

CONTRA COSTA COUNTY
LAND CONSERVATION CONTRACT NO. AP19-0005

ASSESSOR PARCEL NO. 007-130-022, 010-070-040 & 010-070-051

1. Parties. BY THIS CONTRACT, made and entered into _____, 2023, Ronald E. Nunn hereinafter referred to as "Owner," and the County of Contra Costa, a political subdivision of the State of California, hereinafter referred to as "County," do mutually agree and promise as follows:
2. Property Description. Owner possesses certain real property located within the County, which property is presently devoted to agricultural and compatible uses and is particularly described in Exhibit A, attached hereto and made a part of this contract.
3. Purpose. Both Owner and County desire to limit the use of said property to agricultural uses and to compatible uses specified in this agreement in order to discourage premature and unnecessary conversion of such lands from agricultural uses, recognizing that such land has definite public value as open space and that the preservation of such land in agricultural production constitutes an important physical, social, aesthetics and economic asset to County to maintain the agricultural economy of County and the State of California.
4. Intent of Parties: Enforceable Restriction. Both Owner and County intend that the term, conditions and restrictions of this Contract be in accordance with the California Land Conservation Act of 1965, as amended, so as to be an enforceable restriction under the provisions of Division 1, Part 2, Chapter 3, Article 1.5 of the California Revenue and Taxation Code (Rev. & Tax Code § 421 et. seq.).
5. Intent of Parties: Effect on Property Value. It is the intent of the County and Owner that this Contract is conditioned upon the continued existence of legislation implementing Article XIII, § 8 of the California Constitution so the effect of the terms, conditions, and restrictions of the Contract on property values for taxation purposes is substantially as favorable to Owner as the legislation existing on the last renewal date.
6. Governing Statutes and Ordinances. This Contract is made and entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 of Part 1 of Division 1 of Title 5 of the California Government Code commencing with Section 51200). This Contract further is made pursuant to and subject to Contra Costa County Ordinance Code, Chapter 84-42 and Chapters 810-2 through 810-4, and Resolutions of the Contra Costa County Board of Supervisors Numbers 68-635 and 69-763.
7. Land Use Restrictions. During the term of this Contract or any renewals thereof, the above described land shall not be used for any purpose, other than the production of food and fiber and compatible uses as listed in Contra Costa County Ordinance Code Chapter 84-42, which is hereby incorporated by reference as if fully set forth herein; provided, however, that such additional agricultural or compatible uses as are set forth in Exhibit B, which is attached hereto and is hereby incorporated by reference, shall also be permitted subject to the terms and conditions set forth herein. In case of conflict or inconsistency between the uses allowed in this Contract and those specified in said zoning ordinance, the provisions of the Contract as set forth in Exhibit B shall prevail.
8. Modification of Restrictions. The Board of Supervisors of County may from time to time and during the term of this Contract or any extensions thereof, by amendment to Contra Costa County Ordinance Code Chapter 84-42, add to those uses listed in said ordinance. Such additional uses shall be limited to commercial agriculture and compatible uses and be subject to the density restrictions of

Government Code § 51220.5. Said board shall not eliminate, without written consent of the Owner or his successors or assigns, a compatible use during the term of this Contract or any renewals thereof.

9. Term and Renewal. This Contract shall be effective commencing on the last day of _____, 2023, and shall remain in effect for a period of ten (10) years therefrom.

This Contract shall be automatically renewed and its terms extended for a period of one (1) year on the last day of _____ of each succeeding year during the term hereof, unless notice of non-renewal is given in the manner provided by section 51245 of the Government Code. At all times during the continuance of this Contract, as from time to time renewed, there shall be a ten (10) year term of restriction unless notice of non-renewal is given in the manner provided by Section 51245 of the Government Code. Under no circumstances shall a notice of renewal be required of either party to effectuate the automatic renewal of this paragraph.

10. Cancellation. (a) Except as provided in Section 11, the provisions of this Contract whereby Owners agree to restrict the use of the land described in Paragraph 2 may be canceled as to all or a portion of said land by mutual agreement of the County and Owners after a public hearing has been held in the manner provided by Section 51284 of the Government Code and upon a finding by the Board of Supervisors that such cancellation is not inconsistent with the purposes of the Land Conservation Act, or in the public interest, pursuant to Government Code Section 51282. It is understood by the parties that the existence of an opportunity for another use of said land shall not be sufficient reason for cancellation of the land use restrictions imposed herein and that the uneconomic character of the existing use will be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

(b) Upon cancellation of said portions of this Contract, Owners shall pay to the County Treasurer, as deferred taxes, a cancellation fee in an amount equal to the greater of twelve and one-half (12 ½%) percent or the current fee provided by state law of the cancellation value of the property being released from the terms of this Contract. Said cancellation value shall be determined in accordance with the provisions of Government Code Section 51283 (a) and (b). Under no circumstances shall the payment of said cancellation fee be waived, deferred, or made subject to any contingency whatever.

(c) Final cancellation shall be effectuated in accordance with the provisions of Government Code Section 51283.4.

11. Cancellation Upon Substitution of New Restrictions. This Contract may be canceled by mutual agreement of County and Owners without payment of deferred taxes or public hearing if it is replaced by an enforceable restriction authorized by Article XIII, § 8 of the California Constitution.

12. Eminent Domain Proceedings. (a) In accordance with the provisions of Government Code Section 51295, incorporated by reference herein, upon the filing of any action in eminent domain for the condemnation of the fee title of the land or any portion thereof subject to this Contract or upon acquisition of such land in lieu of eminent domain by public agency for a public improvement, the provisions of this Contract shall be null and void as to the land so condemned or acquired.

(b) If, subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned as to all or a portion of the land subject to the Contract, the restrictions on land use set forth in this Contract shall, without further agreement of the parties herein, be reinstituted and the terms of this contract shall be in full force and effect, subject to the cancellation provisions of Government Code Section 51295.

13. Remedies for Breach of Contract. (a) The County may pursue all remedies allowed by law or in equity to enforce this contract and remedy any breach of this contract, including the remedies specified in Government Code Sections 51250 and 51251.

(b) The enforcement provisions of the Contra Costa zoning ordinance shall also apply if the land which is the subject of this contract is used for purposes other than those provided in Ordinance Code 84-42 or this Contract.

14. Effect of Division of Property. Owners agree that division of the property described in Exhibit A into two (2) or more parcels, whether by sale, gift, by operation of law or by any other means, upon a finding by the Board of Supervisors that said division is detrimental to the ultimate preservation of said property for exclusive agricultural use, be construed by the County as notice of non-renewal by the property owner as provided in Section 9 of this Contract.

15. New Contracts Upon Division. In the event the land under this Contract is divided, a Contract identical to the Contract then covering the original parcel shall be executed by Owner on each parcel created by the division at the time of the division. Any agency making an order of division or the County which has jurisdiction shall require, as a condition of the approval of the division, the execution of the Contracts provided for in this section, provided, however, that failure of Owners to execute Contracts upon division shall not affect the obligations of the heirs, successors and assigns of Owner as established in Section 16.

16. Contract to Run with Land. The within Contract shall run with the land described herein, and upon division, to all parcels created therefrom, and shall be binding upon the heirs, successors, and assigns of the Owners.

17. Consideration. Owners shall not receive any payment from County in consideration of the obligations imposed hereunder, it being recognized and agreed that the consideration for the execution of the within Contract is the substantial public benefit to be derived therefrom and the advantage which will accrue to Owner as a result of the effect on the method of determining the assessed value of land described herein and any reduction therein due to the imposition of the limitations on its use contained herein.

18. Income and Expense Information. The Owners shall annually furnish the County Assessor with such information as the Assessor may require to determine the valuation of the Owner's land.

19. Effect of Removing Preserve or Zoning Classification. Removal of any land under this Contract from an agricultural preserve or removing the agricultural preserve zoning classification thereof shall be the equivalent of notice of non-renewal by the County for purposes of Section 422 of the Revenue and Taxation Code.

COUNTY OF CONTRA COSTA

By: _____
Chair, Board of Supervisors

ATTEST:

MONICA NINO, County Administrator
and Clerk of the Board of Supervisors

By: _____
Deputy Clerk

OWNER

Ronald E. Nunn

I (we) the undersigned trust deed or other encumbrance holder(s) (if any) do hereby agree to and agree to be bound by the above-imposed restrictions.

Ronald E. Nunn

Date

Approved as to Form:

Thomas L. Geiger
County Counsel

By: _____
Deputy County Counsel

NOTE: All signatures for Owners must be acknowledged.

LAND CONSERVATION CONTRACT NO. AP19-0005
ASSESSOR PARCEL NO. 007-130-022, 010-070-040 & 010-070-051

EXHIBIT A
PROPERTY DESCRIPTION

Pursuant to Paragraph 2 of the Land Conservation Contract to which this exhibit is attached, the land described below is designated as the subject of said Contract. Said land is described as follows:

APN 010-070-051 (Adjusted – Area 1)

That certain parcel of land situated within the unincorporated portion of the County of Contra Costa, State of California.

Being a portion of Lots 89, 90, and 91 as said lots are shown on the map entitled “Subdivision Number Two of Brentwood Irrigated Farms” recorded December 30, 1913, in Book 11 of Maps at Page 251, Contra Costa County Records, more particularly described as follows:

Commencing at the most northeast corner of Lot 88 (11 M 251), thence southerly along the easterly line of Lots 88 and 89 (11 M 251) South 0°08’00” West (taken for the purpose of this description) 1,252.23 feet to a point, said point being the true point of beginning; thence southerly along the east line of Lots 89, 90, and 91 (11 M 251) South 0°08’00” West 1,387.07 feet to the southeast corner of said Lot 91 (11 M 251); thence Westerly along the south line of said Lot 91 (11 M 251) South 89°41’30” West 1,486.08 feet, to the southwest corner of said Lot 91 (11 M 251); thence northerly along the west line of Lots 91, 90, and 89 (11 M 251) the following three (3) courses, North 18°00’00” East 512.30 feet, to an angle point; thence North 19°31’00” East 460.60 feet, to an angle point; thence North 15°34’00” West 489.72 feet, to a point; thence leaving said line North 89°55’00” East 1,308.53 feet to the true point of beginning.

Excepting therefrom that certain parcel of land described in Parcel One in the final order of condemnation, to State Route 4 Bypass Authority, recorded April 23, 2007, in official records under Recorder’s Serial Number 2007-118647, Contra Costa County Records, also excepting that portion of said parcel be southerly of said final order of condemnation (Serial No. 2087.118647).

Containing 30.44 acres, more or less.

APN 010-070-040 (Adjusted – Area 2A)

That certain parcel of land situated within the unincorporated portion of the County of Contra Costa, State of California.

Being a portion of Lot 91 as said lot is shown on the map entitled “Subdivision Number Two of Brentwood Irrigated Farms” recorded December 30, 1913, in Book 11 of Maps at Page 251, Contra Costa County Records, more particularly described as follows:

Being that portion of Lot 91 of said “Subdivision Number Two of Brentwood Irrigated Farms” (11 Maps 251), laying southerly of that certain parcel of land described in Parcel One in the Final Order of Condemnation, to State Route 4 Bypass Authority, Recorded April 23, 2007, in Official Records under Recorder’s Serial Number 2007-118647, Contra Costa County Records.

Containing 6.96 acres, more or less.

APN 007-130-022 (Adjusted – Area 2B)

Being parcel 7-A (59674-4) as shown on Doc. 209-0046359 recorded March 5, 2009, Contra Costa County Records, more particularly described as follows:

Commencing at the northeast corner of the property described in the deed to Bruna M. Del Chiaro, recorded October 22, 2002, in Series Number 2002-0384423, Contra Costa County Records, said point also being on the southerly right-of-way line of Marsh Creek Road; thence westerly along said southerly line, North 89°26'30" West, 50.092 meters, 164.34 feet (the bearing of North 89°26'30" West being taken for purposes of this description) to the point of beginning; thence from said point of beginning; continuing along said southerly line, North 89°26'30" West, 13.220 meters, 43.37 feet, to a point on a non-tangent curve concave to the north, a radial from said point bears north 55°04'41" West; thence westerly along said curve, having a radius of 13.50 meters, 44.29 feet, through a central angle of 111°15'21", an arc length of 26.218 meters, 86.02 feet, to a point on said southerly right-of-way line; thence continuing along said line, North 89°26'30" West, 75.835 meters, 248.80 feet; thence South 70°50'30" West, 19.766 meters, 64.85 feet; thence South 30°03'29" West 61.528 meters, 201.86 feet, to a point on the northeasterly line of the parcel of land granted to Contra Costa Water District in the Final Order of Condemnation filed September 13, 1996, in Superior Court of California, County of Contra Costa, Case No. C94-02449, recorded September 19, 1996, in Series Number 96-175610, Records of said County; thence southerly along said line South 19°43'15" East, 44.827 meters, 147.07 feet; thence continuing along said line South 51°38'20" East, 49.694 meters, 163.04 feet; thence leaving said line, North 63°22'06" East, 30.944 meters, 101.52 feet; thence North 60°39'23" East, 109.684 meters, 359.85 feet; thence North 56°43'47" East, 29.138 meters, 95.59 feet; thence North 40°22'53" West, 63.129 meters, 207.11 feet to the point of beginning.

Containing an area of 4.25 acres, more or less.

EXHIBIT B

ALLOWABLE LAND USES

Pursuant to the provisions of Section 84-42.402 (2) of the Contra Costa County Ordinance Code and Paragraph 7 of the Land Conservation Contract, of which this exhibit is made a part, the land uses and structures described below are authorized without a land use permit subject to the terms and conditions set forth below. Said uses and structures shall be in conformance to those authorized by Section 84-42.402 (1) and Section 84-42.404 but shall be subject to Section 84-42.602 through Section 84-42.1402 of Chapter 84-42 of the County Ordinance Code.

1. Existing Non-conforming Structures

None.

2. Existing Conforming Structures

None.

3. Proposed Structures

None.

4. Existing Land Use

Irrigated farmland.

5. Proposed Land Use

Irrigated farmland.