



VALUE OF CONSERVATION EASEMENTS

A landowner may make an offer to sell a conservation easement on qualifying property. Such offers shall be ranked utilizing the Jefferson County Farmland Protection Ranking Criteria in order to fairly allocate any available funds for purchasing easements. Offers may be made by the landowner from one dollar up to the maximum value of the easement as defined under the *Voluntary Farmland Protection Act* §8-24-78. The fair market value and the agricultural value of the property are defined:



• Fair Market Value

The fair market value of the land is the price at the valuation date for the highest and best use of the property which a vendor, willing but not obligated to sell, would accept for the property, and which a purchaser, willing but not obligated to buy, would pay for the property if the property was not subject to any restriction imposed under the Deed of Conservation Easement.



• Agricultural Value

The agricultural value of land is the price at the valuation date which a vendor, willing but not obligated to sell, would accept for the property, and which a purchaser, willing but not obligated to buy, would pay for the property subject to the restrictions placed upon it by the Deed of Conservation Easement.

• Maximum Easement Value

The maximum easement value is the difference between the fair market value of the land and the agricultural value of the land.

• Offering Price

The offering price is the amount the landowner is asking to be reimbursed for the sale of the conservation easement to the Jefferson County Farmland Protection Board. The offering price can be the maximum easement value, or it can be some fraction of this value. Landowners gain points in the ranking criteria by offering to sell the easement for less than the maximum value.



• Payment to Landowners

Subject to the availability of funds, payments made to landowners shall be the smaller of the offering price or the maximum easement value, but in no case shall exceed the maximum easement value.

An Example:

The hypothetical fair market value of a 100-acre parcel of unrestricted land in Jefferson County is \$5,000 an acre or \$500,000 for the entire parcel. The land is suitable for a housing subdivision and is in an area that is currently being developed. The agricultural value of the land is \$2,000 an acre or \$200,000 for the entire parcel. The maximum value of the conservation easement on this parcel is \$300,000 (\$500,000 fair market value less \$200,000 agricultural value).

If the offering price were \$100,000, or one-third of the full easement value, the landowner would gain points under the Jefferson County Farmland Protection Ranking Criteria system. Subject to the availability of funds, the owner would be compensated \$100,000 for the conservation easement.

See Ranking Criteria, pg. 35 of this report.



• Determination of Values

At the time an offer is made by the landowner for purchase of an easement, the Jefferson County Farmland Protection Board shall make an initial estimate of the maximum easement value for the purpose of allowing the easement offer to move forward in the process. Due to the costs involved, a professional appraisal shall be undertaken by the Jefferson County Farmland Protection Board only when such

an appraisal would affect the outcome of the comparison of various properties under the Jefferson County Farmland Protection Ranking Criteria; when a probable acceptance into the Jefferson County Farmland Protection Program is at or close to the maximum value; and/or as a part of the closing process for easements accepted into the program.

The landowner may submit an appraisal completed by a qualified appraiser for consideration in the ranking process. In addition, in order for the landowner to take advantage of potential Federal income tax and estate tax benefits, an appraisal must be completed. While the appraisal may be done at any point in time, it must be updated to within 60 days of the easement sale in order to comply with Federal tax requirements. The Jefferson County Farmland Protection Board highly recommends that a landowner have an appraisal completed prior to the completion of the Deed of Conservation Easement.

In the unlikely event that differing appraisal values would affect the outcome of the ranking of properties, or would affect the actual purchase value of the property, the landowner and/or the Jefferson County Farmland Protection Board may request that the value determination be submitted to arbitration.

• Offering to Sell or Donate

An application form for either a sale or donation must be submitted to the Jefferson County Farmland Protection Board in order to be considered. Such application must be complete, including all documents as required within the application. A landowner may offer all, or part, of their land into the Jefferson County Farmland Protection Program.

A landowner may make an offer and rescind it up until the time of the closing of the Deed of Conservation Easement. Any fees or costs of closing incurred by the Jefferson County Farmland Protection



Board shall be the responsibility of the landowner if an offer is made and then rescinded. A landowner may also submit a new offer in order to increase the points under the farmland protection ranking criteria, and possible acceptance into the program. An offer made during the fiscal year (July 1 through June 30 of the following year), shall expire at the end of the fiscal year. Certain deadlines for submissions may apply. Any unaccepted offers may be re-submitted by the landowner for consideration in any subsequent year, but a new application must be made.

The Jefferson County Farmland Protection Board may make a counter-offer to the landowner in order to secure the property or properties in the event that adequate funds are not available to purchase all properties with outstanding offers. Such counter-offers shall be made in writing to the applicant. The applicant shall have sixty days to accept the offer through the submission of a revised offer in the form of a revised application. The absence of a revised application within the sixty days shall be deemed as a rejection of the counter-offer.

A written confirmation of the acceptance or rejection of any offer shall be provided to the applicant, including the reasons for rejection, if applicable.



• **Third Party Mineral Rights**

Properties where the subsurface mineral rights are owned by a third party are subject to special requirements. A tax deduction for the easement may be taken

only if:

1. Ownership of the surface estate was separated from ownership of the mineral right before June 13, 1976; and
2. The probability of surface mining occurring on the property is "so remote as to be negligible."

The Jefferson County Farmland Protection Board will accept easements on such properties only if:

1. The third party mineral owner agrees to prohibit any surface mining; and
2. The third party oil and gas owner agrees to construct a maximum number of wellheads as determined by the Board; or
3. The probability of surface mining is considered to be extremely unlikely as determined by the Board after consideration of all facts and circumstances. Such considerations shall include, but shall not be limited to:
 - Past or current surface mining in the vicinity
 - The identity of the third part owner and whether they are still in existence
 - The probable extent of such minerals and the resultant financial attractiveness ♦