



ANNUAL REPORT

Virginia Department of Agriculture and Consumer Services

OFFICE OF FARMLAND PRESERVATION

December 1, 2008

EXECUTIVE SUMMARY

This report presents the primary accomplishments of the Office of Farmland Preservation (OFP) for the period December 1, 2007 through December 1, 2008.

Significant accomplishments for this reporting period include the following:

- OFP continued to work with key agricultural, conservation and governmental partners to develop and implement the FY 2008 process for administering \$4.25 million in state matching funds for local Purchase of Development Rights (PDR) programs.
- Fourteen localities entered into Intergovernmental Agreements (IGAs) with VDACS, with eight of these localities each receiving the maximum state match amount of \$403,219.75
- OFP worked with Albemarle County to preserve the first farm to use state matching funds to local PDR programs. The property, Clayton Family Farm, is a 228.5-acre working farm in Albemarle County near the town of Crozet. Albemarle County held a press event to recognize this achievement, which was attended by Governor Kaine, Secretary Bloxom and Commissioner Haymore.
- OFP delivered 21 presentations/workshops to a wide variety of audiences across Virginia. Topics included OFP, PDR programs, farmland preservation tools/techniques, the federal Farm and Ranchland Protection Program (FRPP), conservation easements, use value assessment, and farmland loss data.
- OFP provided additional technical assistance to farmers, local and state governments, agricultural and conservation organizations, concerned citizens and others through the updating of information on the OFP Web page, the OFP travel display, and by phone.
- OFP staff finalized the process of moving the Virginia Farm Link database from the Virginia Farm Bureau Federation to VDACS, and significantly improved the operation and effectiveness of the database.
- OFP staff hosted the 2008 International Farm Transition Network (IFTN) annual conference and meeting in Richmond July 27-30, 2008. Twenty-one participants from 14 states and Ontario, Canada, attended the annual meeting.

As for plans for next year, even though the amount of state funding for local PDR programs has declined in the 2008-2010 biennial budget, OFP still expects to see continued demand for matching funds, as well as technical assistance from localities interested in developing new PDR programs. VDACS is currently in the process of allocating the \$500,000 available in state matching funds to local PDR programs for FY 2009. Eleven localities with more than \$43 million available in non-state matching funds submitted their fiscal and program certification applications by the October 17, 2008 deadline.

In addition to existing local PDR programs, OFP expects to see continued interest from other localities that would like to explore developing new PDR programs. Currently, Bedford, Hanover, Madison, Rockingham, and Washington Counties are in the process of exploring the creation of new PDR ordinances. OFP is still working to meet the goal of having a total of 30 local PDR programs established by 2010.

OFP also plans to ramp up our involvement in farm transition efforts in the future. OFP is continuing to work with Virginia Cooperative Extension, Virginia Farm Bureau Federation, the

North Carolina Farm Transition Network (NCFTN) and other members of the International Farm Transition Network (IFTN) to develop a series of farm transition workshops targeted to Virginia farm families and their service providers throughout 2009.

OVERVIEW

The 2000 Appropriation Act provided \$115,000 (\$65,000 for FY 2001 and \$50,000 for FY 2002) to the Virginia Department of Agriculture and Consumer Services (VDACS) to establish the Virginia Agricultural Vitality Program. The 2001 Session of the Virginia General Assembly added § 3.1-18.9 through § 3.1-18.12 to the Code of Virginia (this was recodified in 2008 as § 3.2-200 through § 3.2-203), which continued the Virginia Agricultural Vitality Program as the Office of Farmland Preservation (OFP). The original funding allocated for OFP was eliminated during the budget reductions that occurred in FY 2002 and FY 2003, and new funding for OFP was not secured again until 2006. The 2006 Appropriation Act provided \$305,000 (\$225,000 in FY 2007 and \$80,000 in FY 2008) and one full-time equivalent (FTE) for the Office of Farmland Preservation. The first Coordinator for OFP was hired in January 2007.

§ 3.2-202 of the Code of Virginia requires that the Commissioner of VDACS submit a written report on the operation of OFP to the chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources, and the Senate Committee on Agriculture, Conservation and Natural Resources by December 1 of each year.

The following are the specific powers and duties of OFP, as established in § 3.2-201 of the Code of Virginia:

- “1. To develop, in cooperation with the Department of Business Assistance, the Virginia Farm Bureau Federation, the American Farmland Trust, the Virginia Land Conservation Foundation, the Virginia Outdoors Foundation, the Virginia Association of Counties, and the Virginia Cooperative Extension: (i) model policies and practices that may be used as a guide to establish local purchase of development rights programs; (ii) criteria for the certification of local purchase of development rights programs as eligible to receive grants, loans or other funds from public sources; and (iii) methods and sources of revenue for allocating funds to localities to purchase agricultural conservation easements;
2. To create programs to educate the public about the importance of farmland preservation to the quality of life in the Commonwealth;
3. To provide technical, professional, and other assistance to farmers on matters related to farmland preservation; and
4. To administer the Virginia Farm Link program established pursuant to § 3.2-202.”

In addition, § 3.2-201 was expanded in 2008 to include the following additional language regarding the allocation of state matching funds to local purchase of development rights (PDR) programs:

“State grants shall be distributed to local purchase of development rights programs under policies, procedures, and guidelines developed by the Office of Farmland Preservation. In general, for each \$1 in grant moneys awarded by the Office, the applicable local purchase of development rights program of the county or city shall be required to provide a \$1 match. However, as part of these policies, procedures, and guidelines developed by the Office, the

Office shall include incentives that recognize and encourage counties and cities participating in use value taxation pursuant to Article 4 (§ [58.1-3229](#) et seq.) of Chapter 32 of Title 58.1.”

By establishing the Virginia Agricultural Vitality Program, and subsequently OFP, the General Assembly was attempting to address two issues that threaten the future viability of the Virginia agricultural sector. The first of these challenges is the aging farm population and the difficulty young farmers have when entering the profession. Statistics describing this problem are quite dramatic. The average Virginia farmer is 56 years of age. According to economists at Virginia Tech, more than 70 percent of Virginia farmland and a significant percentage of Virginia’s farm businesses are expected to be transitioned over the next 15 years. At the same time, research from OFP indicates that many Virginia farmers are not planning for this transition. During the period January through March 2002, OFP sponsored a survey of 1,500 Virginia farmers, with the intent of determining how many had plans for the transition of their farm businesses to the next generation of farmers. This survey was part of a larger strategy adopted by the International Farm Transition Network (IFTN) to develop conclusions about the state of farm retirement planning in the United States, Europe and Japan. This survey shows that of the 512 Virginia farmers that responded, 76 percent either do not plan to retire at all or only plan semi-retirement. Of those 24 percent of farmers who plan to retire, only 30 percent have as yet identified a successor.

The second challenge relates to the rapid loss of farm and forest land to developed uses in Virginia. According to the U.S. Department of Agriculture’s National Resource Inventory, between 1992 and 1997 Virginia lost 23,260 acres per year of agricultural land to developed uses, and 44,640 acres per year of forest land to developed uses. Combined, this is almost 68,000 acres of working farm and forest land lost to developed uses per year during these five years. This fragmentation of the land base puts new pressures on farmers and foresters who now face a public that is increasingly divorced from agriculture, and who are not accustomed to the sights, sounds and smells associated with working farms and forests.

ACCOMPLISHMENTS

The following are the accomplishments of the office during December 1, 2007 – December 1, 2008:

ADMINISTERING PDR MATCHING FUNDS

Since opening in 2007, OFP staff has been working with local governments, farm and conservation organizations, and other interested parties to establish local PDR programs. PDR programs compensate landowners that permanently preserve their land by voluntarily placing a perpetual conservation easement on the property. Twenty-one local PDR programs exist to date in Virginia, seventeen of which have some level of local funding currently available. (See Appendix 1).

During the 2007 General Assembly session, Governor Kaine and the General Assembly agreed as part of the 2007 budget amendment to provide OFP with \$4.25 million in state matching funds for the 2006-2008 biennium. This funding was significant, as it was the first time that the Commonwealth of Virginia provided state funds to match local PDR efforts. These funds were to be used to match non-state funds from certified local PDR programs.

OFP worked with key stakeholders to develop a two-part certification process for these funds. The first part was a certification of the amount of non-state matching funds that the locality had available for their PDR program. The deadline for submitting this application was July 2, 2007. The second application required was an application to certify the elements of the local PDR program, based on *A Model Purchase of Development Rights (PDR) Program for Virginia*, which was developed by the State Farmland Preservation Task Force in 2005. The deadline for the second application form was August 31, 2007.

Fifteen localities submitted their fiscal certification forms to OFP by the July 2 deadline, with a combined amount of almost \$45 million in non-state funding currently available for these local PDR programs. Fourteen of these localities also submitted their program certification application by August 31.

To determine the state matching fund amount for FY 2008, OFP divided the \$4.25 million by the number of certified localities to determine the allocation of matching funds. Therefore, \$303,571 (\$4.25 million/14 certified programs) was potentially available for each local program.

These funds were available to certified localities, however, only to the extent that they were able to provide an equal match using non-state funds. Those localities that were not able to provide at least \$303,571 in non-state funds received a match equal to the amount that they certified was available as of July 2, 2007. The remainder of the state funds that were not matched by each local program again were divided in a second round by the eight programs that were able to provide a match greater than \$303,571. These initial allocations for FY 2008 were awarded to localities in February 2008. (See Appendix 2.)

Localities have up to two years from the execution of the Intergovernmental Agreement (IGA) between the locality and VDACS to go to closing on approved agricultural conservation easements. (See Appendix 3.) Prior to going to closing, each locality must submit the individual easement to VDACS for review by OFP and the Office of the Attorney General. Once VDACS approves the easement language, localities may go to closing and submit to VDACS a claim for reimbursement form for up to 50 percent of the total “reimbursable costs” allowed by the IGA. (See Appendix 4.)

As of December 1, the following farms have been preserved in part using these matching funds from VDACS:

Albemarle County (Clayton easement):

- 228.5 acres
- Total easement purchase price: \$1,315,000
- VDACS contribution: \$403,220

Fauquier County (Eustace easement):

- 211 acres
- Total easement purchase price: \$480,000
- Other reimbursable costs: \$1,882
- VDACS contribution: \$240,941

Rappahannock County (Call easement)

- 106.5 acres
- Total easement purchase price: \$200,000
- Other reimbursable costs: \$13,532
- VDACS contribution: \$ 106,766

VDACS is currently in the process of allocating the \$500,000 available in state matching funds to local PDR programs for FY 2009. Eleven localities with more than \$43 million available in non-state matching funds submitted their fiscal and program certification applications by the October 17, 2008 deadline. (See Appendix 5 and 6.)

PROVIDING TECHNICAL ASSISTANCE AND EDUCATION ON FARMLAND PRESERVATION

Since the opening of OFP in January 2007, staff has been consistently asked to provide technical assistance to local and state governments, agricultural and conservation organizations, individual landowners and farmers, and others interested in learning more about farmland preservation in Virginia.

The following are efforts by OFP to provide technical assistance and outreach on farmland preservation issues from December 1, 2007 to December 1, 2008:

Presentations: OFP delivered 21 presentations/workshops to a wide variety of audiences. Topics included OFP, PDR programs, farmland preservation tools/techniques, the federal Farm and Ranchland Protection Program (FRPP), conservation easements, use value assessment, and farmland loss data. See Appendix 7 for a complete list of presentations delivered in 2008.

Web page: OFP continued to provide updated information on its Web page at www.vdacs.virginia.gov/preservation. This Web page provides information on the office, as well as the issues and challenges related to the loss of Virginia's working farm and forest land. It also includes links to the Web sites, program ordinances, easement templates and other materials for many of the 21 local PDR programs currently established.

Display: The OFP display was used at the Governor's Forum on Land Conservation in Southern Virginia (South Boston, December 11, 2007); the 2008 Environment Virginia conference (Lexington, April 1-3, 2008); the 2008 Ag Expo at Billy Bain Farms (Dinwiddie County, August 14, 2008); the Southeastern Resource Conservation and Development (RC&D) Council's regional meeting (Wytheville, September 10-12, 2008); and the Virginia Association of Counties (VaCO) annual meeting (Warm Springs, November 09-11, 2008).

Landowner phone calls: The OFP coordinator talked with numerous landowners and farmers interested in understanding the range of options for permanently protecting their land. OFP also fielded numerous calls from farm owners and farm seekers interested in the Virginia Farm Link program.

Virginia Land Conservation Foundation (VLCF): The OFP coordinator continued to serve as the VDACS representative on VLCF's interagency task force for 2008. As part of this task

force, the coordinator revised the “farmlands” ranking system, and reviewed each application in this category for the 2008 grant round.

ADMINISTERING VIRGINIA FARM LINK PROGRAM

OFP is charged with administering the Virginia Farm Link program. Pursuant to § [3.2-202](#) of the Code of Virginia, the purpose of the Virginia Farm Link program is to do the following:

“provide assistance to retiring farmers and individuals seeking to become active farmers in the transition of farm businesses and properties from retiring farmers to active farmers. Such assistance shall include, but not be limited to, (i) assistance in the preparation of business plans for the transition of business interests; (ii) assistance in the facilitation of transfers of existing properties and agricultural operations to interested buyers; (iii) information on innovative farming methods and techniques; and (iv) research assistance on agricultural, financial, marketing, and other matters.”

The absence of program funding in previous years precluded the development of many of the components of the Farm Link program established in § [3.2-202](#). In 2003, VDACS did work with the Virginia Farm Bureau Federation (VFBF) to develop the Virginia Farm Link database. This online database was designed to bring those landowners interested in passing the land on to the next generation together with those interested in gaining access to farmland and farming operations in Virginia. VFBF agreed to host the Farm Link database until such time that OFP was able to take back the operation of the database. OFP spent almost one year working with an IT consultant and VFBF to move the database back to VDACS. As part of this process, VDACS and VFBF also identified significant changes that could be made to the database to make it more user-friendly and effective. In September 2007, VDACS hired Virginia Interactive to both transition the database to VDACS and to make the recommended programmatic improvements. The new Farm Link database was released to the public on May 16, 2008 at www.vafarmlink.org. As of November 07, the database has registered 26 “active farm owners” and 377 “active farm seekers”. Of these owners and seekers, 26 owners have received 255 requests from 227 different farm seekers interested in discussing various transition options with them.

The Office of Farmland Preservation also is an active member of IFTN. The goal of the network is to support programs that foster the next generation of farmers and ranchers. At least 20 states have established Farm Link program similar to Virginia. OFP took the lead role in developing and delivering the 2008 IFTN annual conference and meeting, which was held July 27-30, 2008 at the Omni Richmond. This annual conference serves as the one opportunity that farm transition experts have each year to discuss innovative programs and projects, and to share this information with their counterparts. Twenty-one participants from 14 states and Ontario, Canada, attended the annual meeting. A panel of six Virginia farmers also participated by discussing their own experiences with the transition of their farm. In addition to the IFTN conference, a separate two-day workshop on developing effective farm transition workshops was held. OFP staff participated in this additional training, as did representatives from Virginia Cooperative Extension, Virginia Farm Bureau and Isle of Wight County.

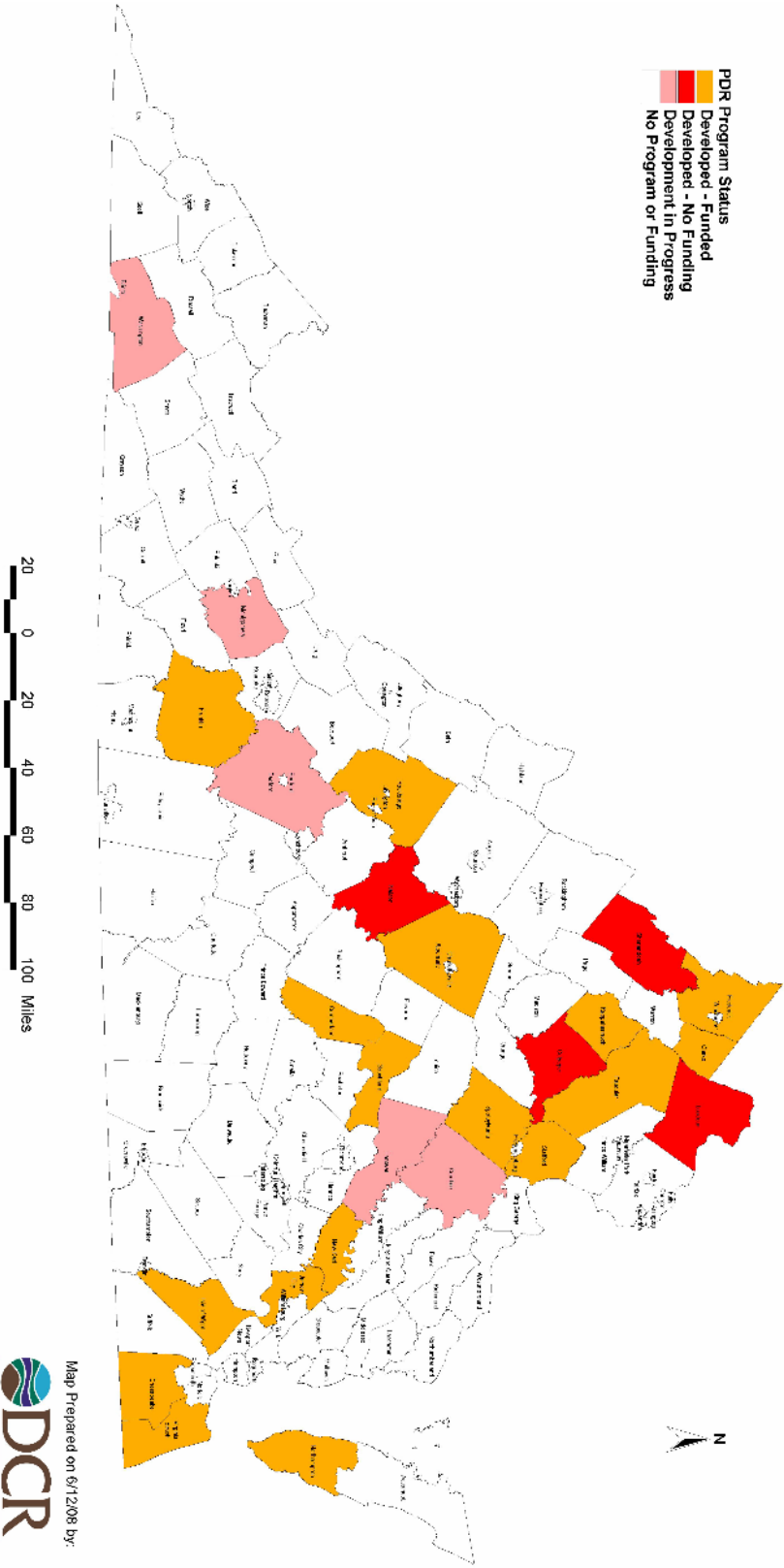
PLANS FOR THE FUTURE

Even though the amount of state funding for local PDR programs has declined in the 2008-2010 biennial budget, OFP still expects to see continued demand for technical assistance from localities interested in developing new PDR programs. Currently, Bedford, Hanover, Madison, Rockingham, and Washington Counties are in the process of exploring the creation of new PDR ordinances. OFP is still working to meet the goal of having a total of 30 local PDR programs established by 2010.

OFP also plans to ramp up our involvement in farm transition efforts in the future. OFP is continuing to work with Virginia Cooperative Extension, Virginia Farm Bureau Federation, the North Carolina Farm Transition Network (NCFTN) and other members of IFTN to develop a series of farm transition workshops targeted to Virginia farm families and their service providers throughout 2009.

APPENDIX 1

STATUS OF LOCAL PURCHASE OF DEVELOPMENT RIGHTS (PDR) PROGRAMS



Map Prepared on 6/12/08 by:
DCR
State Department of Environmental Protection

APPENDIX 2

FY 2008 Allocations for Local PDR Programs

Locality	Local (non-state) Match	State Match
Albemarle County	\$3,307,556	\$403,220
Augusta County *	\$1,359,789	XX
Chesapeake City	\$927,000	\$403,220
Clarke County	\$542,710	\$403,220
Cumberland County	\$100,000	\$100,000
Fauquier County	\$3,695,331	\$403,220
Frederick County	\$265,000	\$265,000
Goochland County	\$992,957	\$403,220
Isle of Wight County	\$2,171,000	\$403,220
James City County	\$16,847,389	\$403,220
New Kent County	\$150,000	\$150,000
Northampton County	\$45,000	\$45,000
Rappahannock County	\$165,000	\$165,000
Stafford County	\$299,242	\$299,242
Virginia Beach City	\$13,999,014	\$403,220
TOTAL	\$44,866,988	\$4,250,002

* Did not submit second part of application by August 31, 2007

APPENDIX 3

TEMPLATE
INTERGOVERNMENTAL AGREEMENT

Between
Virginia Department of Agriculture and Consumer Services
and
[locality]

This INTERGOVERNMENTAL AGREEMENT is entered into this ___ day of _____, 2008, in the City of Richmond, Virginia, between the Virginia Department of Agriculture and Consumer Services (“VDACS”) and [locality] (collectively, “the parties”) to provide mutually advantageous terms for cooperation between VDACS and [locality] to implement VDACS’ contribution of funds during the fiscal year ending June 30, 2008 in support of [locality]’s purchase of agricultural conservation easements.

WHEREAS, the General Assembly, by Chapter 847 of the 2007 Acts of Assembly, has appropriated \$4.25 million to VDACS for the establishment of a state fund to match local government purchase of development rights program funds for the preservation of working farms and forest lands; and,

WHEREAS, § 3.1-18.10 of the Code of Virginia authorizes VDACS’ Office of Farmland Preservation to develop methods and sources of revenue for allocating funds to localities to purchase agricultural conservation easements; and,

WHEREAS, for all purposes of this INTERGOVERNMENTAL AGREEMENT, the term “agricultural conservation easement” shall mean a negative easement that has the primary conservation purpose of preserving working farm and/or forest land; and,

WHEREAS, [local governing body] has enacted an ordinance or passed a resolution that: authorizes, in accordance with Title 10.1, Chapter 17 of the Code of Virginia (“the Open-Space Land Act”) and other applicable law, [locality] to purchase agricultural conservation easements from landowners (each hereinafter called “Grantor”); sets forth a clear, consistent, and equitable administrative process governing such purchases; and outlines the goals and purposes of [locality]’s farmland preservation program; and,

WHEREAS, [locality] has agreed to maintain a public outreach program designed to educate various stakeholders in [locality]—including farmers, landowners, public officials, and the non-farming public—about [locality]’s initiatives to preserve working farms and forest lands; and,

WHEREAS, [locality] has agreed to establish a transparent and replicable process for valuation of agricultural conservation easements; and,

WHEREAS, the purchase of agricultural conservation easements is one component of [locality]’s broader farmland preservation program; and,

WHEREAS, [locality] has agreed to use a deed of easement that is sufficiently flexible to allow for future agricultural production in purchases of agricultural conservation easements for which [locality] uses funds contributed to it by VDACS; and,

WHEREAS, [locality] has agreed to establish a clear strategy for monitoring and enforcing the terms of the agricultural conservation easements that [locality] purchases; and,

WHEREAS, [locality] has agreed to establish a process that [locality] will use to evaluate the effectiveness of its farmland preservation program, including a protocol for making changes to [locality]'s agricultural conservation efforts based on such evaluations; and,

WHEREAS, VDACS, in reliance on the veracity of the foregoing recitals, certifies [locality] is eligible to receive contributions of funds from VDACS in reimbursement for certain costs [locality] incurs in the course of purchasing agricultural conservation easements; and,

WHEREAS, [locality], and the agents and employees of [locality], in the performance of this INTERGOVERNMENTAL AGREEMENT, are acting on behalf of [locality], and not as officers or employees or agents of the Commonwealth of Virginia;

NOW, THEREFORE, VDACS and [locality] agree their respective responsibilities, pursuant to this INTERGOVERNMENTAL AGREEMENT, shall be defined as follows:

1. VDACS Responsibilities

- a. VDACS shall, within thirty (30) days of the date of execution of this INTERGOVERNMENTAL AGREEMENT, restrict \$_____ (hereinafter "the allocation amount") in an account, from which VDACS shall withdraw funds only to pay contributions of funds that [locality] is eligible to receive pursuant to this INTERGOVERNMENTAL AGREEMENT, except that upon the expiration of two (2) years from the date of this INTERGOVERNMENTAL AGREEMENT, or immediately upon [locality]'s failure to perform any of its obligations under the terms of this INTERGOVERNMENTAL AGREEMENT, VDACS shall have the right to withdraw any funds then remaining in such account and the right to redirect those funds to other localities that VDACS certifies as being eligible to receive matching funds and that enter into an intergovernmental agreement with VDACS to govern the distribution of matching funds for the purchase of agricultural conservation easements.
- b. Upon [locality]'s recordation of a deed evidencing [locality]'s purchase of an agricultural conservation easement in the circuit court of the city or county where the Grantor's land is located and [locality]'s submission to VDACS of a completed claim for reimbursement, on a form prescribed by VDACS, together with the supporting documentation required under paragraph 2(e) of this INTERGOVERNMENTAL AGREEMENT, VDACS shall reimburse [locality] fifty percent (50%) of the reimbursable costs that [locality] actually incurred in the course of purchasing that agricultural conservation easement, limited to that portion of the allocation amount remaining in the account maintained by VDACS pursuant to paragraph 1(a) of this INTERGOVERNMENTAL AGREEMENT. VDACS may make alternative arrangements for the distribution of funds pursuant to this INTERGOVERNMENTAL AGREEMENT, provided [locality] presents a written request for such alternative arrangement to the Commissioner of VDACS or the Commissioner's designated agent (referred collectively hereinafter as "the Grant Manager") prior to incurring any expense for which [locality] seeks a distribution of funds under the proposed alternative arrangement.

For purposes of this INTERGOVERNMENTAL AGREEMENT, "reimbursable costs" include:

1. The purchase price of the agricultural conservation easement, at present value, including any portion that [locality] will pay over time pursuant to an installment purchase agreement;
 2. The cost of title insurance;
 3. The cost of one appraisal of the land upon which [locality] purchases an agricultural conservation easement;
 4. The cost of one survey of the physical boundaries of the land upon which [locality] purchases an agricultural conservation easement, but not the cost of producing a baseline report of the conditions existing on the land at the time of the conveyance of the agricultural conservation easement;
 5. Reasonable attorney fees associated with the purchase of an agricultural conservation easement; and
 6. The cost of issuing public hearing notices associated with [locality]'s purchase of an agricultural conservation easement that [locality] is required by law to issue.
- c. VDACS shall only be responsible for reimbursing [locality] under paragraph 1(b) of this INTERGOVERNMENTAL AGREEMENT for reimbursable costs that [locality] actually incurs in the course of purchasing an agricultural conservation easement when [locality] acquires, by such purchase, a deed of easement that, at a minimum, provides:
1. The primary conservation purpose of the easement conveyed by the deed of easement is the conservation of the land for agricultural and/or forestal uses.
 2. The Grantor and [locality] agree that the land subject to the agricultural conservation easement shall not be converted or diverted, as the Open-Space Land Act employs those terms, until and unless the Grant Manager, with the concurrence of [locality] or an assignee of [locality]'s interest in the agricultural conservation easement, certifies that such conversion or diversion satisfies the requirements of the Open-Space Land Act.
 3. The Grantor and [locality] agree that, in the event of an extinguishment of the restrictions of the agricultural conservation easement that results in the receipt of monetary proceeds by [locality] or an assignee of [locality]'s interest in an agricultural conservation easement in compensation for the loss of such property interest, VDACS shall be entitled to a share of those proceeds proportional to VDACS's contribution toward the total reimbursable cost of acquiring the agricultural conservation easement.
 4. If the Grantor conveys the agricultural conservation easement for less than its fair market value, the Grantor and [locality] mutually acknowledge that approval of the terms of this Deed of Easement by VDACS and/or its legal counsel does not constitute a warranty or other representation as to the Grantor's qualification for any exemption, deduction, or credit against the Grantor's liability for the payment of any taxes under any provision of federal or state law.

5. All mortgagors and other holders of liens on the property subject to the restrictions contained in the deed of easement have subordinated their respective liens to the restrictions of the deed of easement acquired by [locality]. All such mortgagors and other holders of liens shall manifest their assent to the easement's priority over their respective liens by endorsing the deed of easement.

2. [locality] Responsibilities

- a. [locality] shall, within thirty (30) days of the date of execution of this INTERGOVERNMENTAL AGREEMENT, appropriate funds equal to the allocation amount for the purpose of purchasing agricultural conservation easements.
- b. [locality] shall use matching funds that VDACS contributes to [locality], pursuant to this INTERGOVERNMENTAL AGREEMENT, only for the purpose of purchasing agricultural conservation easements that are perpetual and that have the primary conservation purpose of preserving working farm and forest lands.
- c. Within one (1) year from the date of this INTERGOVERNMENTAL AGREEMENT, and for each subsequent year in which the INTERGOVERNMENTAL AGREEMENT or a subsequent agreement is in force, [locality] shall submit to VDACS a progress report that:
 1. describes any properties that [locality] has identified as prospects for [locality]'s purchase of agricultural conservation easements and the status of any negotiations for the purchase of such agricultural conservation easements;
 2. estimates the timeframes within which [locality] will execute contracts for any such purchases, close on such purchases, and request reimbursement of reimbursable costs for those purchases from VDACS;
 3. describes the measures [locality] has undertaken to develop and/or maintain a public outreach program designed to educate various stakeholders in [locality]'s community—including farmers, landowners, public officials, and the non-farming public—about [locality]'s agricultural conservation easement program and other initiatives to preserve working agricultural land;
 4. describes the measures [locality] has undertaken to develop and/or maintain a formal plan for stewardship and monitoring of the working agricultural land on which [locality] acquires agricultural conservation easements; and
 5. describes the measures [locality] has undertaken to develop and/or maintain a process that [locality] will use to evaluate the effectiveness of its program, including a protocol for making changes to [locality]'s agricultural conservation efforts based on such evaluations
- d. For any purchase of agricultural conservation easements for which [locality] requests reimbursement from VDACS pursuant to this INTERGOVERNMENTAL

AGREEMENT, [locality] shall obtain a policy of title insurance on its purchased interest that covers at least an amount equal to the amount for which [locality] requests reimbursement from VDACS.

- e. Prior to closing on a purchase of an agricultural conservation easement for which [locality] requests reimbursement from VDACS pursuant to this INTERGOVERNMENTAL AGREEMENT, [locality] shall submit, for review and approval by VDACS and its legal counsel, the following documentation:
 - 1. a fully executed contract for the sale of the agricultural conservation easement;
 - 2. any installment purchase agreement;
 - 3. the deed of easement that the Grantor will deliver to [locality] at closing;
 - 4. a title insurance commitment for a policy to insure the easement interest under contract indicating an amount of coverage at least equal to the amount of funds for which [locality] requests reimbursement from VDACS; and
 - 5. an itemized list of all reimbursable costs that [locality] has or will, up to the time of closing, incur in the course of purchasing the agricultural conservation easement.

[locality] shall make whatever changes to the proposed deed of easement and/or the installment purchase agreement, where applicable, that VDACS and/or its legal counsel deem necessary to ensure compliance with applicable state law and the requirements and purposes of this INTERGOVERNMENTAL AGREEMENT.

[locality] may fulfill its obligation under this paragraph by submitting accurate and complete copies of all documents enumerated in this paragraph, provided that [locality] shall deliver or make available the original documents to VDACS for review at VDACS' request.

- f. Together with any claim for reimbursement pursuant to this INTERGOVERNMENTAL AGREEMENT that [locality] submits to VDACS, [locality] shall also submit the following supporting documentation:
 - 1. a copy of the recorded deed of easement that VDACS and/or its legal counsel approved prior to closing, showing the locality, deed book, page of recordation, and purchase price; and
 - 2. copies of invoices, bills of sale, and cancelled checks evidencing [locality]'s incursion of reimbursable costs in the course of purchasing the agricultural conservation easement; and
 - 3. a copy of any executed installment purchase agreement related to the purchase; and
 - 4. a copy of any deed of trust related to the purchase.

- g. [locality] shall provide the Grant Manager immediate written notice of [locality]'s receipt of any application or proposal for the conversion or diversion of the use of any land upon which [locality] or its assignee, where applicable, holds an agricultural conservation easement, for the purchase of which VDACS contributed funds pursuant to this INTERGOVERNMENTAL AGREEMENT.
- h. [locality], or any assignee of [locality]'s interest in an agricultural conservation easement for which [locality] receives a contribution from VDACS pursuant to this INTERGOVERNMENTAL AGREEMENT shall at all times enforce the terms of that easement. [locality] shall provide the Grant Manager immediate written notice of any actions, whether at law, in equity, or otherwise, taken by locality to enforce the terms of the easement or to abate, prevent, or enjoin any violation thereof by any party. Any failure by [locality] or such assignee to perform its enforcement responsibility shall constitute a breach of this INTERGOVERNMENTAL AGREEMENT, for which VDACS shall have a remedy by way of a civil action for specific performance of that enforcement responsibility; or, VDACS shall have the right and authority, at its option, to demand and receive from [locality] a portion of the full market value of the agricultural conservation easement at the time of the breach in proportion to the amount VDACS contributed to [locality]'s purchase of the agricultural conservation easement relative to the full market value of the agricultural conservation easement at the time of the purchase.
- i. For any purchase of an agricultural conservation easement for which [locality] requests reimbursement from VDACS pursuant to this INTERGOVERNMENTAL AGREEMENT, [locality] shall derive its valuation of the agricultural conservation easement according to the valuation methods prescribed by ordinance or resolution.

3. Recertification

This INTERGOVERNMENTAL AGREEMENT pertains exclusively to VDACS's contribution of funds that the General Assembly has appropriated to VDACS for the fiscal years ending June 30, 2007 and June 30, 2008. VDACS shall not contribute other funds in the future to [locality] except upon VDACS's recertification of [locality]'s eligibility to receive such funds. VDACS may establish and communicate to [locality] certain benchmarks of program development that VDACS will impose upon [locality] as preconditions to [locality]'s recertification for future contributions.

4. Governing Law

This INTERGOVERNMENTAL AGREEMENT is governed by and shall be interpreted in accordance with the laws of the Commonwealth of Virginia. In all actions undertaken pursuant to this INTERGOVERNMENTAL AGREEMENT, preferred venue shall be in the City of Richmond, Virginia, at the option of VDACS.

5. Assignment

[locality] shall not assign this INTERGOVERNMENTAL AGREEMENT, either in whole or in part, or any interest in an agricultural conservation easement for the purchase of which VDACS contributes funds pursuant to this INTERGOVERNMENTAL AGREEMENT, without the prior, written approval of the Grant Manager.

6. Modifications

3. Please indicate below the cost of one appraisal of the land related to the purchase of this agricultural conservation easement. Please provide copies of invoices, bills of sale and cancelled checks evidencing the incursion of reimbursable costs.
4. Please indicate below the cost of one survey of the physical boundaries of the land related to the purchase of this agricultural conservation easement. Do not include any costs associated with producing a baseline report of the conditions existing on the land at the time of the conveyance of the agricultural conservation easement. Please provide copies of invoices, bills of sale and cancelled checks evidencing the incursion of reimbursable costs.
5. Please indicate below any reasonable attorney fees associated with the purchase of this agricultural conservation easement. Reasonable attorney's fees include those fees associated with outside counsel required for the completion of the easement, but do not include fees related to county or city attorneys serving as staff. Please provide copies of invoices, bills of sale and cancelled checks evidencing the incursion of reimbursable costs.
6. Please indicate below any costs associated with issuing public hearing notices related to the purchase of this agricultural conservation easement. Please provide copies of invoices, bills of sale and cancelled checks evidencing the incursion of reimbursable costs.

Purchase price of easement:	\$ _____
Cost of title insurance:	\$ _____
Cost of appraisal:	\$ _____
Cost of survey:	\$ _____
Reasonable attorney fees:	\$ _____
Cost of public hearing notices:	\$ _____
<hr/>	
TOTAL REIMBURSABLE COSTS	\$ _____

Please note that VDACS will reimburse local PDR programs 50 percent of the reimbursable costs actually incurred in the course of purchasing this agricultural conservation easement, limited to that portion of the allocation amount available.

Should your PDR program wish to receive less than the amount currently available at this time, please indicate the desired amount below

DESIRED AMOUNT (IF LESS THAN THE AMOUNT AVAILABLE)	\$ _____
--	----------

Submitted by:
Name:
Title:
Locality:
Address:
City, State, Zip:
Phone:
Fax:
E-mail:

Tax ID number:

Date submitted:

Check payable to:

Completed claim for reimbursement and any questions should be addressed to:

Kevin Schmidt
Coordinator, Office of Farmland Preservation
Virginia Department of Agriculture and Consumer Services
102 Governor Street
Richmond, VA 23219
Phone: (804) 786-1346
Fax: (804) 371-2945
kevin.schmidt@vdacs.virginia.gov

APPENDIX 5

CERTIFICATION OF LOCAL PURCHASE OF DEVELOPMENT RIGHTS (PDR) PROGRAM MATCHING FUNDS - FY 2009

Application Deadline: Friday, October 17, 2008

The _____ of _____ hereby certifies that on _____ (County Administrator/City Manager) _____ (Locality) this _____ day of _____, total non-state funds in the amount of \$ _____ were appropriated for the July 1, 2008, to June 30, 2009 fiscal year, and that total non-state funds in the amount of \$ _____ are currently available from previous fiscal years, for the purpose of purchasing agricultural conservation easements, as referenced in Section 3.2-201 of the *Code of Virginia*.

It also is certified that none of the funds listed above are from grants made by the Virginia Department of Agriculture and Consumer Services (VDACS), the Virginia Department of Conservation and Recreation (DCR), the Virginia Outdoors Foundation (VOF), or any other agency or political subdivision of the Commonwealth of Virginia.

It is the intent of _____ to use these funds to purchase perpetual conservation _____ (Locality) easements on working farm and forest land through participation in the agricultural conservation easement program administered by VDACS' Office of Farmland Preservation pursuant to Section 3.2-201 of the *Code of Virginia*.

It is understood and agreed that participation in VDACS' agricultural conservation easement program requires meeting additional criteria as promulgated by the Office of Farmland Preservation, and that certification of the locality's available funds does not guarantee nor obligate acceptance into the agriculture conservation easement program.

County Administrator/City Manager

County/City Chief Fiscal Officer

Date

Date

APPENDIX 6

APPLICATION FOR CERTIFICATION OF LOCAL PURCHASE OF DEVELOPMENT RIGHTS (PDR) PROGRAM- FY 2009

Application Deadline: Friday, October 17, 2008

Locality:

Contact person:

Title:

Address:

Address 2:

City, State, Zip:

Phone:

Fax:

E-mail:

Date:

The following application is based on [A Model Purchase of Development Rights \(PDR\) Program for Virginia](#), which was released by the Virginia Department of Agriculture and Consumer Services (VDACS) Farmland Preservation Task Force in November 2005. It is strongly suggested that applicants refer to the model PDR document while completing this application. Please visit www.vdacs.virginia.gov/preservation or call (804) 786-1346 to obtain a copy of this report.

To complete this application, please answer each of the questions listed below. Also, please submit any additional documentation to help support or clarify your answers. ***If your locality is currently certified for FY 2008, please only provide an update covering the changes that have occurred to your program since you submitted your application last year.***

1. Adopted PDR ordinance/resolution

Please attach your local PDR ordinance/resolution as adopted. If your ranking system is not part of your ordinance/resolution, please include this as well.

2. Program goals and purposes

Please specify your program goals/purposes as outlined in your local PDR ordinance/resolution.

We will be looking for clearly defined program goals/purposes, with a program ordinance/resolution that supports them.

3. Action plan for education/outreach

Please provide information on how your program reaches out to farmers/landowners, public officials and the non-farming public.

We will be looking for examples of efforts to educate various stakeholders in the community on the PDR program and other working farm and forest land preservation initiatives.

4. Easement valuation process

Please outline how your locality determines easement value.

We will be looking for transparency and replicability in the easement valuation process.

5. Broader agricultural enhancement strategy

Please outline what additional strategies your locality is using to preserve working farm and forest land, and how these various strategies work together. Examples include: comprehensive land use plan; agricultural zoning; use value taxation; agricultural and forestal districts; agricultural economic development efforts; farm transition efforts, etc.

We will be looking to see that the PDR program is part of a broader strategy designed to preserve working farm and forest land.

6. Deed of easement

Please attach a copy of your deed of easement template.

*We will be looking to see that the deed of easement is flexible enough to allow for future agricultural production, and that it contains the appropriate components established in the model document. All easements funded by VDACS must be perpetual. **Please note: A more detailed review by VDACS of each individual easement will be required prior to closing.***

7. Monitoring and enforcement strategy

Please describe your monitoring and enforcement schedules/procedures.

We will be looking to see that a clear strategy has been established outlining how the easement will be monitored and enforced.

8. Program evaluation mechanism

Please describe the process used to evaluate the effectiveness of your program, and indicate the process for making changes or updates to your program based on this evaluation.

We will be looking to see that the program has an evaluation mechanism and a process established for implementing evaluation findings.

Completed applications and any questions should be addressed to:

Kevin Schmidt
Coordinator, Office of Farmland Preservation
Virginia Department of Agriculture and Consumer Services
102 Governor Street
Richmond, VA 23219
Phone: (804) 786-1346
Fax: (804) 371-2945
kevin.schmidt@vdacs.virginia.gov
www.vdacs.virginia.gov/preservation

APPENDIX 7

- Delivered presentation on PDRs and state funding for local PDR programs to the Stafford County PDR Committee (January 22, 2008).
- Delivered presentation on PDRs, the Office of Farmland Preservation and other farmland preservation techniques as part of the keynote address at the 2007 Virginia Young Farmers annual banquet in Roanoke (January 26, 2008).
- Delivered keynote address on the Office of Farmland Preservation, PDR efforts and the Virginia Farm Link Program to the Virginia Council on Farm Cooperatives at their annual meeting at Graves Mountain Lodge in Syria (March 05, 2008).
- Delivered presentation on the new Intergovernmental Agreements at the March PDR managers meeting at Virginia Farm Bureau (March 07, 2008).
- Attended the Hanover County Board of Supervisors monthly meeting to answer questions related to the state matching funds for local PDR programs (March 12, 2008).
- Delivered presentation on PDRs and state funding for local PDR programs at the Powhatan Tomorrow workshop in Powhatan County (March 19, 2008).
- Delivered presentation on Office of Farmland Preservation, PDRs and state funding for local PDR programs at the Friends of the Industry of Agriculture breakfast in Hanover County (March 25, 2008).
- Developed a session on PDR and TDR efforts in Virginia and updates on the 2008 General Assembly session as part of the land conservation track at Environment Virginia (April 1-3, 2008).
- Met with Cumberland County planning staff to review local efforts to establish a Transfer of Development Rights (TDR) program (April 8, 2008).
- Delivered presentation on PDRs and state funding for local PDR programs at the Conservation Tools In-service Training session held for Cooperative Extension and other agricultural service providers by the Valley Conservation Council (April 22, 2008).
- Met with Montgomery County Agricultural and Forestal District Committee to discuss the creation of a PDR program for the county (April 23, 2008).
- Delivered presentation on Office of Farmland Preservation, PDRs and state funding for local PDR programs to the Montgomery County Planning Commission (April 23, 2008).
- Delivered presentation on Office of Farmland Preservation, PDRs and state funding for local PDR programs at the Rockingham County Rotary Rural/Urban Relations Award Luncheon in Harrisonburg (April 28, 2008).

- Delivered presentation on farmland preservation tools for local governments (including PDRs and TDRs) as the keynote speaker for the Rappahannock-Rapidan Regional Commission's 7th annual "RRRC's Living Towns Planning Workshop" in Madison (June 18, 2008).
- Delivered presentation on farmland preservation tools for local governments (including PDRs and TDRs) to the Pittsylvania County Agriculture Development Board in Chatham (August 29, 2008).
- Delivered a presentation on understanding PDR and TDR programs to landowners organized by the Middle Peninsula Land Trust in Christchurch (September 15, 2008).
- Delivered a presentation on "Local Governments' Role in Purchase of Development Rights (PDR) Programs" as part of the land conservation panel developed for the two-day House Agriculture, Chesapeake and Natural Resources Committee; and Senate Agriculture, Conservation and Natural Resources Committee legislative retreat at Bear Creek Lake State Park (October 1, 2008).
- Delivered presentation on farmland preservation tools for local governments (including PDRs and TDRs) at the annual APVA Historic Preservation Conference in Richmond (October 06, 2008).
- Delivered presentation on farmland preservation tools for local governments (including PDRs and TDRs) at the 2008 Commonwealth Land Use and Zoning Conference sponsored by the Citizens Planning Education Association of Virginia in Williamsburg (October 14, 2008).
- Delivered presentation on farmland preservation tools for local governments (including PDRs and TDRs) at the 2008 Ag Summit Regional Workshop in Powhatan (November 20, 2008).
- Delivered presentation on farmland preservation tools for local governments (including PDRs and TDRs) at the 2008 Ag Summit Regional Workshop in Bedford (November 21, 2008).