

BURLINGTON COUNTY FARMLAND PRESERVATION PROGRAM

POTENTIAL ADVANTAGES TO PROGRAM PARTICIPANTS

Since its inception, over 125 landowners have participated in the County's Farmland Preservation Easement Purchase Program. These landowners were attracted to the program for a variety of reasons, some of which are highlighted below:

- **SOURCE OF LIQUIDITY** – Easement purchase offers you a way to liquidate a portion of the equity in your land without selling part of the farm and compromising your farming operation. Some of the sale proceeds can be immediately available for current spending or investment needs, such as paying off debt or purchasing additional farm equipment, while a portion of your land value remains preserved for future generations.
- **EASE OF SALE** – Compared to selling to developers, easement purchase sales are quicker and less risky. While developer sales can take years to complete, the easement purchase process now takes approximately 18 months from application to closing, and the county continues to make efforts to reduce that time period. Moreover, almost all developer purchase offers and contracts are based on numerous contingencies, such as approvals for a specific number of lots – often a number that exceeds the number permitted by existing zoning or requires issuance of a variance – and receipt of necessary state, regional, or local approvals. The municipal review and approval process frequently takes two or three years and the developer's plan may ultimately be rejected. You may see little, if any, money up front and you may be prevented from selling to any other interested party while your contract with the developer is in effect.
- **ESTATE PLANNING** – Participating in the easement purchase program can facilitate estate planning. In exchange for selling the development rights on their farms most program participants will receive a document, called an Installment Purchase Agreement (IPA), at the closing of the easement sale. In the IPA, the County agrees to pay the seller the purchase price in the year 2018 and, until then, interest on this amount. The IPA would be a separate tangible asset of your estate that you could bequeath to your heirs, collectively or individually.¹ The IPA can be sold independent of any sale of the property and, therefore, may provide a means for paying estate taxes, enabling your children or other heirs to keep the farm.
- **SAFE INVESTMENT** – The IPA is a contract between the seller and the County similar in nature to a bond. The County's promise to pay the interest on and principal of the IPA rests upon a pledge of its full faith and credit, as well as its power to tax. Contracts between the County and farm property owners for the sale of their development rights have included a promise by the County to pay a minimum rate of interest on the principal amount of the IPA. (The actual rate, which may be higher than the guaranteed minimum would be established at closing.) This policy is subject to annual review and may or may not be part of the County's offer to purchase.
- **FAVORABLE TAX IMPLICATIONS OF THE IPA** – Under current law, the interest paid to sellers over the life of the IPA is not subject to Federal or New Jersey State income taxation. In addition to this benefit, sellers may be able to defer capital gains taxes until the time that the principal amount of the IPA is paid in the year 2018. The benefit of the tax deferral to you can be substantial – in some circumstances, equivalent to an investment of as much as 20 percent more money than would

be possible from a cash sale. The attached sheet, “Payment Comparison: Cash vs. Installment Purchase,” shows the potential benefit of an installment purchase agreement on an easement sale.ⁱⁱ

- **INCREASED MARKETABILITY OF YOUR FARM** – Certain landowners who have entered the Farmland Preservation Program have sold their easements as a first step in selling their farms. There is a high demand for deed-restricted farmland, as many established farmers are looking to increase their landholdings and new farmers want to purchase affordable farmland. The Farmland Preservation Program can serve as an informal conduit for these buyers and sellers of preserved farms.
- **ENHANCED VIABILITY OF YOUR FARMING OPERATION AND THE LOCAL AGRICULTURAL INDUSTRY** – A key goal of farmland preservation is to provide a permanently protected agricultural land base. The County program strives to create protected areas of at least 1,000 acres. This effort can allow you to improve and expand your farm operation without fear of being adversely impacted by conflicts from encroaching development. Ensuring a critical mass of preserved farms can also strengthen the agricultural industry in your area by facilitating the movement of farm equipment and by attracting and retaining agricultural support facilities. Participating farmers have improved their operations by reducing or paying off debts or by making capital improvements or other investments.
- **SOIL AND WATER CONSERVATION COST-SHARING GRANTS AND PROTECTION FROM CERTAIN ADVERSE GOVERNMENTAL ACTIONS** – Farmers who participate in the easement purchase program are eligible for a package of benefits available to participants in farmland preservation “Eight-year Programs.” Primary among these are the eligibility to apply for 75 percent state funding for soil and water conservation improvements and protection from emergency water and energy restrictions. Currently (March 2006), NJ State funding for the Soil and Water Conservation improvements has been suspended. As more information from the state becomes available, the County will be sure to pass this on to all preserved landowners.ⁱⁱⁱ
- **PERMANENTLY PROTECT YOUR COMMUNITY’S AGRICULTURAL HERITAGE** – Finally, by selling your development rights you insure that the beauty and heritage of your farm are preserved for future generations. When you and your neighboring landowners preserve your property, you play an invaluable role in helping to retain the rural character of your community.

Only you can determine if benefits of the program will work for you and your family. If you would like more information or if you would like to discuss these benefits in more detail, we encourage you to contact a member of the County Farmland Preservation Easement Purchase Program staff at (856) 642-3850. Staff members are available to meet with you at your farm and are happy to provide contact information of farmers in your area who have participated in the program.

ⁱ Please note, however, that only one person is entitled to receive payments through an IPA.

ⁱⁱ Note: Since landowner circumstances vary, the County cannot guarantee that the Internal Revenue Service would approve use of the installment reporting of gain on a sale made to the County in which the purchase price is paid through an IPA. A landowner interested in the potential benefit of deferring capital gains taxes on an easement sale should consult with expert consultants (e.g., an attorney and/or accountant) experienced with real estate transactions and knowledgeable about the applicable tax laws and regulations.

ⁱⁱⁱ Resource protections remain in effect unless the Governor declares that the public health, safety, and welfare require otherwise.

