of the permitted use envelope will not be included in the purchase price of the easement. The envelope area will be included within the boundary of the easement and may never be subdivided and transferred to a separate owner. All activities within the permitted use envelope must be in full compliance and permitted by County zoning and regulations.

5. Existing encumbrances:

Please include all existing encumbrances impacting the property. The Foundation will not pay for any acreage that is already restricted from a previous encumbrance (such as a forest conservation easement or a CREP easement), but the area will be included within the boundary perimeter of the MALPF easement property.

6. Asking Price:

Indicate the per acre price that you are willing to accept for the sale of an easement to MALPF. 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 the lower of: (1) the asking price, (2) the calculated easement value, (3) a cap set by the County, or the statutory State cap of 75% of the recommended appraised value. 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.

PART B

Section #1: Planning and Zoning Information:

This section is to be **completed by the Program Administrator**, or other County employee(s), as needed. This section must be fully completed **PRIOR** to submitting the application to MALPF by the deadline.

E: Pre-existing Dwelling/s and Tenant House/s Certification by Landowner

The Foundation has approved a policy that provides special consideration of tenant houses with regard to potential development density when appraising properties for easement sale. The Foundation may recognize the designation by a county of certain pre-existing dwellings as tenant houses which would otherwise be counted as a used density right. The Foundation shall direct the Dept. of General Services lead appraiser to inform the appraisers selected to assess the property to not assign a development right to any county-designated tenant house. If the landowner is seeking a pre-existing dwelling/s to be designated as a tenant house/s, the landowner must provide a signed certification, approved by a person or persons sanctioned by the county to make such designation and certification, for EACH proposed tenant house.

Section #2: Development Rights:

The residential lot rights information provided in this section will be provided to the appraisers and used for valuation purposes. It is critical that the Program Administrators complete this section fully and carefully, as this will have significant impact on value.

Lot Selection:

Family lots are a right that is granted to the original easement owner. It is tied to that person(s), not the land. 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 original owner's transfer of the property or the death(s) of the original owner(s) of the easement, whichever comes first.

If an original 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 easement file. 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, the 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 from the estate or one of the named children to a subsequent owner.

Unrestricted lot is a right that is reserved to any owner of the property, regardless of who the original owner is or relationship to them. An unrestricted lot is tied to the land, not a person(s), and transfers to subsequent owners until that right is exercised. 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, the landowner must pay back to the Foundation the per acre amount that the original landowner received for the easement.

There are two choices when selecting the unrestricted lot option; a subdividable lot and a non-subdividable building envelope. The subdividable lot option allows the current (or future) landowner to request the creation of lot, subject to Foundation approval in accordance with the Foundation's Lot Location Policy. The residential lot

may be created, subdivided into its own tax account/parcel, and transferred ownership to any party. The non-subdividable building envelope option allows the current (or future) landowner to request the establishment of a 1-acre “envelope” to construct a dwelling. This also requires Foundation approval, however, since the “envelope” is not permitted to be subdivided and transfer to any other party, the Foundation may consider locations that do not meet the location guidelines since the owner of the dwelling and the owner of the farm will always be the same. The term “unrestricted” as a description of the type of lot refers to the fact that there are no obligations/requirements on the person that is permitted to live/own a dwelling that was created through this lot option selection.

Waive all rights to lots. 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. Note: This does not affect the right to request future tenant house(s). Please consider that the long-term viability of the farm could be benefitted by the ability to have a dwelling on the land.

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

Section #3: Transferable Development Rights:

The TDR information provided in this section will be provided to the appraisers and used for valuation purposes. It is critical that the Program Administrators complete this section fully and carefully, as this could have impact on value.

PART C

2. Entity Information:

List names as indicated on application; additionally:

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.

4. Deed References:

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 on the recorded document. Please contact your County Program Administrator if you need assistance.

5. Existing Property Restriction(s):

List any restrictive covenants, easements, or restrictive long term contracts on your property (e.g., forest conservation easements, open space easements, CREP easements, CRP contracts, 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. Other Third Party Interest(s):

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 disclose ground leases in excess of 20 year terms. It is 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.

If there are railroad tracks that cross your property, the Foundation will require proof of a legal access to the portion of the property the tracks may divide from the main farm entrance. If there is no legal access to any portion of the property caused by railroad tracks, or other divisions of the property, the Foundation will not be able to pay for an easement over the portion of the property that has no legal access.

Please note: In Allegany County, Garrett County and Washington County: If an offer is extended for the purchase of an easement, the offer will include the requirement that a title search be conducted on both surface and subsurface interests in the land, and the requirement that the landowner contribute to the cost of the title search.

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.

12. 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.

13. Certification of Soil Conservation & 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 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.

PART D

COUNTY PROGRAM ADMINISTRATOR SIGNATURE:

The Program Administrator must review the application and provide the information necessary for Part B., Sections 1, 2, 3, and Part C. #12. If the Program Administrator does not complete their section, or sign off on the application, MALPF staff will return the application as incomplete. If past the July 1st deadline, the application will not be included in the current application cycle. You may apply again the next application cycle.