

CONTRA COSTA COUNTY
LAND CONSERVATION CONTRACT NO. AP18-0006

ASSESSOR PARCEL NOS. 204-050-027 & 204-050-028

1. Parties. BY THIS CONTRACT, made and entered into _____, 2023, John Lima and Marcela Luna, Trustees of the John Lima and Marcela Luna Family Trust, 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 reinstated 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

OWNERS:

John Lima, Trustee of John Lima and Marcela Luna Family Trust

Marcela Luna, Trustee of John Lima and Marcela Luna Family Trust

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

Approved as to Form:

Thomas L. Geiger
County Counsel

By: _____
Deputy County Counsel

NOTE: All signatures for Owners must be acknowledged.

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ASSESSOR PARCEL NOS. 204-050-027 & 204-050-028

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:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA IN COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

TRACT ONE:

Parcel One:

Parcel A as shown on the Parcel Map MS 33-89, filed December 21, 1990, in Book 150 of Parcel Maps, Page 5, Contra Costa County Records.

Parcel Two:

An easement (not to be exclusive) as an appurtenance to Parcel One, above, and any subdivision or subdivisions thereof, for use as a roadway for vehicles of all kinds, pedestrians and animals, for water, gas, oil and sewer pipe lines and for telephone, television services, electric light and power lines, over, under and upon that portion of Parcel B, Parcel Map MS 33-89, filed December 21, 1990, in Book 150 of Parcel Maps, Page 5, Contra Costa County Records, designated as "Ingress, Egress, and Utility Easement" on the filed map.

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TRACT TWO:

Parcel One:

Parcel B as shown on the Parcel Map MS 33-89, filed December 21, 1990, in Book 150 of Parcel Maps, Page 5, Contra Costa County Records.

Parcel Two:

An easement (not to be exclusive) as an appurtenance to Parcel One, Above, and any subdivision or subdivisions thereof, for use as a roadway for vehicles of all kinds, pedestrians and animals, for water, gas, oil and sewer pipelines, and for telephone, television services, electric light and power lines over, under and upon those portions of Parcel A, Parcel Maps MS 33-89, filed December 21, 1990, in Book 150 of Parcel Maps, Page 5, Contra Costa County Records, designated as "Ingress, Egress and Utility Easement" on the filed map.

APN: 204-050-028

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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

APN 204-050-027: None.

APN 204-050-028: One single-family residence and one barn.

3. Proposed Structures

APN 204-050-028: Second single-family residence (County File #LP15-2048, as approved on September 21, 2021).

4. Existing Land Use

Grazing and single-family residential.

5. Proposed Land Use

Grazing and single-family residential.