Dear Applicant,

Thank you for your interest in the Sussex County Farmland Preservation Program. Before filling out the application, please read the following informational documents, *N.J. Farmland Preservation Program Overview* and *Farmland Preservation: Frequently Asked Questions*. Pay particular attention to the minimum eligibility criteria required for preservation. After reading the two documents, fill out and sign the *Application and Offer to Sell a Development Easement* along with the following forms: *Exception Areas, Nonagricultural Uses, Division of Premises* and *Division of Premises for Non-Contiguous Parcels* (if applicable). Return the completed application, forms and supporting documents to the Farmland Preservation Program Administrator at the above address. Note that all parties whose names appear on the deed(s) for the property(s) must sign the application(s) for preservation and the accompanying documents.

If you have any questions, need assistance with filling out the application or have difficulties gathering the necessary documents, please feel free to contact our office.

Thank you, again, for your interest,

**The Farmland Preservation Program Administrator and Staff**
The state Farmland Preservation Program is administered by the State Agriculture Development Committee (SADC), which preserves farmland directly and provides grants to County Agriculture Development Boards (CADBs), municipalities and nonprofit organizations for the preservation of farmland. (www.nj.gov/agriculture/sadc)

How Is Farmland Preserved?

Sale of Development Rights: If you would like to preserve your farm and continue to own it, you can sell the nonagricultural development rights—also known as a development easement—on your land. You can apply to preserve your farm to the SADC, your CADB, your municipality if it participates in the Farmland Preservation Program, or a nonprofit organization. Most counties and many municipalities have developed comprehensive farmland preservation plans that enable them to participate in the program. You can find a listing and copies of the plans at www.nj.gov/agriculture/sadc/home/genpub/comprehensiveplans.html.

Outright Sale of Land: In some limited cases, the SADC, a nonprofit, or your CADB or municipality may be interested in purchasing your farm outright for preservation. In these cases, a farm is purchased at fair-market value and then typically resold at a public auction to a private owner with agricultural deed restrictions in place to ensure the land’s permanent preservation. Because this process requires greater financial resources from the preservation agencies, these opportunities are more limited. In most cases, landowners sell their development rights first and then sell the deed-restricted farm afterward to a private owner when the time is right for them.

Donation: In certain situations, you may want to consider donating your development rights, or your land, to one of the preservation agencies above, particularly if you could be eligible for significant tax savings. You should contact a tax professional to fully understand the tax implications of a donation as they apply to your personal situation.

How Does the Process Work?

Land is eligible for the Farmland Preservation Program if it meets the SADC’s minimum eligibility criteria and is eligible for farmland tax assessment. In most cases, your farm also must be located in an agricultural development area (ADA) an area where the CADB has determined that farming is viable over the long term and be a “targeted” farm in a county or municipal comprehensive farmland preservation plan. with the State and local municipalities throughout the process.

CADBs are responsible for approving most applications to the Farmland Preservation Program. Therefore, they are the starting point for most interested landowners. CADBs review and approve applications and then forward them to the SADC, coordinating with State and local municipalities throughout the process.
How Is Value Determined?

The value of a farm or development easement is established through two independent appraisals. The price you will be paid for a development easement will be based on the difference between your land’s value before preservation and its value after preservation - generally the difference between what someone would pay for the raw land as is, and its value as a deed-restricted farm. For example, if your farm would be worth $10,000 per acre before preservation, and $4,000 per acre after it has been preserved, the value of your development easement would be $6,000 per acre. Once a value has been determined and agreed upon, the process of finalizing approval and the sale can proceed.

What Happens After Preservation?

When your farm is preserved, a Deed of Easement will be recorded with the County Clerk’s office that will run with the land and forever protect it for agricultural use. You are allowed to erect barns and other agricultural structures in accordance with the Deed of Easement, however most nonagricultural uses are not permitted unless they were recognized in the Deed of Easement at the time of preservation.

Within one year of preserving your farm, you will need to obtain a farm conservation plan approved by your local soil conservation district. The plan, which will be developed in cooperation with the U.S. Department of Agriculture’s Natural Resources Conservation Service, will detail practices that will assist you in managing soil, water and other natural resources on your farm. The preservation of your farm does not make your land public property. The public has no right to access or use your preserved farm without your consent.

A representative of the agency that purchased the development rights on your farm will contact you once a year to arrange to visit your farm to ensure you are maintaining it in accordance with the provisions of the Deed of Easement. The visit typically takes less than an hour, and you do not need to be present unless you choose to do so. You may find the annual visit a good opportunity for you to ask any questions you have about farmland preservation or about related programs that may be helpful to you and your agricultural operation.
Minimum Eligibility Criteria

What Are the Minimum Criteria for State Farmland Preservation Funding?

Land must be eligible for Farmland Assessment, be in an agricultural development area and meet the following minimum eligibility criteria to qualify for State farmland preservation funding.

For farms less than or equal to 10 acres:

- The land must produce agricultural or horticultural products of at least $2,500 annually;
- At least 75 percent of the land, or a minimum of five acres, must be tillable;
- At least 75 percent of the land, or a minimum of five acres, whichever is less, must consist of soils that are capable of supporting agricultural or horticultural production; and
- the land must exhibit development potential based on a finding that a number of standards have been met (including that the municipal zoning ordinance allows additional development, and the land does not exceed standards regarding extent of wetlands and steep slopes), or the land must be eligible for allocation of development credits under an authorized transfer of development rights program.

For farms greater than 10 acres:

- At least 50 percent of the land, or a minimum of 25 acres, whichever is less, must be tillable;
- At least 50 percent of the land, or a minimum of 25 acres, whichever is less, must consist of soils that are capable of supporting agricultural or horticultural production; and
- the land must exhibit development potential based on a finding that a number of standards have been met (including that the municipal zoning ordinance allows additional development, and the land does not exceed standards regarding extent of wetlands and steep slopes), or the land must be eligible for allocation of development credits under an authorized transfer of development rights program.

Lands that do not meet the minimum eligibility criteria are not eligible for a State cost-share grant.

[N.J.A.C. 2:76-6.20]
Sussex County Agriculture Development Board
Farmland Preservation Program

Application and Offer to Sell a Development Easement

Note: If the space provided for you to answer a question is insufficient, attach additional sheet(s). Please answer all questions fully. If you need assistance with the application, call (973)579-0500 and choose one of the options for Farmland Preservation from the list. We will be more than happy to answer any questions you may have.

Application Date: _____________________________________________________________

Applicants Name(s): _____________________________________________________________
_____________________________________________________________
_____________________________________________________________

Farm Name:  _____________________________________________________________

Farms’ Physical Address: _____________________________________________________________

Farms’ Mailing Address: _____________________________________________________________

Primary Contact for this Application:

Name:  _____________________________________________________________

Address: _____________________________________________________________

_____________________________________________________________

Primary Phone: _________________________   Alt Phone: __________________________

Email:  _____________________________________________________________
1. **OWNERSHIP INFORMATION:**

   A. Name, mailing address and primary phone number for all persons or entities listed on the Deed.

   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________
   ________________________________________________________________

   *A copy of the Deed must be included with the application.*

2. **PROPERTY INFORMATION**

   A. List the property from which the development easement is to be sold.

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<th>Township</th>
<th>Block</th>
<th>Lot</th>
<th>Acres</th>
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   Total Gross Acreage: __________

   B. What is the total amount of acreage in all the exception areas? __________ acres

   *(Refer to Section 7 for information regarding Exception Areas)*

   C. What is the net acreage being considered for easement purchase (total gross acreage minus the total exception acreage)? __________ acres
3. AGRICULTURAL PRODUCTION & DEVELOPMENT

A copy of the Farm Assessment Form (FA-1) must be included with the application.

A. Is the farmland rented or leased?
   ☐ Yes ☐ No
   If Yes, please describe the terms of a verbal lease or provide a copy of the written lease:
   _______________________________________________________________
   _______________________________________________________________
   _______________________________________________________________

B. Describe any horse boarding, breeding, personal use or other on the property:
   _______________________________________________________________
   _______________________________________________________________
   _______________________________________________________________

C. Do you have livestock?
   ☐ Yes ☐ No
   If Yes, do you have an Animal Waste Management Plan? ☐ Yes ☐ No

D. Are there greenhouses/hoop houses on the property? ☐ Yes ☐ No
   If Yes:
   i. What is the construction of the floor?
      ☐ dirt ☐ gravel ☐ weed block over dirt ☐ concrete ☐ other________________________
   ii. Are agricultural/horticultural products grown there?:
      ☐ in the ground ☐ in pots ☐ in something else _______________________________
   iii. How many months out of the year are the greenhouses/hoop houses covered?
      ________ months
   iv. Was any grading done to level the ground for the greenhouse/hoop house? ☐ Yes ☐ No

E. Did the NRCS prepare an installation plan for any of the agricultural structures? ☐ Yes ☐ No

F. Are any portions of the farm enrolled in USDA programs for conservation? ☐ Yes ☐ No
   If Yes, please circle the program(s):
   and provide a map of restricted areas.
   EQIP – Environmental Quality Incentive Program
   CREP – Conservation Reserve Enhancement Program
   CRP – Conservation Reserve Program
   WBP – Water Bank Program
   AMA – Agricultural Management Assistance Program
   CSP – Conservation Stewardship Program
G. Is there any agricultural production currently taking place on the property that is not covered on the current Farmland Assessment Form you provided with this application?  

☐ Yes  ☐ No  If Yes, please describe:  ____________________________________________________________  
__________________________________________________________  
__________________________________________________________  

H. Does the farm have a current Farm Conservation Plan?  ☐ Yes  ☐ No  
If Yes, provide a copy of the plan with this application.  All preserved farms are required to have a free Farm Conservation Plan within one year after closing.  These are obtained through the Natural Resources Conservation Service (NRCS).  

I. Does the farm have a current Woodland Management Plan?  ☐ Yes  ☐ No  

4. NON-AGRICULTURAL USE OF THE PROPERTY  
An identified non-agricultural use can continue after preservation but CANNOT be expanded or intensified if located on the preserved farmland outside of an exception area. 

A. Are there existing non-agricultural uses on the land to be preserved?  ☐ Yes  ☐ No  
If Yes, please describe:  ____________________________________________________________  
__________________________________________________________  
__________________________________________________________  

B. If non-agricultural events are held on the property, identify the purposes and frequencies of the events:  
__________________________________________________________  
__________________________________________________________  
__________________________________________________________  

A copy of the tax map showing the size(s) and location(s) of the event(s), structure(s) and area(s) utilized for non-agricultural use must be included with the application.  

C. In the event the non-agricultural use involves a lease with another party, identify the individual or entity leasing the structure or area and the type of business or operation:  
__________________________________________________________  
__________________________________________________________  
__________________________________________________________
D. Describe how the non-agricultural use is and/or will be accessed on the parcel:
________________________________________________________________________
________________________________________________________________________

5. RESIDENCES NOT IN AN EXCEPTION AREA

A. Are there any residential units and/or accessory structures not in an exception area?
   □ Yes  □ No  If No, please skip to the next section. If Yes, describe how many of the following:
   _____ Single-family  _____ Duplex  _____ Apartment
   _____ Trailer  _____ Dormitory  _____ Carriage House/Cabin
   _____ Garage  _____ Pool House  _____ Shed/Kennel
   _____ Other:  ____________  _____ Other: ____________  _____ Other:  ____________

B. Are any of the residential units used for agricultural labor? □ Yes  □ No
   If Yes:
   i. Which and how many units are used? (apartment, single-family, etc.)
      __________________________________________________________________________
   ii. How many occupants in total?  ____________
   iii. When and how many months out of the year are the units occupied? _______________
       __________________________________________________________________________
   iv. Do all the occupants over 18 work on the farm? □ Yes  □ No  If No, please explain:
       __________________________________________________________________________

C. Are any of the residential units rented or leased?
   □ Yes  □ No  If Yes, please provide a copy of the lease.

D. Do you or the county want to place a size limitation on any of the residential units?
   □ Yes  □ No  If Yes, please list:  ____________________________________________________
   __________________________________________________________________________

E. Do any of the residential units also contain a non-agricultural use? □ Yes  □ No
   If Yes, please describe:  __________________________________________________________
6. OTHER BUILDINGS NOT IN AN EXCEPTION AREA

A. Are there any other buildings on the property not in an exception area?

☐ Yes  ☐ No  If No, please skip to the next section. If Yes, describe how many of the following:

_____ Barn  _____ Run-In Shed  _____ Garage

_____ Trailer  _____ Silo  _____ Storage Shed

_____ Greenhouse/Hoop  _____ Pole Barn  _____ Other: ____________

_____ Other: ____________  _____ Other: ____________  _____ Other: ____________

B. Do any of these structures also contain a non-agricultural use?  ☐ Yes  ☐ No

If Yes, please describe: ____________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

________________________________________________________________________________

7. EXCEPTION AREAS

An exception is a portion of the applicant’s premises not to be encumbered by the farmland preservation program deed restrictions. Payment will not be made for the acreage within the area. The location of the requested exception should not negatively impact the agricultural operations. The SCADB will require Right to Farm language to be placed on the exception in the Deed of Easement. In evaluating the exception, the State Agriculture Development Committee may levy negative points on the application’s overall Quality Ranking Score should the size of the exception area be excessive. This can happen even if the County Agriculture Development Board has previously approved the area. Any and all existing non-agricultural uses within the exception area must be explained on the application. Existing non-agricultural uses will be expressly defined in the Deed of Easement and grandfathered in. The location of the exception area cannot be changed once the County has awarded appraisal contracts for the subject property. A request for changing the exception area after appraisal contracts are awarded may result in a forfeiture of the application. THE GRANTING OF AN EXCEPTION AREA SHOULD IN NO WAY BE INTERPRETED TO IMPLY THAT THE AREA WOULD BE ELIGIBLE FOR A RESIDENTIAL SUBDIVISION OR DEVELOPMENT. THE SCADB IS NEITHER QUALIFIED NOR LICENSED TO MAKE SUCH A DETERMINATION.

An exception may be either non-severable or severable. A non-severable exception may not be subdivided from the deed-restricted property. If the deed-restricted property is ever sold, the non-severable exception, and any building within it, remains a part of the farm. Access to the non-severable exception does not need to be included in the total acreage of the exception area if the lane or driveway provides access to any portion of the farm used for agricultural production or to an agricultural use on the exception area, including, but not limited to, farm markets. Residential buildings are deemed to be associated with the agricultural operation of the preserved farm and are hence considered agricultural use structures.
A **severable exception** can be subdivided from the deed-restricted property. The SCADB allows the landowner to request a **severable exception(s)** not to exceed 5% of the total application acreage. It must be emphasized, however, that it is the responsibility of the landowner to confirm that the requested **severable exception(s)** acreage complies with all relevant municipal zoning regulations, county land development standards and all other governmental regulations including, but not limited to, Health Department (percolation test) and the NJ DEP (i.e. wetlands regulations). Additionally, access to the **severable exception(s)** must be included in the total acreage of the exception area(s) if the access is used exclusively for non-agricultural purposes. In the case of a **severable exception**, any residential buildings within the exception area are not considered agricultural use structures.

A **severable exception** may be requested for: (1) the construction or existence of one single-family residence; or (2) the construction or existence of one single-family residence and/or any use permitted by zoning for the subject Block and Lot at the time the Deed of Easement for Farmland Preservation is recorded. The request must be made on the County Farmland Preservation application for either (1) or (2) should the applicant be asking for a **severable exception**.

It is the policy of the SCADB that a housing opportunity be attached to the deed restricted land. This may be in the form of an existing single-family residence or a buildable one-acre **non-severable exception** that would allow for one single-family residence. The one acre **non-severable exception** building lot would be shown in the survey and have a metes and bounds description attached to it. This would be the only location on the deed restricted premises that a single family residence could be constructed. The balance of the deed-restricted land may serve to meet road frontage and setback requirements as well as satisfy environmental constraints for the exception.

**ALL EXCEPTION AREAS MUST BE PENCILED-IN ON A TAX MAP TO SHOW SHAPE, SIZE AND LOCATION. THE MAP MUST THEN BE ATTACHED TO THIS FARMLAND PRESERVATION APPLICATION.**

### 7A. SEVERABLE EXCEPTIONS

i. Will you be requesting a severable exception area?
   - [ ] Yes    - [ ] No    If No, please skip to Section 7B. If Yes, continue:

ii. What is the size of this exception? ___________ acres

   (A **severable exception** cannot exceed 5% of the total premises. There must be an existing single-family residence attached to the deed restricted premises or a request for a **non-severable exception**.)

iii. Site Specific Zoning including minimum lot size: ______________________________
iv. Check one of the following:

- My severable exception is being restricted to one single-family residence.

- My severable exception is being restricted to one single-family residence and/or any other use permitted by zoning for this Block and Lot at the time the Deed of Easement is recorded for the Farmland Preservation program.

v. Does the exception area contain an existing septic and well?

- Yes  
- No  

If No, please explain ___________________________________________________

___________________________________________________________________________________

vi. Does the exception area contain any structures?

- Yes  
- No  

If Yes, please explain __________________________________________________

___________________________________________________________________________________

___________________________________________________________________________________

vii. Is the exception area for an existing or a future non-agricultural use?

- Yes  
- No  

If Yes, please explain __________________________________________________

___________________________________________________________________________________

___________________________________________________________________________________

7B. NON-SEVERABLE EXCEPTIONS

i. Will you be requesting a non-severable exception area?

- Yes  
- No  

If No, please skip to the next section. If Yes, continue:

ii. What is the size of this exception? ___________ acres

iii. Site Specific Zoning including minimum lot size: _______________________________

iv. Check one of the following:

- My non-severable exception is being restricted to one single-family residence.

- My non-severable exception is being restricted to one single-family residence and/or any other use permitted by zoning for this Block and Lot at the time the Deed of Easement is recorded for the Farmland Preservation program.
v. Does the exception area contain an existing septic and well?
   - Yes   - No   If No, please explain __________________________

vi. Does the exception area contain any structures?
   - Yes   - No   If Yes, please explain __________________________

vii. Is the exception area for an existing or a future non-agricultural use?
    - Yes   - No   If Yes, please explain __________________________

8. EASEMENTS AND RIGHT-OF-WAYS

A. Are there any easements or right-of-ways associated with the land being preserved?
   - Yes   - No   If Yes, please check all that apply:
     - Power Lines
     - Water Lines
     - Sewer Lines
     - Bridge/Road ROW
     - Gas Lines
     - Sight Triangle
     - Telephone Lines
     - Other: __________________________

B. Are there any access easements on the land being preserved?
   - Yes   - No   If Yes, please explain __________________________

C. Do you have existing or approvals for solar, wind or biomass energy generating installations?
   - Existing   - Approvals   - None   If Existing or Approvals, please explain: __________________________

Copies of all Easements/Agreements must be included with the application.
9. **SUBDIVISION APPROVALS**

A. Has the property been the subject of an application for subdivision?
   - ☐ Major
   - ☐ Minor
   - ☐ None
   
   If None, please skip to the next section. If Major or Minor,
   
   **COPIES OF RESOLUTIONS OF APPROVAL & MEETING MINUTES ARE REQUIRED.** The following supporting documentation should also be submitted where applicable:
   - Surveys
   - Municipal Ordinances
   - NJDEP approvals
   - Water permits & capacity
   - Sewer/Septic information, capacity, status, costs, soil logs, etc.

B. If approved, the subdivision application was: ☐ Preliminary  ☐ Final

C. Type of development (residential, commercial, office, mixed): _______________________________
   
   # units or square footage: __________________________________________________________
   
   Preliminary Approval Date: ______________  Expiration: ______________
   
   Final Approval Date: ______________  Expiration: ______________

D. Are all the parcels included in the final subdivision approval also included in the preservation application?  ☐ Yes  ☐ No

E. Have any extensions been obtained?  ☐ Yes  ☐ No

F. Are there any outstanding and/or expired permits needed to perfect the approvals and/or build?  ☐ Yes  ☐ No  
   
   If Yes, please describe and provide supporting documentation: __________________
   
   _____________________________________________________________________________
   
   _____________________________________________________________________________
   
   _____________________________________________________________________________

G. Please provide details and estimates to cure/clean-up all environmental contamination and materials in order to build housing, if applicable: ________________________________
   
   _____________________________________________________________________________
   
   _____________________________________________________________________________
   
   _____________________________________________________________________________
H. Are there any conservation easements other than what was already provided in the application?
__________________________________________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________

I. List and discuss any past, current and/or ongoing litigation involving this project. Include bankruptcy, foreclosure or “builder’s remedy” actions. Is there any litigation that needs resolution in order to proceed with the project?  __________________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________

J. What conditions of approval have not been addressed? How likely are they to be resolved and what are the obstacles and costs involved?  __________________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________

10. PROPERTY - LEGAL STATUS

A. Name each person who, other than those who hold title, has a legal interest in the property. This includes, but is not limited to, a mortgage claim, lease, use easement, utility easement, access easement or right-of-way. Describe the interest.

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<th>Name and Address:</th>
<th>Interest:</th>
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B. Is the property listed for sale?  □ Yes   □ No

C. Is the property part of an estate?  □ Yes   □ No  If Yes, please provide the Will, Probate and Tax Waiver or statement that no waiver is needed and why.
D. Is the property held in a Trust?  ☐ Yes  ☐ No  If Yes, please provide the Will and the Trust Documents.

E. Has the landowner filed for bankruptcy?  ☐ Yes  ☐ No  If Yes, please provide documentation from the Court authorizing the application for farmland preservation.

F. Is the property involved in a foreclosure?  ☐ Yes  ☐ No

G. Is the landowner(s) a Corporation?  ☐ Yes  ☐ No  If Yes, please provide:
   ☐ Corporate Resolutions authorizing application and contact person(s)
   ☐ Copy of Certificate of Incorporation
   ☐ Copy of By-Laws, Amendments and Schedules

H. Is the landowner(s) an LLC?  ☐ Yes  ☐ No  If Yes, please provide:
   ☐ Operating Agreement
   ☐ Certificate of Formation

11. PER ACRE ASKING PRICE

After all applications are ranked and approved by the Sussex County Agriculture Development Board and the Board of Chosen Freeholders, two independent appraisals are done on each property. The Sussex County Agriculture Development Board requests that the applicant fill in the following so that the Board knows whether the landowner's request will be in "the ball park" of current fair market values.

As landowner(s) of the premise described above, I/we are willing to make an offer to sell a development easement to the Board in the amount of $________ per acre. (The amount being requested here is for the easement value, not the fair market value. The easement value is the difference between the Fair Market value and the Agricultural value.)

I/we realize that this figure is non-binding and the final per acre value will be determined after two independent appraisals are done on the subject property. After which, the State Agriculture Development Committee's Review Appraiser will arrive at a value not to be less than the lower of the two appraisals or higher than the greater of the two appraisals.
12. **ACKNOWLEDGMENTS AND AUTHORIZATIONS**

A. All persons signing this application certify that the information provided in this form is true. Applicants understand that this application may be disqualified in the event that it is found that the applicant has willfully provided false information.

B. All persons signing this application agree to cooperate in the review of this application and to provide such additional information which the County deems necessary.

C. Because the purpose of this program is to permanently deed restrict your property to agricultural use, it is recommended that you consult with an attorney and/or financial advisor with respect to how this restriction could affect you.

D. Applicant(s)'s signature(s) below shall authorize the Sussex County Agriculture Development Board to proceed with the review and evaluation of this application for the Farmland Preservation Program. All current owners of the property must sign below.

______________________________ __________________
______________________________ __________________
______________________________ __________________
______________________________ __________________
______________________________ __________________
______________________________ __________________
Landowner(s) Signature(s)                 Date
An exception is an area free from the farmland preservation Deed of Easement restrictions that will apply once the farm is preserved. It is very important to consider exception areas prior to preservation because they will not be granted, moved or expanded once the farm is preserved.

### Types of Exceptions

There are two types of exceptions: non-severable and severable.

#### Non-severable Exceptions:
A non-severable exception is an area of the farm which is excepted from the easement restrictions but remains tied to the farm and cannot be subdivided, transferred or conveyed separately from the farm.

#### Severable Exceptions:
A severable exception is an area that can be subdivided and sold separately from the farm provided it meets local subdivision requirements. It is not necessary to sever (subdivide) a severable exception prior to preservation. A landowner will not be paid for areas designated as a severable or non-severable exception because the Deed of Easement restrictions will not apply to the area(s).

### Why should I take an exception area?

- Do you wish to provide a building lot for a child?
- Do you have a barn where you might want to operate a business that might not be permitted under the farmland Deed of Easement (i.e. a nonagricultural use)?
- Would you like to have the flexibility to replace your home without farmland preservation program approvals?
- Perhaps you are entertaining the idea of operating a Bed & Breakfast in the main farmhouse someday?

These are just a few common reasons why landowners choose to take exception areas. If your plans for future uses of the premises include any nonagricultural production based activity you should consider an exception area.

Although nonagricultural uses existing and recognized at the time of preservation are allowed, did you know they cannot be expanded in the future unless they are within an exception area?

### Locating an Exception Area

It is very important to consider the number, size and location of exception areas. Exception area requests which negatively impact the farm or are found to allow excessive housing around the agricultural operation may not be approved. Therefore, balancing landowners’ needs with a sensitivity to the agricultural operation, now and into the future, is important. The SADC considers the following in evaluating exceptions:

- Number of exceptions requested – is it excessive?
- Size of exception(s) – is it a very large area of the farm?
- Purpose of the exception(s) – will future uses negatively impact the farm?
- Location and planned use of the exception area – sensitive to the farming operation?
Locating an Exception Area continued…

If you are requesting an exception for a future housing opportunity, you are strongly encouraged to thoroughly explore the feasibility of that location including septic suitability, ability to obtain water, road access, wetlands, wetland buffers and special regulations that may apply in your area, such as the Highlands or Pinelands. If the access to an exception area is used exclusively for nonagricultural purposes, the access must also be included in the exception area. Residential use is not considered a nonagricultural purpose, so, if the exception is being used for a residential use the driveway does not have to be included within the exception area. Remember - you must make decisions about exceptions at the time of application, prior to appraisals being conducted. If you change your mind during the preservation process, this could result in delays in processing your application.

Sample Exception Area Layouts

200 Acre Farm

Example #1
A 200 acre farm with a non-severable exception around an existing barn and house and a severable exception along the road for the landowner’s child to subdivide and own separate from the farm.

Example #2
A farm with a severable exception around a nonagricultural use and driveway, and a house on the farm outside of an exception area.
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Block                        Lot                             Township                                  County        SADC ID#
Do you have a nonagricultural use on your farm?

Some examples of a nonagricultural use include:

- An existing business, not related to your farm’s agricultural production, located in your barn or home
- A lumber processing business that uses timber produced/grown by other farmers
- A facility used to process or sell agricultural products not raised on the farm or by the owner’s farming operation
- A portion of your farm or structure on your farm that is rented or used by someone else for a use or business not related to the production of your farm e.g., equipment, vehicle parking, office)
- A portion of your farm or structure on your farm that is used for the storage of agricultural products or materials not derived from or intended for use on your farm (e.g., grain/cold storage, parts,

Schedule B Nonagricultural Use

This option allows you to continue your nonagricultural use following the preservation of your farm at the same scale and location it is at the time of preservation.

Before appraisals and surveys are conducted, you will be asked to identify and describe any nonagricultural uses occurring on your farm. Details of the use(s), such as the type, frequency, intensity, size and location, will be recorded as a Schedule B and attached to the Deed of Easement. This document binds your use to its current parameters so that you cannot expand or change it in the future.

Although you will still be paid for the land under the use, this option provides you with little flexibility and no opportunity to expand the use, change the use, or start a new use in the future. Additionally, if the current nonagricultural use ceases at some point, you are not permitted to resume it in the future.
Nonagricultural Uses in Exception Areas

You also have the option of excepting out some of your land under and surrounding a nonagricultural use(s) from the Deed of Easement. This option provides you with maximum flexibility for your use in the future since the land in exception areas is not subject to the restrictions of the Deed of Easement. Although you will not be paid for the land in an exception area, you will be able to change, improve and expand your use within the exception area as you wish, subject to all applicable local and state regulations.

An exception area around a nonagricultural use is ideal if you can foresee the use or an area of your farm changing in the future. For instance, you may have an older barn that is becoming too small for modern tractors and your agricultural operation. Rather than razing it or allowing it to go into disrepair, you may want to rent this space out to a carpenter or other small business. By including the structure in an exception area, you maintain the flexibility to repurpose an agricultural structure and adapt to the changes of your farm.
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Division of the Premises

The Deed of Easement sets forth the legal restrictions that will apply to your farm once it is preserved. The survey metes and bounds description of your farm has the effect of tying all of your lots together as one preserved “premises.”

Although your farm may consist of multiple lots, after preservation they cannot be divided, transferred individually or conveyed to other owners without written approval of the State Agriculture Development Committee (SADC) and the easement holder, which may be the County Agriculture Development Board (CADB) or a non-profit agency.

The SADC’s objective is to retain large masses of viable agricultural land. Agricultural parcels may become less viable if reduced in size. Therefore, the SADC will carefully consider the criteria to evaluate whether a permanently preserved farm should be divided.

### Diagram of a Non-Contiguous Division

#### BEFORE

- 200 acre farm

#### AFTER

- 80 acre farm
- 120 acre farm

### Major SADC Considerations

- Total Tillable Acreage
- Quality of Soils
- Configuration of New Parcels
- Historical Agricultural Uses
- Existing Agricultural Infrastructure
- Proximity to Other Farms/ Preserved Farms
- Proposed Agricultural Uses
- Benefit to Production Agriculture

NEW JERSEY
State Agriculture Development Committee
P.O. Box 330
Trenton, NJ 08625-0330

phone: 609-984-2504
fax: 609-633-2004
email: sadc@ag.nj.gov
web: www.nj.gov/agriculture/sadc
To request approval to divide the preserved premises, you need to submit an application to the easement holder demonstrating that the division would meet both of the following tests:

**The Agricultural Purpose Test**  
First, the proposed division must be for an agricultural purpose. The SADC considers enhanced agricultural production activities, such as agricultural expansion, diversification and/or intensification resulting from a division as typically meeting the agricultural purpose test.

**The Agricultural Viability Test**  
Second, the division must result in agriculturally viable parcels, each capable of sustaining a variety of agricultural operations that produce a reasonable economic return under normal conditions, solely from the parcel’s agricultural production. So, the SADC would need to be confident that each newly created farm has sufficient agricultural resource value (soil quality, tillable land, size, etc.) to support a variety of agricultural operations into the future. Additionally, any parcel not meeting the minimum eligibility criteria for new applications to the program set forth in the SADC regulations will not be approved.

**Division Procedure**  
1. Submit completed application and required maps to the easement holder.
2. The easement holder will ensure that the application is complete and evaluate it based on the Deed of Easement and the agricultural purpose and viability tests.
3. If approved, the easement holder will forward the application to the SADC for its review based on the Deed of Easement and the agricultural purpose and viability tests.
4. If approved by the SADC, new surveys and legal descriptions may be required as a condition of approval. In addition, the SADC may request to review any deed which transfers a portion of the Premises to a new owner. Upon review and approval of all necessary documents, the SADC will record its approval resolution with the appropriate County Clerk’s office.

**Why might an application for a division of the Premises be denied?**  
- Each parcel does not meet the minimum eligibility criteria on its own – For example, the newly created farms may not be of sufficient size or may have a lack of tillable acres on at least one parcel.
- Large wooded areas or areas of marginal soils render the tillable land of one parcel insufficient or unable to support a variety of agricultural production activities.
- Lack of a concrete plan for agricultural production for one or both of the new parcels to be created.
- The purpose of the division is to accomplish estate planning.

Application and additional information can be found under Policies at [http://www.nj.gov/agriculture/sadc/rules/](http://www.nj.gov/agriculture/sadc/rules/)
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