

**NAPA COUNTY  
PLANNING, BUILDING AND ENVIRONMENTAL SERVICES**

**WILLIAMSON ACT AGRICULTURAL CONTRACT**

**APPLICATION PACKET**

1. Application Completeness Checklist
2. Application Form
3. Supplemental Information
4. Contract Types and Qualification
5. Application / Enrollment period
6. Contract Terms
7. Lot Line Adjustments of Contracted Parcel(s)
8. Property Tax Benefits

# WILLIAMSON ACT AGRICULTURAL CONTRACT

## APPLICATION COMPLETENESS CHECKLIST

1.    \_\_\_    Completed application **signed** by owner or applicant.
  2.    \_\_\_    Completed Application Supplemental Information Sheet and Proof of Agricultural Income.
  3.    \_\_\_    Documentation of Ownership (such as Grant Deed or Title Report) and copies of all trust deeds and other recorded encumbrances.
  4.    \_\_\_    Documentation of those authorized to sign if the owner is a Corporation, Company, Partnership or Trust (such as bylaws).
  5.    \_\_\_    Legal Description of Property.
  6.    \_\_\_    Check for \$\_\_\_\_\_ made out to County of Napa.
  7.    \_\_\_    Additional Information Required by Engineering and Conservation Division
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A Tradition of Stewardship  
A Commitment to Service

**NAPA COUNTY  
PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES  
WILLIAMSON ACT AGRICULTURAL CONTRACT APPLICATION**

FOR OFFICE USE ONLY

Zoning District: \_\_\_\_\_ Date Filed: \_\_\_\_\_  
 General Plan Designation: \_\_\_\_\_  
 Property within a mile of a city: No \_\_\_ Yes \_\_\_ City of \_\_\_\_\_  
 Contract Type: \_\_\_\_\_  
 Agricultural Commissioner's Comments \_\_\_\_\_  
 Signature of Agricultural Commissioner/Deputy: \_\_\_\_\_ Date: \_\_\_\_\_

TO BE COMPLETED BY APPLICANT  
(Please type or print legibly)

Property Owner's Name: \_\_\_\_\_  
 Assessor's Parcel #(s): \_\_\_\_\_ Parcel size(s): \_\_\_\_\_  
 Site Address/Location: \_\_\_\_\_  
No. Street City State Zip  
 Owner's Mailing Address: \_\_\_\_\_  
No. Street City State Zip  
 Telephone #: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_ E-Mail: \_\_\_\_\_  
 Applicant's Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
No. Street City State Zip  
 Telephone #: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_ E-Mail: \_\_\_\_\_  
 Status of Applicant's Interest in Property: \_\_\_\_\_

Agent for Notice (person designated by Owner to receive any and all notices and communications from Napa County during the life of this Contract; Owner shall notify County in writing of any change of designated person or change of address prior to or during the term of the Contract) Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
No. Street City State Zip  
 Telephone # (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_ E-Mail: \_\_\_\_\_

I certify and declare under penalty of perjury that all the information contained in this application, including but not limited to the information sheet, is complete and accurate to the best of my knowledge and that the primary use of the property is devoted to agricultural production. I hereby authorize such investigations including access to County Assessor's Records as are deemed necessary by the County Conservation Division for preparation of reports related to this application, including the right of access to the property involved.

_____ Signature of Property Owner	_____ Date	_____ Signature of Applicant	_____ Date
_____ Print Name		_____ Print Name	

TO BE COMPLETED BY PLANNING, BUILDING, AND ENVIRONMENTAL SERVICES

Application Fee \$ \_\_\_\_\_ Receipt No. \_\_\_\_\_ Received by: \_\_\_\_\_ Date: \_\_\_\_\_

**WILLIAMSON ACT AGRICULTURAL CONTRACT APPLICATION**  
**SUPPLEMENTAL INFORMATION**

**I. Land Tenure:**

A. Is the property: Owner-Operated/Occupied \_\_\_\_\_ Leased \_\_\_\_\_ Other \_\_\_\_\_

**II. Agricultural Income:** The following information is required in order to determine eligibility for the Agricultural Preserve Contract and demonstrate that there is a bona fide agricultural use occurring on the subject property (use additional sheets as necessary);

A. Describe the agricultural use of the property for the last five (5) years. Indicate crops grown and acres devoted to each crop, type and number of livestock or poultry, or any other agricultural income producing activity:

\_\_\_\_\_  
\_\_\_\_\_

B. Describe if the property fenced and are fences maintained:

\_\_\_\_\_

C. For animal husbandry, describe any range management practices used to improve or maintain range. Examples might be fertilizer practices, weed management practices, land clearing, etc.:

\_\_\_\_\_  
\_\_\_\_\_

D. Provide the gross annual income for the last five (5) years received from sale of agricultural crops produced or livestock raised on the subject property:

\_\_\_\_\_  
\_\_\_\_\_

E. Provide the source and gross income derived from uses other than agricultural on the subject property for the same period:

\_\_\_\_\_  
\_\_\_\_\_

F. For ranching uses (grazing and/or livestock) or vineyards/orchards that have not started producing agricultural commodities, provide documentation such as but not limited to contracts, invoices, sales receipts, etc. associated with the development or on-going maintenance of the agricultural use occurring on the subject property (use additional sheets as necessary):

\_\_\_\_\_

G. Please indicate if the following exists on the subject parcel:

Use Permit # \_\_\_\_\_

Agricultural Erosion Control Plan # \_\_\_\_\_

Certificate of Legal Non-Conformity # \_\_\_\_\_

**III. Type C Contract:** The following information is required in order to determine eligibility for a Type C Agricultural Preserve Contract (see page 9 of this application form for additional details);

A. Prove the acreage and percentage of the parcel that is in commercial agricultural (attach maps as necessary):

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B. Describe the commercial viability of the agricultural use(s) on the subject property and how it constitutes a longstanding community resource:

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C. Describe how the agricultural use(s) occurring on the subject property demonstrates a unique commitment to sustainable farming practices and contributes to the diversity of crops raised in Napa County:

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**IV. Contract Applications Associated with a Lot Line Adjustment:** The following information is required in order to determine if a lot line adjustment of contracted parcel(s) complies with Government Code Section 51257;

A. Provide the current agricultural contract number, the lot line adjustment (LLA) application number, and copies of the LLA plat maps:

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B. Describe whether there will be a net increase or decrease in contracted land as a result of the LLA (there cannot be a net reduction in restricted acreage as a result of an LLA):

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C. Describe the amount of originally contracted land will remain under contract as a result of the LLA (at least 90% of the originally contracted land needs to remain under contract as a result of the LLA):

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D. Describe the agricultural use(s) occurring on the subject property as a result of the LLA:

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### **Contract Types and Qualification**

The County currently offers three types of Contracts: Type A, Type C, and Type H. The contract type is dependent on the zoning designation of the parcel. Type A and C contracts are specific to Agricultural Preserve (AP) zoning districts, and the Type H contract is specific to Agricultural Watershed (AW) zoning districts.

To qualify for an Agricultural Contract a parcel must meet minimum size requirements and contain a bona fide agricultural use. For prime agricultural land (zoned AP or meeting the definition of Prime Agricultural land within local rules) a minimum 10-acre parcel is required, for non-prime agricultural land (i.e. grazing land) a minimum 40-acre parcel is required. Parcels less than 10-acres but greater than 5-acres in size can qualify for a Type C contract provided they meet the following: at least 75% of the parcel is in commercial agricultural use; the agricultural use is commercially viable and constitutes a longstanding community resource; and the agricultural use demonstrates a commitment to sustainable farming practices and contributes to the diversity of crops raised in Napa County.

### **Application/Enrollment Period**

The County accepts applications for new Williamson Act Agricultural Contracts during the month of September through the first Friday in October. Contracts for qualifying parcels are recorded by December 31st, following approval by the Board of Supervisors at their first meeting in December.

For existing contract holders who are adjusting parcel lines of contracted parcel(s), as the result of a lot line adjustment (LLA), the existing contract needs to be rescinded and replaced provided the resulting parcel(s) qualify for the Act. Applications to rescind and replace existing agricultural contract(s) as the result of a LLA should be submitted concurrently with the LLA Applications.

### **Contract Terms**

Agricultural contracts have a rolling 10 year term, meaning that each year the contract is automatically renewed for an additional year until the contract is either non-renewed or canceled. Agricultural contracts run with the land and are binding on all successors in interest.

The normal method of terminating an agricultural contract is through non-renewal, which can be initiated by either the County or the landowner. When a notice of non-renewal is filed and recorded, the annual tax assessment gradually increases over nine years at which time the contract is terminated.

Cancellation of a contract can only be initiated by the landowner and is an immediate way to terminate a contract. To approve a cancellation, the Board of Supervisors must make specific findings pursuant to Government Code Section 51282. Additionally, the landowner must pay a cancellation fee equal to 12.5% of the unrestricted fair market value of the property if contract cancellation is approved by the Board of Supervisors.

### **Lot Line Adjustments of Contracted Parcel(s)**

To facilitate Lot Line Adjustments of contracted parcel(s) the existing contract(s) must be rescinded and replaced by new contract(s) covering the adjusted parcel(s). To accomplish this, the County needs to make the findings pursuant to Government Code Section 51257.

### **Property Tax Benefits**

For voluntarily restricting an agricultural parcel property owners may be eligible for lower property tax assessments. Property tax assessments under the Williamson Act are the lower of the parcel's factored Proposition 13 base year value, its current market value or the restricted value based on agricultural income.

Property owners that are considering applying for a contract are encouraged to contact the Assessor Division regarding potential tax benefits of enrolling properties in the Williamson Act. The Assessor Division can provide an estimate for a fee of between \$75 and \$225 depending on the agricultural uses of the parcel.

**RULES GOVERNING THE ADMINISTRATION OF AGRICULTURAL  
PRESERVES ON LANDS WITHIN THE AGRICULTURAL PRESERVE  
ZONING DISTRICTS IN NAPA COUNTY (TYPE “A” CONTRACT)**

- RULE 1. Scope.
- RULE 2. Definitions.
- RULE 3. Minimum Size and Maximum Number of Parcels in Type A Preserves and Contracts.
- RULE 4. Compatible Uses.
- RULE 5. Application for Type A Preserve and Contract Establishment, Alteration, Disestablishment and Non-Renewal.
- RULE 6. Conservation, Development and Planning Department Report.
- RULE 7. Public Hearing and Approval of Preserve and Contract.
- RULE 8. Form of Type A Contract.
- RULE 9. Filing of Map with the County Recorder.
- RULE 10. Filings with Director of Conservation.
- RULE 11. Recordation of Contract.
- RULE 12. General Processing Schedule.

**RULE 1. Scope.**

These Rules shall govern the administration of Type A Williamson Act agricultural preserves in the unincorporated territory of the County of Napa, including procedures for initiating, filing and processing requests to establish, enlarge, diminish or disestablish Type A agricultural preserves on lands in the unincorporated area of Napa County that are comprised primarily of prime agricultural land, are zoned Agricultural Preserve (AP) and do not include land intended for commercial mineral extraction use; the approved form, criteria and procedures for Type A agricultural preserve contracts used within Type A preserves; and the determination of uses compatible with agriculture which will be permitted on land within Type A preserves and contracts.

**RULE 2. Definitions.**

- (A) “Act” or “Williamson Act” shall mean the California Land Conservation Act of 1965 (Sections 51200 *et seq.* of the California Government Code),<sup>1</sup> as such may be amended from time to time.
- (B) “Owner” shall mean and refer collectively to all persons having any record title interest in the real property proposed to be established as a Type A agricultural preserve.
- (C) The following definitions derived from Section 51201 apply to these Type A Rules and the approved form for the Type A contracts unless otherwise apparent from the context:
  - (1) “*Agricultural commodity*” means any and all plant and animal products produced in this state for commercial purposes.

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<sup>1</sup> All statutory references are to the Government Code unless otherwise indicated.

- (2) “*Agricultural use*” means use of land for the purpose of producing an agricultural commodity for commercial purposes.
- (3) “*Agricultural preserve*,” “*preserve*” or “*Type A preserve*” means an area devoted to either agricultural use, recreational use, or open-space use, or any combination of those uses and which is established in accordance with the provisions of the Williamson Act and these Type A Rules.
- (4) “*Board*” means the Board of Supervisors for the County of Napa, which shall serve as the administering body for Type A preserves and Type A contracts.
- (5) “*Compatible use*” is any use determined by the Board pursuant to Sections 51231, 51238, or 51238.1 or by these Rules to be compatible with the agricultural, recreational, or open-space use of land within the Type A preserve and subject to Type A contract.
- (6) “*Contract*” or “*agricultural preserve contract*” or “*Type A contract*” means a contract entered into pursuant to the Williamson Act and these Type A Rules in relation to land located within a Type A preserve.
- (7) “*County*” or “*city*” means the county or city having jurisdiction over the land.
- (8) “*Legal parcel*” or “*parcel*” shall be as defined in Title 17 of the Napa County Code; the assignment by the Napa County Assessor’s Parcel Number to land is for taxing purposes only and shall not imply that the portion of land so assigned is a “legal parcel” for purposes of these Rules.
- (9) “*Open-space use*” is the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if the land is within: a scenic highway corridor, a wildlife habitat area, a saltpond, a managed wetland area, or a submerged area, as such terms are defined in the Williamson Act.
- (10) “*Prime agricultural land*” means any of the following:
  - (i) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.
  - (ii) Land which qualifies for rating 80 through 100 in the Storie Index Rating.
  - (iii) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.
  - (iv) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.
  - (v) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five years.
- (11) “*Recreational use*” is the use of land in its agricultural or natural state by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor

games or sports for which facilities are provided for public participation, where any fee charged for such use is in a reasonable amount which does not have the effect of unduly limiting its use by the public, and where any ancillary structures necessary for such use comply with the provisions of Section 51238.1.

**RULE 3. Minimum Size and Maximum Number of Parcels in Type A Preserves and Contracts.**

Size and Parcel Parameters for Type A Preserves. No Type A preserve shall be less than ten (10) acres in size if comprised solely of prime agricultural land nor less than forty (40) acres in size if composed of land containing less than ten (10) acres of prime agricultural land. Only one legal parcel may be included in each Type A preserve. In adopting this Rule, the Board hereby determines that the establishment of Type A preserves smaller than one hundred (100) acres in size but equal to or greater than foregoing minimum sizes is necessary due to the unique characteristics of the viticultural and other relatively intensive and site specific farming enterprises within Napa County which must often be conducted on legal parcels historically established (and therefore continuing to exist as legal nonconformities) in smaller sizes than contemplated for future land divisions by the Napa County General Plan and agricultural zoning regulations.

**RULE 4. Compatible Uses.**

Because these Type A Rules allow Type A preserves to be established only for legal parcels for which Type A contracts are simultaneously approved, the only uses permitted on land located within a Type A preserve and subject to a Type A contract shall be agriculture and those uses compatible with agriculture set forth in Section IV of the approved Type A contract form attached hereto and incorporated by reference as if set forth herein.

**RULE 5. Application for Type A Preserve and Contract Establishment, Alteration, Disestablishment and Non-Renewal.**

- (A) Form of Application. Application to establish a Type A Agricultural Preserve and to enter into a Type A contract shall be submitted in writing by all of the Owners of the property to the Napa County Conservation, Development and Planning Department (hereinafter referred to as the "Planning Department") by completing the Type A Application form attached hereto and incorporated by reference herein.
- (B) Proof of Concurrent Parcel Consolidation Proceedings. If, to qualify for a Type A preserve or Type A contract it is necessary to consolidate the property into a single legal parcel, the Owner of the property shall file a completed application and pay all applicable fees for processing such merger, whether by lot line adjustment, subdivision, merger or other procedure allowed by law, to the appropriate County department prior to filing an application for establishment of the preserve and, notwithstanding anything to the contrary in these Type A Rules, the Type A preserve shall not be deemed established and the corresponding Type A contract shall not become effective until January 1 following the effective date of such merger.

- (C) Application Fee. A fee for filing the application to establish a Type A preserve and to enter into a Type A contract shall be in the amount approved by resolution of the Board and set forth in Section 80.030 of Part III of the Napa County Policy Manual. Such fee shall be paid at the time of filing the application and the application shall not be considered complete until the fee has been paid.
- (D) Submission of Joint Management Agreement. Where, in consequence of subdivision for the purpose of intra-family transfers as permitted by Section 51230.1, Owner is required by Sections XII, XIII and XXV of the Type A contract to rescind and substitute the existing Type A preserve and contract for new Type A preserves and contracts for each of the resulting parcels, Owner shall submit a fully executed joint management agreement meeting the requirements of the foregoing statutory and contract provisions with the application for the new preserves and contracts.
- (E) Filing Deadline. To ensure adequate time for the County to meet the requirements of the California Revenue and Taxation Code relating to valuation of enforceably restricted land, the application for establishment of the Type A preserve and contract shall be filed with the Planning Department no later than the first Friday in the month of October preceding the tax lien date (January 1) when the term of the contract is desired to commence.
- (F) Additional Procedures for Preserve Alteration or Disestablishment and Contract Non-Renewal. The procedures set forth in these Rules relating to establishment of a Type A preserve shall also apply to any proposal to enlarge, diminish or disestablish a Type A preserve, except that the provisions relating to the filing of an application and application fee shall not apply when the proposal is initiated by the County rather than the Owner. Pursuant to Section 51232, the Board shall also furnish notice of any alteration or disestablishment proposed by the County to the Owner by certified mail directed to the Owner at the latest address known to the Board and, whether the proponent is the County or the Owner, County shall furnish notice of any diminution or disestablishment of the Type A preserve by first-class mail to each owner of land under a Williamson Act contract with the County, any portion of which is situated within one mile of the exterior boundary of the land to be removed from the Type A preserve. Any proposal to alter a Type A preserve which will result, if approved, in a diminution or disestablishment of the Type A preserve shall be accompanied by the filing by the proponent of a Notice of Non-Renewal or partial Non-Renewal of the Type A contract applicable to the land involved, subject to those procedures and criteria for Non-Renewal set forth in Section VII of the standard Type A Contract form attached to these Rules and incorporated by reference herein.
- (G) Processing by other departments and agencies. Except to the extent otherwise expressly provided, the Planning Department may refer the processing of an application to another County department or agency, subject to that department or agency's agreement to accept the referral. Approval of a contract as to form by County Counsel's office shall be

sought before execution of the contract by all parties holding a fee, leasehold interest, lien encumbrance, other security interest in the property.

**RULE 6. Conservation, Development and Planning Department Report.**

- (A) Referral to Napa County Agricultural Commissioner. A copy of the application to establish a Type A preserve and enter into a Type A contract shall be forwarded to the Napa County Agricultural Commissioner (hereinafter referred to as “Commissioner”) who will investigate and report upon the nature and extent of the agricultural activities on the property involved during the previous five (5) years. The Commissioner shall express his or her opinion, based on the pursuits and proposals of the Owner and the Owner’s predecessors in interest on the property and calling upon the assistance of such other resources as the Commissioner considers appropriate, whether the property has been used for a bonafide agricultural purpose during not less than three (3) of the preceding five (5) years. The report of the Commissioner shall be forwarded to the Director of the Planning Department (hereinafter referred to as “Planning Director”) within twenty (20) calendar days following receipt of a copy of the application by the Commissioner.
- (B) Submission of Planning Director’s Report. In accordance with Section 51234, the Planning Director shall submit a report on the proposal to the Board within thirty (30) days after receipt of a complete application by the Planning Department. If after thirty (30) days the Board has not received the Planning Director’s report, an automatic extension of time will be granted, extending the time allowed for an additional thirty (30) days.
- (C) Contents of Planning Director’s Report. The report of the Planning Director shall include the following:
- (1) A determination by the Planning Director of the acreage of the parcel;
  - (2) Two completed copies of a current Type A contract in the form prescribed by these Rules, executed by all parties holding a fee or leasehold interest, or lien encumbrance and all parties holding a security interest in such real property;
  - (3) A statement that the proposed preserve is consistent, or inconsistent, with the County's zoning and general plan, together with the reasons supporting such statement;
  - (4) A statement regarding the current status of any actions undertaken to merge the property to achieve compliance with Rule 3, including the expected completion date for such actions; and
  - (5) The report of the Commissioner provided pursuant to subsection (A) of this Rule 6.

**RULE 7. Public Hearing and Approval of Preserve and Contract.**

- (A) Notice of Hearing. Upon receipt of the Planning Director's report, the Board shall set a date, time and place for a public hearing on the application for Type A preserve as required by Section 51230. Notice of the hearing shall be published pursuant to Section

6061, and shall include the Assessor's Parcel Number or Numbers of the land proposed to be included within the Type A preserve. Written notice of the hearing shall also be given at least two weeks before the hearing to the Napa County Local Agency Formation Commission and to every city within the County of Napa within one mile of the exterior boundary of the proposed preserve. When giving such written notice to such cities, the Clerk of the Board shall also give such cities written notice pursuant to Section 51243.5 of the Board's intention to consider entering into a Type A contract for the land within the proposed Type A preserve.

- (B) No Separate Appeal Required. At the hearing, any determination of the Planning Director with which the Owners disagree shall be considered by the Board and deemed to have been appealed by the Owner to the Board without the necessity for complying with any provisions of the Napa County Code pertaining to appeal of decisions of County officers.
- (C) Content of Hearing. At the hearing, the Board shall hear all interested persons regarding whether the proposed actions pertaining to the Type A preserve and contract meet the requirements of the Williamson Act and these Rules.
- (D) Continuance and Conclusion of Hearing. The hearing may be continued from time to time in the sole discretion of the Board. At the conclusion of the hearing, if the Board finds that the application for the Type A preserve and contract complies with the requirements of the Williamson Act and these Type A Rules, including the standard provisions of the Type A Contract incorporated into these Rules by reference, the Board by resolution shall establish the Type A preserve, authorize execution of the Type A contract, and direct the filing and recordation of all documentation relating to establishment of the Type A preserve and execution of the Type A Contract required by the Williamson Act.

**RULE 8. Form of Type A Contract.**

Within a Type A preserve, the County shall offer and enter into Type A contracts in the form and subject to all of the terms and provisions of the Type A Contract attached hereto and incorporated by reference herein.

**RULE 9. Filing of Map with the County Recorder.**

Once a Type A preserve has been established pursuant to these Rules and as long as it remains in effect, a map of such Type A preserve and the Board resolution by which the preserve was established shall be filed and kept current by the County with the Napa County Recorder.

**RULE 10. Filings with Director of Conservation.**

On or before the first day of September of each year the County shall file with the Director of Conservation for the State of California a map of the unincorporated area of the County of Napa and designate thereon all agricultural preserves in existence at the end of the preceding fiscal

year. Within thirty (30) days after the Type A Contract form prescribed by these Type A Rules is first used, the Clerk of the Board shall file a sample copy of such form of contract with the Director of Conservation of the State of California.

**RULE 11. Recordation of Contract.**

No later than twenty (20) days after the County enters into a Type A contract pursuant to these Type A Rules, the Clerk of the Board shall record a copy of the contract with the Napa County Recorder, together with a reference to the map showing the location of the Type A preserve in which the property lies.

**RULE 12. General Processing Schedule.**

The following shall be used as the general processing schedule for Type A Preserve contract applications:

1. Board of Supervisors reviews and acts upon requests for revisions to contract forms and rules.
2. Publish notice in local newspapers that applications may be submitted.
3. Send application(s) deemed complete to Agricultural Commissioner; Agricultural Commissioner's comments due within twenty (20) days of receipt of completed application.
4. Conservation, Development, and Planning Report due within thirty (30) days of date application is deemed complete; automatic extension of thirty (30) days if report is not filed with Board of Supervisors within first thirty (30) days.
5. Set date of public hearing before Board of Supervisors; provide at least two (2) weeks written notice to cities within one mile of contract parcel, LAFCO and cities within one mile of area proposed for Agricultural Preserve; publish notice of public hearing in accordance with Government Code §6061.
6. Record contract(s) within twenty (20) days of hearing.

The following schedule sets forth general deadlines in order to complete the process by December 31.

- (A) No later than the last Tuesday of August: Board of Supervisors review and decision of contract forms and rules if changes are requested or required by State law;
- (B) First Wednesday of September through the first Saturday of September: Contract-filing deadline publicly noticed in local newspapers;

- (C) First Friday in October: Contract application submissions deadline at 5:00PM;
- (D) Third Friday in October: Notice deadline to cities within one mile of contract parcel, LAFCO, and cities within one mile of area proposed for Agricultural Preserve;
- (E) Fourth Friday in October: Deadline for receiving Agricultural Commissioner's comments on submitted contract forms;
- (F) Second Tuesday in November: Deadline for notice of Board of Supervisors public hearing to be submitted to the newspaper;
- (G) Third Friday in November: Board of Supervisors public hearing notice published in newspaper;
- (H) First Tuesday in December: Completed Agricultural Preserve contract applications presented to the Board of Supervisors for review and action. Public Works to report on the status of all transfers of property applications.
- (I) December 31<sup>st</sup> or last working day in December: Last day to record contracts prior to January 1<sup>st</sup> tax lien deadline.

**RULES GOVERNING THE ADMINISTRATION OF AGRICULTURAL PRESERVES ON LANDS WITHIN THE AGRICULTURAL PRESERVE ZONING DISTRICTS IN NAPA COUNTY (TYPE “C” CONTRACT)**

- RULE 1. Scope.
- RULE 2. Definitions.
- RULE 3. Minimum Size and Maximum Number of Parcels in Type C Preserves and Contracts.
- RULE 4. Compatible Uses.
- RULE 5. Application for Type C Preserve and Contract Establishment, Alteration, Disestablishment and Non-Renewal.
- RULE 6. Conservation, Development and Planning Department Report.
- RULE 7. Public Hearing and Approval of Preserve and Contract.
- RULE 8. Form of Type C Contract.
- RULE 9. Filing of Map with the County Recorder.
- RULE 10. Filings with Director of Conservation.
- RULE 11. Recordation of Contract.
- RULE 12. General Processing Schedule.

**RULE 1. Scope.**

These Rules shall govern the administration of Type C Williamson Act agricultural preserves in the unincorporated territory of the County of Napa, including procedures for initiating, filing and processing requests to establish, enlarge, diminish or disestablish Type C agricultural preserves on lands in the unincorporated area of Napa County that are comprised primarily of prime agricultural land, are zoned Agricultural Preserve (AP) and do not include land intended for commercial mineral extraction use; the approved form, criteria and procedures for Type C agricultural preserve contracts used within Type C preserves; and the determination of uses compatible with agriculture which will be permitted on land within Type C preserves and contracts.

**RULE 2. Definitions.**

- (A) “Act” or “Williamson Act” shall mean the California Land Conservation Act of 1965 (Sections 51200 *et seq.* of the California Government Code),<sup>1</sup> as such may be amended from time to time.
- (B) “Owner” shall mean and refer collectively to all persons having any record title interest in the real property proposed to be established as a Type C agricultural preserve.
- (C) The following definitions derived from Section 51201 apply to these Type C Rules and the approved form for the Type C contracts unless otherwise apparent from the context:
  - (1) “*Agricultural commodity*” means any and all plant and animal products produced in this state for commercial purposes.

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<sup>1</sup> All statutory references are to the Government Code unless otherwise indicated.

- (2) “*Agricultural use*” means use of land for the purpose of producing an agricultural commodity for commercial purposes.
- (3) “*Agricultural preserve*,” “*preserve*” or “*Type C preserve*” means an area devoted to either agricultural use, recreational use, or open-space use, or any combination of those uses and which is established in accordance with the provisions of the Williamson Act and these Type C Rules.
- (4) “*Board*” means the Board of Supervisors for the County of Napa, which shall serve as the administering body for Type C preserves and Type C contracts.
- (5) “*Compatible use*” is any use determined by the Board pursuant to Sections 51231, 51238, or 51238.1 or by these Rules to be compatible with the agricultural, recreational, or open-space use of land within the Type C preserve and subject to Type C contract.
- (6) “*Contract*” or “*agricultural preserve contract*” or “*Type C contract*” means a contract entered into pursuant to the Williamson Act and these Type C Rules in relation to land located within a Type C preserve.
- (7) “*County*” or “*city*” means the county or city having jurisdiction over the land.
- (8) “*Legal parcel*” or “*parcel*” shall be as defined in Title 17 of the Napa County Code; the assignment by the Napa County Assessor’s Parcel Number to land is for taxing purposes only and shall not imply that the portion of land so assigned is a “legal parcel” for purposes of these Rules.
- (9) “*Open-space use*” is the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if the land is within: a scenic highway corridor, a wildlife habitat area, a saltpond, a managed wetland area, or a submerged area, as such terms are defined in the Williamson Act.
- (10) “*Prime agricultural land*” means any of the following:
  - (i) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.
  - (ii) Land which qualifies for rating 80 through 100 in the Storie Index Rating.
  - (iii) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.
  - (iv) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.
  - (v) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five years.
- (11) “*Recreational use*” is the use of land in its agricultural or natural state by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor

games or sports for which facilities are provided for public participation, where any fee charged for such use is in a reasonable amount which does not have the effect of unduly limiting its use by the public, and where any ancillary structures necessary for such use comply with the provisions of Section 51238.1.

**RULE 3. Minimum Size and Maximum Number of Parcels in Type C Preserves and Contracts.**

A parcel of less than 10 acres qualifies for a Type C Contract provided it meets the following conditions:

- (A) The subject parcel is greater than five (5) acres and at least seventy-five percent (75%) of the parcel is in commercial agricultural use;
- (B) In the Agricultural Commissioner's judgment, the agricultural use is both commercially viable and constitutes a longstanding community resource; and
- (C) The agricultural use demonstrates a unique commitment to sustainable farming practices and contributes to the diversity of crops raised in Napa County.

Only one legal parcel may be included in each Type C preserve. In adopting this Rule, the Board hereby determines that the establishment of Type C preserves smaller than 100 acres in size but equal to or greater than foregoing minimum sizes is necessary due to the unique characteristics of and other relatively intensive and site specific farming enterprises within Napa County which must often be conducted on legal parcels historically established (and therefore continuing to exist as legal nonconformities) in smaller sizes than contemplated for future land divisions by the Napa County General Plan and agricultural zoning regulations.

**RULE 4. Compatible Uses.**

Because these Type C Rules allow Type C preserves to be established only for legal parcels for which Type C contracts are simultaneously approved, the only uses permitted on land located within a Type C preserve and subject to a Type C contract shall be agriculture and those uses compatible with agriculture set forth in Section IV of the approved Type C contract form attached hereto and incorporated by reference as if set forth herein.

**RULE 5. Application for Type C Preserve and Contract Establishment, Alteration, Disestablishment and Non-Renewal.**

- (A) Form of Application. Application to establish a Type C Agricultural Preserve and to enter into a Type C contract shall be submitted in writing by all of the Owners of the property to the Napa County Conservation, Development and Planning Department (hereinafter referred to as the "Planning Department") by completing the Type C Application form attached hereto and incorporated by reference herein.

- (B) Proof of Concurrent Parcel Consolidation Proceedings. If, to qualify for a Type C preserve or Type C contract it is necessary to consolidate the property into a single legal parcel, the Owner of the property shall file a completed application and pay all applicable fees for processing such merger, whether by lot line adjustment, subdivision, merger or other procedure allowed by law, to the appropriate County department prior to filing an application for establishment of the preserve and, notwithstanding anything to the contrary in these Type C Rules, the Type C preserve shall not be deemed established and the corresponding Type C contract shall not become effective until January 1 following the effective date of such merger.
- (C) Application Fee. A fee for filing the application to establish a Type C preserve and to enter into a Type C contract shall be in the amount approved by resolution of the Board and set forth in Section 80.030 of Part III of the Napa County Policy Manual. Such fee shall be paid at the time of filing the application and the application shall not be considered complete until the fee has been paid.
- (D) Submission of Joint Management Agreement. Where, in consequence of subdivision for the purpose of intra-family transfers as permitted by Section 51230.1, Owner is required by Sections XII, XIII and XXV of the Type C contract to rescind and substitute the existing Type C preserve and contract for new Type C preserves and contracts for each of the resulting parcels, Owner shall submit a fully executed joint management agreement meeting the requirements of the foregoing statutory and contract provisions with the application for the new preserves and contracts.
- (E) Filing Deadline. To ensure adequate time for the County to meet the requirements of the California Revenue and Taxation Code relating to valuation of enforceably restricted land, the application for establishment of the Type C preserve and contract shall be filed with the Planning Department no later than the first Friday in the month of October preceding the tax lien date (January 1) when the term of the contract is desired to commence.
- (F) Additional Procedures for Preserve Alteration or Disestablishment and Contract Non-Renewal. The procedures set forth in these Rules relating to establishment of a Type C preserve shall also apply to any proposal to enlarge, diminish or disestablish a Type C preserve, except that the provisions relating to the filing of an application and application fee shall not apply when the proposal is initiated by the County rather than the Owner. Pursuant to Section 51232, the Board shall also furnish notice of any alteration or disestablishment proposed by the County to the Owner by certified mail directed to the Owner at the latest address known to the Board and, whether the proponent is the County or the Owner, County shall furnish notice of any diminution or disestablishment of the Type C preserve by first-class mail to each owner of land under a Williamson Act contract with the County, any portion of which is situated within one mile of the exterior boundary of the land to be removed from the Type C preserve. Any proposal to alter a Type C preserve which will result, if approved, in a diminution or disestablishment of the Type C preserve shall be accompanied by the filing by the proponent of a Notice of Non-Renewal or partial Non-Renewal of the Type C contract applicable to the land involved, subject to those procedures and criteria for Non-Renewal set forth in Section VII of the

standard Type C Contract form attached to these Rules and incorporated by reference herein.

- (G) Processing by other departments and agencies. Except to the extent otherwise expressly provided, the Planning Department may refer the processing of an application to another County department or agency, subject to that department or agency's agreement to accept the referral. Approval of a contract as to form by County Counsel's office shall be sought before execution of the contract by all parties holding a fee, leasehold interest, lien encumbrance, other security interest in the property.

**RULE 6. Conservation, Development and Planning Department Report.**

- (A) Referral to Napa County Agricultural Commissioner. A copy of the application to establish a Type C preserve and enter into a Type C contract shall be forwarded to the Napa County Agricultural Commissioner (hereinafter referred to as "Commissioner") who will investigate and report upon the nature and extent of the agricultural activities on the property involved during the previous five (5) years. The Commissioner shall express his or her opinion, based on the pursuits and proposals of the Owner and the Owner's predecessors in interest on the property and calling upon the assistance of such other resources as the Commissioner considers appropriate, whether the property has been used for a bonafide agricultural purpose during not less than three (3) of the preceding five (5) years. The report of the Commissioner shall be forwarded to the Director of the Planning Department (hereinafter referred to as "Planning Director") within twenty (20) calendar days following receipt of a copy of the application by the Commissioner.
- (B) Submission of Planning Director's Report. In accordance with Section 51234, the Planning Director shall submit a report on the proposal to the Board within thirty (30) days after receipt of a complete application by the Planning Department. If after thirty (30) days the Board has not received the Planning Director's report, an automatic extension of time will be granted, extending the time allowed for an additional thirty (30) days.
- (C) Contents of Planning Director's Report. The report of the Planning Director shall include the following:
  - (1) A determination by the Planning Director of the acreage of the parcel;
  - (2) Two completed copies of a current Type C contract in the form prescribed by these Rules, executed by all parties holding a fee or leasehold interest, or lien encumbrance and all parties holding a security interest in such real property;
  - (3) A statement that the proposed preserve is consistent, or inconsistent, with the County's zoning and general plan, together with the reasons supporting such statement;
  - (4) A statement regarding the current status of any actions undertaken to merge the property to achieve compliance with Rule 3, including the expected completion date for such actions; and

- (5) The report of the Commissioner provided pursuant to subsection (A) of this Rule 6.

**RULE 7. Public Hearing and Approval of Preserve and Contract.**

- (A) Notice of Hearing. Upon receipt of the Planning Director's report, the Board shall set a date, time and place for a public hearing on the application for Type C preserve as required by Section 51230. Notice of the hearing shall be published pursuant to Section 6061, and shall include the Assessor's Parcel Number or Numbers of the land proposed to be included within the Type C preserve. Written notice of the hearing shall also be given at least two weeks before the hearing to the Napa County Local Agency Formation Commission and to every city within the County of Napa within one mile of the exterior boundary of the proposed preserve. When giving such written notice to such cities, the Clerk of the Board shall also give such cities written notice pursuant to Section 51243.5 of the Board's intention to consider entering into a Type C contract for the land within the proposed Type C preserve.
- (B) No Separate Appeal Required. At the hearing, any determination of the Planning Director with which the Owners disagree shall be considered by the Board and deemed to have been appealed by the Owner to the Board without the necessity for complying with any provisions of the Napa County Code pertaining to appeal of decisions of County officers.
- (C) Content of Hearing. At the hearing, the Board shall hear all interested persons regarding whether the proposed actions pertaining to the Type C preserve and contract meet the requirements of the Williamson Act and these Rules.
- (D) Continuance and Conclusion of Hearing. The hearing may be continued from time to time in the sole discretion of the Board. At the conclusion of the hearing, if the Board finds that the application for the Type C preserve and contract complies with the requirements of the Williamson Act and these Type C Rules, including the standard provisions of the Type C Contract incorporated into these Rules by reference, the Board by resolution shall establish the Type C preserve, authorize execution of the Type C contract, and direct the filing and recordation of all documentation relating to establishment of the Type C preserve and execution of the Type C Contract required by the Williamson Act.

**RULE 8. Form of Type C Contract.**

Within a Type C preserve, the County shall offer and enter into Type C contracts in the form and subject to all of the terms and provisions of the Type C Contract attached hereto and incorporated by reference herein.

**RULE 9. Filing of Map with the County Recorder.**

Once a Type C preserve has been established pursuant to these Rules and as long as it remains in effect, a map of such Type C preserve and the Board resolution by which the preserve was established shall be filed and kept current by the County with the Napa County Recorder.

**RULE 10. Filings with Director of Conservation.**

On or before the first day of September of each year the County shall file with the Director of Conservation for the State of California a map of the unincorporated area of the County of Napa and designate thereon all agricultural preserves in existence at the end of the preceding fiscal year. Within thirty (30) days after the Type C Contract form prescribed by these Type C Rules is first used, the Clerk of the Board shall file a sample copy of such form of contract with the Director of Conservation of the State of California.

**RULE 11. Recordation of Contract.**

No later than twenty (20) days after the County enters into a Type C contract pursuant to these Type C Rules, the Clerk of the Board shall record a copy of the contract with the Napa County Recorder, together with a reference to the map showing the location of the Type C preserve in which the property lies.

**RULE 12. General Processing Schedule.**

The following shall be used as the general processing schedule for Type C Preserve contract applications:

1. Board of Supervisors reviews and acts upon requests for revisions to contract forms and rules.
2. Publish notice in local newspapers that applications may be submitted.
3. Send application(s) deemed complete to Agricultural Commissioner; Agricultural Commissioner's comments due within twenty (20) days of receipt of completed application.
4. Conservation, Development, and Planning Report due within thirty (30) days of date application is deemed complete; automatic extension of thirty (30) days if report is not filed with Board of Supervisors within first thirty (30) days.
5. Set date of public hearing before Board of Supervisors; provide at least two (2) weeks written notice to cities within one mile of contract parcel, LAFCO and cities within one mile of area proposed for Agricultural Preserve; publish notice of public hearing in accordance with Government Code §6061.
6. Record contract(s) within twenty (20) days of hearing.



**RULES GOVERNING THE ADMINISTRATION OF AGRICULTURAL PRESERVES ON LANDS OUTSIDE OF AGRICULTURAL PRESERVE ZONING DISTRICTS IN NAPA COUNTY (TYPE “H” CONTRACT)**

- RULE 1. Scope.
- RULE 2. Definitions.
- RULE 3. Minimum Size and Maximum Number of Parcels in Type H Preserves and Contracts.
- RULE 4. Compatible Uses.
- RULE 5. Application for Type H Preserve and Contract Establishment, Alteration, Disestablishment and Non-Renewal.
- RULE 6. Conservation, Development and Planning Department Report.
- RULE 7. Public Hearing and Approval of Preserve and Contract.
- RULE 8. Form of Type H Contract.
- RULE 9. Map.
- RULE 10. Filings with Director of Conservation.
- RULE 11. Recordation.
- RULE 12. General Processing Schedule.

**RULE 1. Scope.**

These Rules shall govern the administration of Type H Williamson Act Agricultural Preserves in the unincorporated territory of the County of Napa, including procedures for initiating, filing and processing requests to establish, enlarge, diminish or disestablish Type H Agricultural Preserves on lands in the unincorporated area of Napa County that are suitable for agricultural use but are not located within an Agricultural Preserve (AP) Zoning District and do not include land intended for commercial mineral extraction use; the approved form, criteria and procedures for Type H Agricultural Preserve Contracts used within Type H Preserves; and the determination of uses compatible with agriculture which will be permitted on land within Type H Preserves and Contracts.

**RULE 2. Definitions.**

- (A) “Act” or “Williamson Act” shall mean the California Land Conservation Act of 1965 (Sections 51200 *et seq.* of the California Government Code),<sup>1</sup> as such may be amended from time to time.
- (B) “Owner” shall mean and refer collectively to all persons having any record title interest in the real property proposed to be established as a Type H Agricultural Preserve.
- (C) The following definitions derived from Section 51201 apply to these Type H Rules and the approved form for the Type H Contracts unless otherwise apparent from the context:

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<sup>1</sup> All statutory references are to the Government Code unless otherwise indicated.

- (1) *“Agricultural commodity”* means any and all plant and animal products produced in this state for commercial purposes.
- (2) *“Agricultural use”* means use of land for the purpose of producing an agricultural commodity for commercial purposes.
- (3) *“Agricultural Preserve,” “Preserve”* or *“Type H Preserve”* means an area devoted to either agricultural use, recreational use, or open-space use, or any combination of those uses and which is established in accordance with the provisions of the Williamson Act and these Type H Rules.
- (4) *“Board”* means the Board of Supervisors for the County of Napa, which shall serve as the administering body for Type H Preserves and Type H Contracts.
- (5) *“Compatible use”* is any use determined by the Board pursuant to Sections 51231, 51238, or 51238.1 or by these Rules to be compatible with the agricultural, recreational, or open-space use of land within the Type H Preserve and subject to Type H Contract.
- (6) *“Contract”* or *“Agricultural Preserve Contract”* or *“Type H Contract”* means a contract entered into pursuant to the Williamson Act and these Type H Rules in relation to land located within a Type H Preserve.
- (7) *“County”* or *“city”* means the county or city having jurisdiction over the land.
- (8) *“Legal parcel”* or *“parcel”* shall be as defined in Title 17 of the Napa County Code; the assignment by the Napa County Assessor’s Parcel Number to land is for taxing purposes only and shall not imply that the portion of land so assigned is a “legal parcel” for purposes of these Rules.
- (9) *“Open-space use”* is the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if the land is within: a scenic highway corridor, a wildlife habitat area, a saltpond, a managed wetland area, or a submerged area, as such terms are defined in the Williamson Act.
- (10) *“Prime agricultural land”* means any of the following:
  - (i) All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.
  - (ii) Land which qualifies for rating 80 through 100 in the Storie Index Rating.
  - (iii) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.
  - (iv) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.
  - (v) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five years.
- (11) *“Recreational use”* is the use of land in its agricultural or natural state by the public, with or without charge, for any of the following: walking, hiking, picnicking,

camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation, where any fee charged for such use is in a reasonable amount which does not have the effect of unduly limiting its use by the public, and where any ancillary structures necessary for such use comply with the provisions of Section 51238.1.

**RULE 3. Minimum Size and Maximum Number of Parcels in Type H Preserves and Contracts.**

- (A) Size and Parcel Parameters for Type H Preserves. No Type H Preserve shall be less than ten (10) acres in size in the case of prime agricultural land nor less than forty (40) acres in size in the case of land which is not prime agricultural land. Only one legal parcel may be included in each Type H Preserve. In adopting this Rule, the Board hereby determines that the establishment of Type H Preserves smaller than one hundred (100) acres in size but equal to or greater than foregoing minimum sizes is necessary due to the unique characteristics of the viticultural and other relatively intensive and site specific farming enterprises within Napa County which must often be conducted on legal parcels historically established (and therefore continuing to exist as legal nonconformities) in smaller sizes than contemplated for future land divisions by the Napa County General Plan and agricultural zoning regulations.
- (B) Size and Parcel Parameters for Type H Contracts. The minimum size of a legal parcel eligible for a Type H Agricultural Preserve Contract shall be not less than ten (10) acres in size in the case of prime agricultural land nor less than forty (40) acres in size in the case of land which is not prime agricultural land. Not more than one legal parcel may be included in a single Type H Contract.

**RULE 4. Compatible Uses.**

Because these Type H Rules allow Type H Preserves to be established only for legal parcels for which Type H Contracts are simultaneously approved, the only uses permitted on land located within a Type H Preserve and subject to a Type H Contract shall be agriculture and those uses compatible with agriculture set forth in Section IV of the approved Type H Contract form attached hereto and incorporated by reference as if set forth herein.

**RULE 5. Application for Type H Preserve and Contract Establishment, Alteration, Disestablishment and Non-Renewal.**

- (A) Form of Application. Application to establish a Type H Agricultural Preserve and to enter into a Type H Contract shall be submitted in writing by all of the Owners of the property to the Napa County Conservation, Development and Planning Department (hereinafter referred to as the "Planning Department") by completing the Type H Application form attached hereto and incorporated by reference herein.

- (B) Proof of Concurrent Parcel Consolidation Proceedings. If, to qualify for a Type H Preserve or Type H Contract as provided in Rule 3 it is necessary to consolidate the property into a single legal parcel, the Owner of the property shall file a completed application and pay all applicable fees for processing such merger, whether by lot line adjustment, subdivision, merger or other procedure allowed by law, to the appropriate County department prior to filing an application for establishment of the Preserve and, notwithstanding anything to the contrary in these Type H Rules, the Type H Preserve shall not be deemed established and the corresponding Type H Contract shall not become effective until January 1 following the effective date of such merger.
- (C) Application Fee. A fee for filing the application to establish a Type H Preserve and to enter into a Type H Contract shall be in the amount approved by resolution of the Board as set forth in Section 80.030 of Part III of the Napa County Policy Manual. Such fee shall be paid at the time of filing the application and the application shall not be considered complete until the fee has been paid.
- (D) Submission of Joint Management Agreement. Where, in consequence of subdivision for the purpose of intra-family transfers as permitted by Government Code section 51230.1, Owner is required by Sections XII, XIII and XXV of the Type H Contract to rescind and substitute the existing Type H Preserve and Contract for new Type H Preserves and Contracts for each of the resulting parcels, Owner shall submit a fully executed joint management agreement meeting the requirements of the foregoing statutory and contract provisions with the application for the new Preserves and Contracts.
- (E) Filing Deadline. To ensure adequate time for the County to meet the requirements of the California Revenue and Taxation Code relating to valuation of enforceably restricted land, the application for establishment of the Type H Preserve and Contract shall be filed with the Planning Department no later than the first Friday in the month of October preceding the tax lien date (January 1) when the term of the Contract is desired to commence.
- (F) Additional Procedures for Preserve Alteration or Disestablishment and Contract Non-Renewal. The procedures set forth in these Rules relating to establishment of a Type H Preserve shall also apply to any proposal to enlarge, diminish or disestablish a Type H Preserve, except that the provisions relating to the filing of an application and application fee shall not apply when the proposal is initiated by the County rather than the Owner. Pursuant to Section 51232, the Board shall also furnish notice of any alteration or disestablishment proposed by the County to the Owner by certified mail directed to the Owner at the latest address known to the Board and, whether the proponent is the County or the Owner, County shall furnish notice of any diminution or disestablishment of the Type H Preserve by first-class mail to each owner of land under a Williamson Act Contract with the County, any portion of which is situated within one mile of the exterior boundary of the land to be removed from the Type H Preserve. Any proposal to alter a Type H Preserve which will result, if approved, in a diminution or disestablishment of the Type H Preserve shall be accompanied by the filing by the proponent of a Notice of Non-Renewal or partial Non-Renewal of the Type H Contract applicable to the land involved, subject to those

procedures and criteria for Non-Renewal set forth in Section VII of the standard Type H Contract form attached to these Rules and incorporated by reference herein.

- (G) Processing by other departments and agencies. Except to the extent otherwise expressly provided, the Planning Department may refer the processing of an application to another County department or agency, subject to that department or agency's agreement to accept the referral. Approval of a contract as to form by County Counsel's office shall be sought before execution of the contract by all parties holding a fee, leasehold interest, lien encumbrance, other security interest in the property.

**RULE 6. Conservation, Development and Planning Department Report.**

- (A) Referral to Napa County Agricultural Commissioner. A copy of the application to establish a Type H Preserve and enter into a Type H Contract shall be forwarded to the Napa County Agricultural Commissioner (hereinafter referred to as "Commissioner") who will investigate and report upon the nature and extent of the agricultural activities on the property involved during the previous five (5) years. The Commissioner shall express his or her opinion, based on the pursuits and proposals of the Owner and the Owner's predecessors in interest on the property and calling upon the assistance of such other resources as the Commissioner considers appropriate, whether the property has been used for a bonafide agricultural purpose during not less than three (3) of the preceding five (5) years. The report of the Commissioner shall be forwarded to the Director of the Planning Department (hereinafter referred to as the "Planning Director") within twenty (20) calendar days following receipt of a copy of the application by the Commissioner.
- (B) Submission of Planning Director's Report. In accordance with Section 51234, the Planning Director shall submit a report on the proposal to the Board within thirty (30) days after receipt of a complete application by the Planning Department. If after thirty (30) days the Board has not received the Planning Director's report, an automatic extension of time will be granted, extending the time allowed for an additional thirty (30) days.
- (C) Contents of Planning Director's Report. The report of the Planning Director shall include the following:
  - (1) A determination by the Planning Director of the acreage of the parcel;
  - (2) Two completed copies of a current Type H Contract in the form prescribed by these Rules, executed by all parties holding a fee or leasehold interest, or lien encumbrance and all parties holding a security interest in such real property;
  - (3) A statement that the proposed Preserve is consistent, or inconsistent, with the County's zoning and general plan, together with the reasons supporting such statement;
  - (4) A statement regarding the current status of any actions undertaken to merge the property to achieve compliance with Rule 3, including the expected completion date for such actions; and
  - (5) The report of the Commissioner provided pursuant to subsection (A) of this Rule 6.

**RULE 7. Public Hearing and Approval of Preserve and Contract.**

- (A) Notice of Hearing. Upon receipt of the Planning Director's report, the Board shall set a date, time and place for a public hearing on the application for Type H Preserve as required by Section 51230. Notice of the hearing shall be published pursuant to Section 6061, and shall include the Assessor's Parcel Number or Numbers of the land proposed to be included within the Type H Preserve. Written notice of the hearing shall also be given at least two weeks before the hearing to the Napa County Local Agency Formation Commission and to every city within the County of Napa within one mile of the exterior boundary of the proposed Preserve. When giving such written notice to such cities, the Clerk of the Board shall also give such cities written notice pursuant to Section 51243.5 of the Board's intention to consider entering into a Type H Contract for the land within the proposed Type H Preserve.
- (B) No Separate Appeal Required. At the hearing, any determination of the Planning Director with which the Owners disagree shall be considered by the Board and deemed to have been appealed by the Owner to the Board without the necessity for complying with any provisions of the Napa County Code pertaining to appeal of decisions of County officers.
- (C) Content of Hearing. At the hearing, the Board shall hear all interested persons regarding whether the proposed action pertaining to the Type H Preserve and Contract meet the requirements of the Williamson Act and these Rules.
- (D) Continuance and Conclusion of Hearing. The hearing may be continued from time to time in the sole discretion of the Board. At the conclusion of the hearing, if the Board finds that the application for the Type H Preserve and Contract complies with the requirements of the Williamson Act and these Type H Rules, including the standard provisions of the Type H Contract incorporated into these Rules by reference, the Board by resolution shall establish the Type H Preserve, authorize execution of the Type H Contract, and direct the filing and recordation of all documentation relating to establishment of the Type H Preserve and execution of the Type H Contract as are required by the Williamson Act.

**RULE 8. Form of Type H Contract.**

Within a Type H Preserve, the County shall offer and enter into Type H Contracts in the form and subject to all of the terms and provisions of the Type H Contract attached hereto and incorporated by reference herein.

**RULE 9. Map.**

Once a Type H Preserve has been established pursuant to these Rules and as long as it remains in effect, a map of such Type H Preserve and the Board resolution by which the Preserve was established shall be filed and kept current by the County with the Napa County Recorder.

**RULE 10. Filings with Director of Conservation.**

On or before the first day of September of each year the County shall file with the Director of Conservation for the State of California a map of the unincorporated area of the County of Napa and designate thereon all Agricultural Preserves in existence at the end of the preceding fiscal year.

Within thirty (30) days after the Type H Contract form prescribed by these Type H Rules is first used, the Clerk of the Board shall file a sample copy of such form of Contract with the Director of Conservation.

**RULE 11. Recordation.**

No later than twenty (20) days after the County enters into a Type H Contract pursuant to these Type H Rules, the Clerk of the Board shall record a copy of the Contract with the Napa County Recorder, together with a reference to the map showing the location of the Type H Preserve in which the property lies.

**RULE 12. General Processing Schedule.**

The following shall be used as the general processing schedule for Type H Preserve contract applications:

1. Board of Supervisors reviews and acts upon requests for revisions to contract forms and rules.
2. Publish notice in local newspapers that applications may be submitted.
3. Send application(s) deemed complete to Agricultural Commissioner; Agricultural Commissioner's comments due within twenty (20) days of receipt of completed application.
4. Conservation, Development, and Planning Report due within thirty (30) days of date application is deemed complete; automatic extension of thirty (30) days if report is not filed with Board of Supervisors within first thirty (30) days.
5. Set date of public hearing before Board of Supervisors; provide at least two (2) weeks written notice to cities within one mile of contract parcel, LAFCO and cities within one mile of area proposed for Agricultural Preserve; publish notice of public hearing in accordance with Government Code §6061.
6. Record contract(s) within twenty (20) days of hearing.

The following schedule sets forth general deadlines in order to complete the process by December 31.

- (A) No later than the last Tuesday of August: Board of Supervisors review and decision of contract forms and rules if changes are requested or required by State law;
- (B) First Wednesday of September through the first Saturday of September: Contract-filing deadline publicly noticed in local newspapers;
- (C) First Friday in October: Contract application submissions deadline at 5:00PM;
- (D) Third Friday in October: Notice deadline to cities within one mile of contract parcel, LAFCO, and cities within one mile of area proposed for Agricultural Preserve;
- (E) Fourth Friday in October: Deadline for receiving Agricultural Commissioner's comments on submitted contract forms;
- (F) Second Tuesday in November: Deadline for notice of Board of Supervisors public hearing to be submitted to the newspaper;
- (G) Third Friday in November: Board of Supervisors public hearing notice published in newspaper;
- (H) First Tuesday in December: Completed Agricultural Preserve contract applications presented to the Board of Supervisors for review and action. Public Works to report on the status of all transfers of property applications.
- (I) December 31<sup>st</sup> or last working day in December: Last day to record contracts prior to January 1<sup>st</sup> tax lien deadline.

**Recording requested by and  
when recorded send to:**

Napa County Conservation, Development,  
And Planning Department  
1195 Third Street, Suite 210  
Napa, California 94559

**Recording Exempt from Recording Fee:  
Gov. Code section 27383**

APN (s):

**FOR USE BY RECORDER ONLY**

**NAPA COUNTY AGRICULTURAL PRESERVE CONTRACT**

**(TYPE "A")**

**THIS TYPE A AGRICULTURAL PRESERVE CONTRACT NO.** \_\_\_\_\_ is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 2012, by and between the COUNTY OF NAPA, a political subdivision of the State of California, hereinafter referred to as "County," and \_\_\_\_\_, a \_\_\_\_\_, hereinafter referred to (collectively) as "Owner".

**RECITALS**

**WHEREAS**, Owner is the owner of certain real property ("the subject property") located in the unincorporated area of the County of Napa, known as Assessor's Parcel # \_\_\_\_\_ on the Napa County Assessor's Maps in effect on the date first above written, and further described in Exhibit "A," attached hereto and incorporated by reference herein; and

**WHEREAS**, both Owner and County desire to enter into this Contract to limit the use of the subject property, which has been designated in County's zoning regulations as Agricultural Preserve (AP), to agricultural uses and other uses compatible with agriculture as part of an overall program under the Williamson Act (Government Code section 51200 *et seq.*, hereinafter referred to as "Williamson Act" or "Act") designed to conserve the economic resources of the State of California and County by maximizing the amount of agricultural land preserved so as to maintain the local agricultural economy, assure an adequate food supply for future residents of the County and State, discourage premature and unnecessary conversion of agricultural land to other than agricultural uses, and prevent loss of the value to the public of the open space utility of the land, both parties recognizing that such land when so preserved for agriculture and open space constitutes an important physical, social, aesthetic and economic asset of County and the State of California; and

**WHEREAS**, placement of the subject property in an agricultural preserve and accompanying execution and approval of this Contract by the Board of Supervisors of County constitutes a determination by the Board that the highest and best use of the subject property during the term of the Contract or any renewal thereof is for agricultural and compatible uses, as defined in this Contract, the rules and regulations applicable to the agricultural preserve, and the Williamson Act; and

**WHEREAS**, Owner and County intend the terms, conditions and restrictions of this Contract to be substantially similar to or, as permitted by Government Code section 51240, more restrictive than those required generally for agricultural preserve contracts by the Williamson Act and to that end intend that this Contract shall constitute an “enforceable restriction” within the meaning and for the purposes of Section 8 of Article XIII of the California Constitution and Sections 422 and 423 of the California Revenue and Taxation Code;

**TERMS**

**NOW, THEREFORE**, Owner and County, in consideration of the mutual promises, covenants and conditions herein contained and the substantial public benefits to be derived therefrom, do hereby agree as follows:

**I. CONTRACT MADE PURSUANT TO LAND CONSERVATION ACT:** 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), as amended, commonly known as the Williamson Act, and is subject to all the provisions of that Act which are herein incorporated by reference, including any subsequent amendments thereto. This Contract is also subject to the provisions of those Type A Rules adopted by resolution of County’s Board of Supervisors and amended from time to time thereafter which are in effect during the term of this Contract.

**II. DEFINITIONS:** Except as expressly otherwise set forth herein, the definitions set forth in Government Code section 51201 shall apply to this Contract. In addition, for purposes of this Contract, “Owner” or “Owners” shall mean all persons having any record title interest in the subject property.

**III. CONSIDERATION AND WAIVER OF PAYMENT:** Owner shall not receive any payment from County in consideration of the obligations imposed on Owner or its successors in interest under this Contract, it being recognized and agreed that the consideration for the execution of this Contract is the substantial public benefit to be derived therefrom, and the advantage that may accrue to the Owner as a result of the effect upon the assessed value of the subject property on account of the restrictions on the use of the subject property contained in this Contract.

**IV. RESTRICTIONS ON USE OF PROPERTY:**

**A. Permitted Uses.** During the term of this Contract, the subject property shall not be used by Owner or Owner's successors in interest for any purpose other than the following, obtaining all necessary use or other permits for such uses when required by County zoning, building, or other ordinances:

(1) *Agriculture*, which, for the purposes of this Contract shall mean the raising of crops or livestock, including the following:

- Growing and raising trees, vines, shrubs, berries, vegetables, nursery stock, hay, grain and similar food crops and fiber crops;
- Grazing of livestock and feeding incidental thereto;
- Animal husbandry, including, without limitation, the breeding and raising of cattle, sheep, horses, goats, pigs, rabbits, and poultry and egg production;
- Sale of agricultural products grown, raised or produced on the subject property.

(2) Farm management uses meeting all of the standards in subsections (E)(1) through (E)(6) of section 18.08.040 of the Napa County Code.

(3) *One single family dwelling or one mobilehome* for the entire subject property, if otherwise permitted by County's zoning, building and safety regulations. If more than one single family dwelling (including a second unit otherwise permitted by County zoning regulations including those pertaining to legal nonconformities) exists on the subject property upon commencement of the term of the Contract, Owner shall either convert such additional unit(s) to one of the other uses permitted under this Section or shall remove the unit(s);

(4) *Residential Care Facilities (Small)*, as defined in Section 18.08.540(A) of the Napa County Code;

(5) *Family Day Care Homes (Small)*, as defined in Section 18.08.290(A) of the Napa County Code;

(6) *Family Day Care Homes (Large)*, subject to Section 18.08.290(B) of the Napa County Code;

(7) *One guest cottage* provided that all of the conditions set forth in Section 18.104.080 are met;

(8) *Farm labor housing*;

(9) *Agricultural processing facilities*, including but not limited to, wineries, dairies, dehydrators, and fruit and vegetable packing plants;

(10) *Kennels and veterinary facilities*;

(11) *Feed lots*;

(12) *Non-commercial wind energy and conversion systems*;

(13) *Antennas, cable, telephone and other telecommunications facilities, including satellite earth stations*, to the extent permitted by Chapters 18.16, 18.119 and/or 18.120 of the Napa County Code;

(14) *Maintenance and emergency repairs of legally-created levees*, as permitted by Section 18.20.020 of the Napa County Code;

(15) *Temporary Events*, as defined in Chapter 5.36 of the Napa County Code, as long as such events are conducted during normal fallow periods in the agricultural use of the subject

property or are otherwise conducted in a manner which does not prevent or interfere with use of the subject property for agriculture;

(16) *Erection, construction, alteration or maintenance of gas, electric, water and sewage facilities, including transmission lines and water reservoirs, as long as such facilities do not prevent or otherwise interfere with the primary use of the subject property for agriculture.*

**B. Effect of Zoning Regulations.** This Contract may prohibit certain uses of the subject property that would otherwise be allowed by the zoning district in which the subject property is located. Nevertheless, during the term of this Contract the permitted uses of the subject property shall be limited to those uses identified in subsection (A), above. County and Owner further agree that if, during the term of this Contract, County's Board of Supervisors amends such Rules, in the manner permitted by the Williamson Act, to permit additional uses within Type A preserves or to restrict or eliminate within Type A preserves any of the uses set forth in subsection (A), such amendment shall be deemed automatically incorporated into subsection (A), above, as an amendment of this Contract from that point forward.

Notwithstanding the preceding sentence, in the event that the zoning is changed to eliminate a use which is provided for in subsection (A), and Owner has not exercised such use if a use permit is not required, or obtained a use permit and used that use permit in the manner contemplated by subsection (A)(2) or (A)(3), or subsection (B), of section 18.124.080 prior to the adoption of the zoning change, exercising such use shall not be permitted. If an Owner has engaged in a use formerly allowed by both subsection (A) and the zoning regulations in the manner contemplated by subsection (A)(2) or (A)(3), or subsection (B), of section 18.124.080, and the zoning subsequently changes to prohibit such use, Owner shall not be prevented from continuing to exercise such use a legal nonconforming use.

**V. PARCEL SIZE AND NUMBER REQUIREMENTS:**

**A. One Legal Parcel Per Contract.** During the term of this Contract, the subject property shall consist only of one "legal parcel" as that term is defined in Napa County Code section 17.02.320, as amended from time to time, and all of the property within that legal parcel shall be subject to this Contract. If, at any time during the term of this Contract, the subject property is determined by the County Assessor to contain more than one legal parcel in consequence of the application by Owner and subsequent recordation by County of one or more certificate(s) of compliance, Owner agrees to immediately commence and diligently pursue to completion prior to the next property tax lien date all legal actions, including the payment of any fees prescribed by law or by resolution of County's Board of Supervisors, necessary to either rescind this Contract and simultaneously to enter into separate Williamson Contracts for each of the legal parcels within the subject property or to merge into a single legal parcel all such parcels or portions of parcels then comprising the subject property and to record and/or consent to the recordation of such documents. County and Owner further agree that if Owner establishes, to the satisfaction of the County Director of Conservation, Development and Planning, that it has become legally impossible for Owner, for reasons beyond the control of Owner, to either complete such merger of the subject property into a single legal parcel or to rescind and replace this Contract with new Williamson Act contracts for all of the subject property, then by their respective approval of this Contract County's Board of Supervisors shall be deemed to have authorized Owner, and Owner shall be deemed to have consented and agrees to immediately file with the County Director of Conservation, Development and

Planning a Notice of Non-Renewal (partial) of the Contract, as permitted by Government Code section 51245 and provided in Section VII, below, for the portions of the subject property for which such corrective actions have been so determined to be legally impossible, as permitted by Government Code section 51245. Such Notice of Non-Renewal (partial) shall be accompanied by the processing fee then in effect established to cover the cost of processing the request. Simultaneously with filing such Notice of Non-Renewal (partial), Owner shall also file an application with the County Assessor, accompanied by the processing fee then in effect, requesting the County Assessor to separate for purposes of assessment ("SFAP") as of the next assessment roll the portion of the property to which the Notice of Non-Renewal (partial) applies from the remaining portion of the subject property. As long as Owner has filed and not withdrawn such Notice of Non-Renewal (partial) and SFAP Application with the accompanying processing fees, following such determination of legal impossibility, County agrees not to seek court redress from Owner for the violation of this subsection otherwise caused by this multiplicity of legal parcels within the subject property during the remainder of term of the Contract applicable to the non-renewed portion of the subject property.

**B. Minimum Parcel Size.** Except as otherwise permitted in accordance with Government Code section 51230.2 in relation to certain subdivisions made for the purpose of agricultural laborer housing facilities, the legal parcel containing and comprised of the subject project during the term of this Contract shall be no less than ten (10) acres in size in the case of "prime agricultural land" and no less than forty (40) acres in size in the case of land which is not "prime agricultural" land," as such term is defined in Section 51201(c) of the Government Code.

**VI. TERM:**

**A. Date of Commencement.** The term of this Contract shall commence on the property tax lien date (January 1) immediately following the date of its execution by Owner and County.

**B. Length of Initial Term.** The initial term of this Contract shall be ten (10) years from the Date of Commencement, unless sooner terminated in accordance with the provisions hereof.

**C. Automatic Renewal.** This Contract shall be automatically renewed on each succeeding January 1st, which shall be deemed to be the "annual renewal date" of the Contract. Upon each such annual renewal date, one (1) additional year shall be automatically added to the initial term hereof, unless Notice of Non-Renewal is given by Owner or County as provided in Section VII, below.

**D. Length of Term after Notice of Non-Renewal.** If County or Owner serves notice of intent in any year to not renew this Contract, the Contract shall remain in effect for the balance of the term remaining, dated from the Date of Commencement of the Contract or from the last automatic renewal of the Contract, whichever is latest. During the balance of the term remaining after service of the Notice of Non-Renewal, the terms and conditions of the Contract shall remain in full force and effect.

**VII. NOTICE OF NON-RENEWAL:**

**A. Service of Notice of Non-Renewal.** If either party desires in any year not to renew this Contract, the party shall serve written Notice of Non-Renewal upon the other party

in advance of the annual renewal date of the Contract. If the notice is filed by the owner, the notice shall be accompanied by the fee then in effect established to cover the cost of processing the Notice. Unless such written Notice of Non-Renewal is served by Owner at least ninety (90) days prior to the annual renewal date, or by County at least sixty (60) days prior to the annual renewal date, this Contract shall be considered renewed for another year as provided in Section VI(C), above. A Notice of Non-Renewal filed after such dates but prior to the annual renewal date shall be deemed to have been filed after the annual renewal date and shall not become effective until the next annual renewal date.

No later than twenty (20) days after County receives a Notice of Non-Renewal from Owner, serves a Notice of Non-Renewal upon Owner, or withdraws a Notice on Non-Renewal, the clerk of the board shall record with the county recorder a copy of the Notice of Non-Renewal or Notice of Withdrawal of Non-Renewal.

**B. Protest and Withdrawal.** If County serves a written Notice of Non-Renewal of this Contract as provided in (A), above, Owner may submit to County, within ten (10) days after Owner's receipt of the Notice of Non-Renewal, a written protest of such non-renewal. County may, in its sole discretion, at any time prior to the next annual renewal date, withdraw its Notice of Non-Renewal, in which case this Contract shall continue in full force and effect as if no Notice of Non-Renewal had been served by County.

**C. Execution of Notice of Non-Renewal.** A written Notice of Non-Renewal submitted for Owner must be executed by all owners of a fee interest and by all owners of a security interest in the subject property.

**D. Partial Non-Renewal.** Except as provided in Section V(A), above, a written Notice of Non-Renewal under this Contract must relate to the whole of the subject property, including but not limited to all property that was originally included in a single Williamson Act contract but later was subdivided for joint family management purposes pursuant to Government Code section 51230.1 and each resulting parcel placed in its own Williamson Act contract.

#### **VIII. ASSESSMENT:**

**A. Enforceable Restriction.** The subject property shall be enforceably restricted within the meaning, and for the purpose, of Section 8 of Article XIII of the California Constitution. The County Assessor shall assess the subject property in accordance with the provisions of Article 1.5 of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code, commencing with Section 421 thereof.

**B. Calculation of Income.** For the purposes of Revenue and Taxation Code Section 423(a)(3), the parties stipulate that for purposes of calculating the value of the subject property, County, through its Assessor, shall apply either (i) the then actual agricultural and compatible uses rental income earned by the subject property, or (ii) the fair rental income (also known as the market or economic rental income) which the subject property is capable of earning, whichever is greater.

**C. Valuation After Service of Notice of Non-Renewal.** If either party serves a Notice of Non-Renewal pursuant to the provisions of Section VII, above, the County Assessor shall thereafter value the subject property in the manner provided in Revenue and Taxation Code Section 426; provided, however, that if during the term of this Contract the State of

California provides through appropriate legislation other methods for assessing the subject property either before or after the filing of a Notice of Non-Renewal, the County Assessor shall assess the subject property in accordance with such legislation and any amendments thereto.

**IX. AUTOMATIC TERMINATION BY EMINENT DOMAIN:** The effect on the subject property and the legal relationship of the parties under this Contract of any of the following events shall be as set forth in the Williamson Act, as such may be amended from time:

**A. Eminent Domain.** Any action in eminent domain for condemnation of the fee title or any interest less than the fee title of the subject property or any portion thereof; or

**B. Acquisition in Lieu of Eminent Domain.** The acquisition of the subject property for a "public improvement" by a public agency or other person "in lieu of eminent domain," as those terms are defined in the Act; or

**C. Federal Acquisition.** Any such action or acquisition by the federal government or any person, instrumentality or agency acting under authority or power of the federal government.

**X. CONTRACT SUBJECT TO EXERCISE OF POLICE POWER:** Nothing in this Contract shall limit or supersede the planning, zoning, health, safety or other police powers of County or the right of County to exercise such powers with regard to the subject property, including, but not limited to, those powers derived from the State Planning and Zoning Law and the State Housing Law.

**XI. CANCELLATION:**

**A. Petition for Cancellation.** Except as otherwise provided in Government Code section 51257 in relation to removal of land from Williamson Act contracts in connection with certain lot line adjustments, this Contract may not be canceled in whole or in part in relation to any portion of the subject property except following a request by Owner in conformance with the provisions of this Section and in compliance with the provisions of the Williamson Act pertaining to cancellation. In accordance with such cancellation provisions, Owner may petition the Board for cancellation of this Contract as to all or any portion of the subject property. Any Owner-initiated request to cancel must be joined in by all owners of a fee interest and all owners of a security interest in the subject property. For purposes of this Section, "subject property" includes, but is not limited to, all property originally included in a single Williamson Act contract but later subdivided pursuant to Government Code section 51230.1 and each resulting parcel placed in its own Williamson Act contract.

**B. Notice and Hearing on Petition for Cancellation.** Following the filing of the petition for cancellation of the Contract described in subsection (A), above, County shall give notice of, and the Board shall hold a public hearing on the matter in accordance with the provisions of California law pertaining to cancellation of Williamson Act contracts, including Government Code Section 51284. In addition, at least ten (10) working days prior to the hearing, a notice of the hearing and a copy of the Owner's Petition for Cancellation shall be mailed to the Director of Conservation.

**C. Required Findings.** Following such public hearing, the Board may approve the requested cancellation of the Contract only if the Board makes such findings as are required by

Sections 51280 et. seq. of the Act. The existence of an opportunity for another use of the subject property shall not be sufficient reason for the cancellation of this Contract. A potential alternative use of the subject property may be considered only if there is no proximate, non-contracted land suitable for the use proposed for the subject property. Likewise, the uneconomic character of an existing agricultural use shall not be sufficient reason for cancellation of this Contract, but shall be considered only if the subject property may be put to no other reasonable or comparable agricultural use.

**D. Payment of Cancellation Fees.** As part of any petition by Owner for the cancellation of this Contract, Owner shall acknowledge Owner's readiness and willingness to pay to the County Treasurer a cancellation fee equal to the amount calculated pursuant to Section 51283 of the Code, as that section may be in effect at the time of the petition. If the petition for cancellation is approved by the Board, collection and distribution of the cancellation fee shall be accomplished in the manner as specified in the Williamson Act. Upon compliance with the provisions of Government Code section 51283.4, the Board shall execute a certificate of cancellation of contract and cause the same to be recorded.

## **XII. SUBDIVISION; LOT LINE ADJUSTMENT:**

**A. Subdivision.** The subject property shall not be subdivided during the term of this Contract except to the extent:

- (1) permitted by section 51230.1, in which case Owner and County shall simultaneously rescind and enter into new Williamson Act contracts for each of the resulting parcels; or
- (2) permitted by section 51230.2, in which case all of the subdivided property shall be subject to the same contract.

**B. Lot Line Adjustment.** County and Owner expressly agree that application by Owner for a lot line adjustment involving the subject property or any portion thereof shall be deemed by Owner and County to constitute a request and consent by Owner to rescind and replace this Contract with one or more new Williamson Act contracts for the resulting parcels, so as to ensure that all of the subject property will remain under Williamson Act contract following approval and completion of the lot line adjustment, except as otherwise provided by Government Code section 51257 if the lot line adjustment is approved prior to sunset of that provision, and to further ensure that all of the property within each adjusted parcel which contains any portion of the subject property will fully comply with the requirements of subsection (A) of Section V that each replacement Williamson Act contract contain only one legal parcel and all property within each successor legal parcel remains subject to a Williamson Act contract. County hereby agrees that as long as Owner has executed such replacement contracts, obtained execution of such contracts with any other owners of land involved in the lot line adjustment, and filed such executed contracts with County, along with any required contract application fees, prior to or simultaneously with the filing with County Director of Public Works of the deeds necessary to consummate the lot line adjustment, County will not deem Owner to be in breach of Section V of this Contract even though, in consequence of those provisions of the Williamson Act pertaining to the timing of approval of new contracts, approval and recording of the replacement Williamson Act contracts at the earliest legally

available opportunity may not occur until after the lot line adjustment deeds have been recorded.

**XIII. VOLUNTARY CONVEYANCE; ENCUMBRANCES:**

**A. Conveyance Limitations for Subject Property under Joint Management**

**Agreement.** Subject property originally included with other property in a single Williamson Act contract but later subdivided into a separate legal parcel pursuant to Government Code section 51230.1 subject to a family joint management agreement and thereafter incorporated into this Contract shall not be conveyed by Owner to anyone other than a member of his/her immediate family unless all of the resulting parcels containing the property included in the original single Williamson Act contract are conveyed to a single individual by deeds which merge all such parcels into a single legal parcel subject to a replacement Williamson Act contract.

**B. Encumbrance Limitations for Subject Property under Joint Management**

**Agreement.** Subject property originally included with other property in a single Williamson Act contract but later subdivided into a separate legal parcel pursuant to Government Code section 51230.1 subject to a family joint management agreement and thereafter incorporated into this Contract shall not be encumbered unless all of the parcels containing the property that had been included in the original Williamson Act contract prior to such subdivision are also encumbered as a part of the same transaction.

**XIV. AUTOMATIC TERMINATION:** If it should be finally determined by judicial proceedings that this Contract does not constitute an enforceable restriction within the meaning of the California Revenue and Taxation Code, except for an unenforceability arising out of the non-renewal of this Contract, for any tax year during the term of this Contract or any renewals thereof, then, and in that event, this Contract shall be null, void and without further effect, and the subject property shall be from that time free from any restriction whatsoever under this Contract.

**XV. ENFORCEMENT OF CONTRACT:** Any conveyance, contract, or authorization (whether oral or written) by Owner or the successors in interest of Owner which would permit use of the subject property contrary to the terms of this Contract may be declared void by the County's Board of Supervisors and such declaration and the terms and provisions of this Contract may be enforced by County by an action filed in the Superior Court of the County for the purpose of compelling compliance or restraining the breach thereof. The enforcement proceedings provided in this Contract shall not be exclusive, and both the Owner and County may pursue any other remedies available to them in law or equity.

**XVI. MATERIAL BREACH:** Any commercial, industrial, or residential building constructed that exceeds 2,500 square feet, that is not allowed under the Williamson Act, this contract, local uniform rules or ordinances consistent with the provisions of the Williamson Act, and that is not related to an agricultural use or compatible use, will be considered to be a material breach of the contract pursuant to California Government Code Section 51250. The County shall notify the Owner of the breach. The Owner will have sixty (60) days from the time of delivery of the

notice, if delivered in person, sixty-five (65) days from the date of mailing if the notice is mailed to the Owner at an address within the State of California, or seventy (70) days from the date of mailing if the notice is mailed to the Owner at an address outside the State of California to eliminate the condition that caused the breach. If the breach is not eliminated within the specified timeframe, the Board shall hold a noticed public hearing pursuant to California Government Code Section 51250 to hear evidence regarding the alleged breach and if the Board determines at the conclusion of the hearing that a material breach continues to exist as described in this section, the Board may order the Owner to eliminate the condition that caused the breach or assess a monetary penalty and record a certificate of contract termination. If the Owner disagrees with the determination, he or she may pursue any other legal remedy that is available. All County costs associated with elimination of the breach shall be borne by the Owner. Costs shall be as established by Resolution of the Board.

**XVII. INDEMNIFICATION; EXCULPATORY CLAUSE:**

**A. Hold Harmless, Defense and Indemnification.** Owner agrees to defend, indemnify and hold County harmless from any claim, demand or causes of action or action for damages involving Owner's interest or rights in and to the subject property or arising out of the existence or implementation of this Contract.

**B. Warranty of Authority of Signatories for Owner and Encumbrance Holders.** All persons signing this Contract as Owner represent that they own fee title interest in the subject property and are entitled to and possess the authority to enter into this Contract and to bind the subject property in accordance with the terms of this Contract. All persons signing this Contract as lessees or as holders of encumbrances on the subject property represent that they legally own such leasehold interest or hold such encumbrances and are authorized and entitled to subrogate such encumbrances or leasehold interests to the terms and conditions of this Contract.

**XVIII. COSTS OF LITIGATION:** If County is made party, without any fault on its part, to any litigation commenced by or against Owner, Owner shall and will pay all costs together with reasonable attorney's fees incurred by or imposed upon County by or in connection with such litigation; further, Owner shall and will pay all costs and reasonable attorney's fees which may be incurred or paid by County in enforcing the covenants and agreements of this Contract.

**XIX. PENALTY:**

**A. Failure of Interested Party to Sign Contract.** If, after submission of this Contract by Owner to County and execution of this Contract by County, it is determined that a person or entity who has an interest in the subject property has not signed the Contract, then Owner shall be obligated to County for a sum equal to the difference between the taxes actually assessed and paid under the Contract and the taxes that would have been assessed and paid in the absence of a Contract. Such additional sum shall be levied for all times during which such interested person has not signed the Contract. The calculation of such tax differential shall be pro rated on a monthly basis until Owner obtains the necessary additional signatures.

**B. Continuing Obligation Absent Recorded Assumption.** In the event of a conveyance of the subject property, the Owner shall continue to be personally liable for such

additional sums incurred under subsection (A) even after the conveyance of all of Owner's interest in the subject property, unless there has been recorded in the office of the Napa County Recorder a document approved as to form by the Napa County Counsel, by which the new Owner assumes all such liabilities.

**XX. NO WAIVER:** The waiver by either party to this Contract of any breach or violation of any requirement of this Contract by the other party shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Contract.

**XXI. NOTICES:** All notices required or authorized by this Contract shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

COUNTY

Napa County  
Conservation, Development  
And Planning Department  
1195 Third Street, Suite 210  
Napa, CA 94559

OWNER

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AGENT FOR SERVICE OF PROCESS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**XXII. SEVERABILITY:** If any of the provisions of this Contract shall contravene, or be invalid under any law, such contravention or invalidity shall not invalidate the whole Contract, but it shall be construed as if not containing the particular provision or provisions held to be invalid, and the rights and obligations of the parties hereto shall be construed and enforced accordingly.

**XXIII. SUCCESSORS IN INTEREST:** This Contract shall constitute a covenant running with the subject property and shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. This Contract may be enforced by either party or by any owner of land within the same agricultural preserve which is subject to a similar Contract.

**XXIV. ASSESSMENT INFORMATION:** During the term of this Contract and thereafter until all statutes of limitation applicable to assessment of property taxes for the subject property for periods during the term of the Contract, Owner shall provide County, upon request, with all

information concerning Owner's agricultural activities upon the subject property, including income derived and expenses incurred in the course of Owner's agricultural pursuits in relation to the subject property. Said information is agreed by the parties to be necessary to implement the property tax assessment process, pursuant to the Williamson Act and the corresponding relevant portions of the California Revenue and Taxation Code, and said information shall be, at the request of the County, verified by a public accountant without expense to County.

**XXV. JOINT MANAGEMENT AGREEMENT:** If, during the term of this Contract, Owner desires to subdivide the subject property under the conditions permitted by Government Code section 51230.1 for intra-family transfers under joint management agreement, the following provisions shall apply:

**A. Obligation to Submit Joint Management Agreement to County.** Owner agrees that no final subdivision or parcel map submitted by or on behalf of Owner to the County Director of Public Works shall be deemed authorized by Owner for recordation unless Owner has simultaneously submitted to County a fully executed written joint management agreement between Owner and the immediate family members of Owner who are parties to the proposed transfer of the parcels to be created by the subdivision map or parcel map.

**B. Minimum Contents of Joint Management Agreement.** The joint management agreement required under subsection (A), above, shall provide, at a minimum, the following: the parties to the agreement warrant that the portion of land to be transferred will be operated under the joint management of the parties subject to the terms and conditions and for the duration of this Contract as if it were still a single unsubdivided unit; for purposes of the joint management agreement and Government Code section 51230.1, the term "immediate family" means the spouse, registered domestic partner, the biological, adopted, or step children, the parents, or the siblings of Owner; the parties to the agreement agree and acknowledge that County is an intended third party beneficiary of the joint management agreement; County shall have the right, as a third party beneficiary to the agreement, to enforce the terms thereof; and the parties to the agreement, including Owner, shall be jointly and severally liable to pay all costs and reasonable attorney's fees which may be incurred or paid by County in enforcing the agreement.

**IN WITNESS WHEREOF,** Owner and County have hereunto executed this Contract as of the day and year first above written.

OWNER(S)

COUNTY OF NAPA, a political subdivision of the State of California

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

By \_\_\_\_\_

\_\_\_\_\_  
Printed Name

DIANE DILLON, Chair  
Napa County Board of Supervisors

Signature

Title

\_\_\_\_\_  
Printed Name

ATTEST:

GLADYS COIL  
Clerk of the Board

By: \_\_\_\_\_

<p><b>Approved by the Napa County Board of Supervisors</b></p> <p>Date: _____</p> <p>Processed by: _____ Deputy Clerk of the Board</p>
--

<p><b>APPROVED AS TO FORM Office of County Counsel</b></p> <p>By: _____ Deputy County Counsel</p> <p>Date: _____</p>
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SAMPLE

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SAMPLE



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SAMPLE

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF CONTRACTED LAND  
UNDER P09-00XXX**

SAMPLE

**Recording requested by and when recorded send to:**

Napa County Conservation, Development,  
And Planning Department  
1195 Third Street, Suite 210  
Napa, California 94559

**Recording Exempt from Recording Fee:  
Gov. Code section 27383**

APN (s):

**FOR USE BY RECORDER ONLY**

**NAPA COUNTY AGRICULTURAL PRESERVE CONTRACT**

**(TYPE "H")**

**THIS TYPE H AGRICULTURAL PRESERVE CONTRACT NO.** \_\_\_\_\_ is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 2012, by and between the COUNTY OF NAPA, a political subdivision of the State of California, hereinafter referred to as "County," and \_\_\_\_\_, a \_\_\_\_\_, hereinafter referred to (collectively) as "Owner".

**RECITALS**

**WHEREAS**, Owner is the owner of certain real property ("the subject property") located in the unincorporated area of the County of Napa, known as Assessor's Parcel # \_\_\_\_\_ on the Napa County Assessor's Maps in effect on the date first above written, and further described in Exhibit "A," attached hereto and incorporated by reference herein; and

**WHEREAS**, as permitted by the Williamson Act (Government Code section 51200 *et seq.* hereinafter referred to as "the Act"), County's Board of Supervisors by resolution has adopted Rules governing the establishment and administration of agricultural preserves ("Type H preserves") on lands in the unincorporated territory of Napa County not zoned Agricultural Preserve but nevertheless primarily devoted to and suitable for agricultural use as defined in Government Code section 51201(b) and as to which County desires to offer landowners the opportunity to enter into Type H agricultural preserve contracts; and

**WHEREAS**, County having, upon application by Owner, established a Type H agricultural preserve comprised of the subject project, County and Owner now desire to enter into this Type H Contract for the subject property, for the purpose of enforceably restricting the use of the subject property to agricultural uses and uses deemed compatible with agriculture, as part of an overall program by County and the State of California under the Act to maximize

the amount of agricultural land preserved and maintain the local agricultural economy in order to conserve the economic resources of the State and County, assure an adequate food supply for future residents of the County and State, discourage premature and unnecessary conversion of agricultural land to other than agricultural uses, and prevent loss of the value to the public of the open space utility of the land, County and Owner mutually recognizing that the subject property, when so preserved for agriculture and open space constitutes an important physical, social, aesthetic and economic asset of County and the State of California; and

**WHEREAS**, the placement of the subject property in a Type H preserve and the accompanying execution and approval of this Contract by County's Board of Supervisors constitutes a determination by the Board that the highest and best use of the subject property during the term of the Contract or any renewal thereof is for agricultural and compatible uses, as defined in this Contract, the Rules and regulations applicable to the agricultural preserve, and the Act; and

**WHEREAS**, Owner and County intend the terms, conditions and restrictions of this Contract to be substantially similar to or, as permitted by Government Code section 51240, more restrictive than those required generally for agricultural preserve contracts by the Act and to that end intend that this Contract shall constitute an "enforceable restriction" within the meaning and for the purposes of Section 8 of Article XIII of the California Constitution and Sections 422 and 423 of the California Revenue and Taxation Code;

### TERMS

**NOW, THEREFORE**, Owner and County, in consideration of the mutual promises, covenants and conditions herein contained and the substantial public benefits to be derived therefrom, do hereby agree as follows:

**I. CONTRACT MADE PURSUANT TO LAND CONSERVATION ACT:** 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), as amended, commonly known as the Williamson Act, and is subject to all the provisions of that Act which are herein incorporated by reference, including any subsequent amendments thereto. This Contract is also subject to the provisions of those Type H Rules adopted by resolution of County's Board of Supervisors and amended from time to time thereafter which are in effect during the term of this Contract.

**II. DEFINITIONS:** Except as expressly otherwise set forth herein, the definitions set forth in Government Code section 51201 shall apply to this Contract. In addition, for purposes of this Contract, "Owner" or "Owners" shall mean all persons having any record title interest in the subject property.

**III. CONSIDERATION AND WAIVER OF PAYMENT:** Owner shall not receive any payment from County in consideration of the obligations imposed on Owner or its successors in

interest under this Contract, it being recognized and agreed that the consideration for the execution of this Contract is the substantial public benefit to be derived therefrom, and the advantage that may accrue to the Owner as a result of the effect upon the assessed value of the subject property on account of the restrictions on the use of the subject property contained in this Contract.

#### IV. RESTRICTIONS ON USE OF PROPERTY:

**A. Permitted Uses.** During the term of this Contract, the subject property shall not be used by Owner or Owner's successors in interest for any purpose other than the following, obtaining all necessary use or other permits for such uses when required by County zoning, building, or other ordinances:

(1) *Agriculture*, which, for the purposes of this Contract shall mean the raising of crops or livestock, including the following:

- Growing and raising trees, vines, shrubs, berries, vegetables, nursery stock, hay, grain and similar food crops and fiber crops;
- Grazing of livestock and feeding incidental thereto;
- Animal husbandry, including, without limitation, the breeding and raising of cattle, sheep, horses, goats, pigs, rabbits, and poultry and egg production;
- Sale of agricultural products grown, raised or produced on the subject property;

(2) Farm management uses meeting all of the standards in subsections (E)(1) through (E)(6) of section 18.08.040 of the Napa County Code.

(3) *One single family dwelling or one mobilehome* for the entire subject property, if otherwise permitted by County's zoning, building and safety regulations. If more than one single family dwelling, other than a second unit as described in (3), below, otherwise permitted by County zoning regulations including those pertaining to legal nonconformities exists on the subject property upon commencement of the term of the Contract, Owner shall either convert such additional unit(s) to one of the other uses permitted under this Section or shall remove the unit(s);

(4) *One second dwelling unit*, either attached to or detached from the single family dwelling unit described in (2), above, provided that all of the conditions set forth in Section 18.104.180 of the Napa County Code are met;

(5) *Residential Care Facilities (Small)*, as defined in Section 18.08.540(A) of the Napa County Code;

(6) *Family Day Care Homes (Small)*, as defined in Section 18.08.290(A) of the Napa County Code;

(7) *Family Day Care Homes (Large)*, subject to Section 18.08.290(B) of the Napa County Code;

(8) *One guest cottage*, provided that all of the conditions set forth in Section 18.104.080 of the Napa County Code are met;

(9) *Farm labor housing*;

(10) *Agricultural processing facilities*, including but not limited to, wineries, dairies, dehydrators, and fruit and vegetable packing plants, and permitted uses accessory thereto;

- (11) *Kennels, horse boarding and/or training facilities, and veterinary facilities;*
- (12) *Feed lots;*
- (13) *Non-commercial wind energy and conversion systems;*
- (14) *Antennas, cable, telephone and other telecommunications facilities, including satellite earth stations, to the extent permitted by Chapters 18.20, 18.119, and/or 18.120 of the Napa County Code;*
- (15) *Floating Dock, as permitted by Section 18.20.020 of the Napa County Code;*
- (16) *Maintenance and emergency repairs of legally-created levees, as permitted by Section 18.20.020 of the Napa County Code;*
- (17) *Temporary Events, as defined in Chapter 5.36 of the Napa County Code, as long as such events are conducted during normal fallow periods in the agricultural use of the subject property or are otherwise conducted in a manner which does not prevent agricultural use of the subject property;*
- (18) *Erection, construction, alteration or maintenance of gas, electric, water and sewage facilities, including transmission lines and water reservoirs, as long as such facilities do not prevent or otherwise interfere with the primary use of the subject property for agriculture;*
- (19) *Public outdoor recreational uses permitted by the Napa County Code for the zoning district within which the subject property is located, as long as such uses are also conducted in a manner consistent with Section 51238.1 of the California Government Code.*

**B. Effect of Change in Zoning Regulations and Preserve Rules.** This Contract may prohibit certain uses of the subject property that would otherwise be allowed by the zoning district in which the subject property is located. Nevertheless, during the term of this Contract the permitted uses of the subject property shall be limited to those uses identified in subsection (A), above. County and Owner further agree that if, during the term of this Contract, County's Board of Supervisors amends such Rules, in the manner permitted by the Williamson Act, to permit additional uses within Type H preserves or to restrict or eliminate within Type H preserves any of the uses set forth in subsection (A), such amendment shall be deemed automatically incorporated into subsection (A), above, as an amendment of this Contract from that point forward. Notwithstanding the preceding sentence, in the event that the zoning is changed to eliminate a use which is provided for in subsection (A), and Owner has not exercised such use if a use permit is not required, or obtained a use permit and used that use permit in the manner contemplated by subsection (A)(2) or (A)(3), or subsection (B), of section 18.124.080 prior to the adoption of the zoning change, exercising such use shall not be permitted. If an Owner has engaged in a use formerly allowed by both subsection (A) and the zoning regulations in the manner contemplated by subsection (A)(2) or (A)(3), or subsection (B), of section 18.124.080, and the zoning subsequently changes to prohibit such use, Owner shall not be prevented from continuing to exercise such use a legal nonconforming use

**V. PARCEL SIZE AND NUMBER REQUIREMENTS:**

**A. One Legal Parcel Per Contract.** During the term of this Contract, the subject property shall consist only of one "legal parcel" as that term is defined in Napa County Code section 17.02.320, as amended from time to time, and all of the property within that legal parcel shall be subject to this Contract. If, at any time during the term of this Contract, the subject property is determined by the County Assessor to contain more than one legal parcel in

consequence of the application by Owner and subsequent recordation by County of one or more certificate(s) of compliance, Owner agrees to immediately commence and diligently pursue to completion prior to the next property tax lien date all legal actions, including the payment of any fees prescribed by law or by resolution of County's Board of Supervisors, necessary to either rescind this Contract and simultaneously to enter into separate Williamson Contracts for each of the legal parcels within the subject property or to merge into a single legal parcel all such parcels or portions of parcels then comprising the subject property and to record and/or consent to the recordation of such documents. County and Owner further agree that if Owner establishes, to the satisfaction of the County Director of Conservation, Development and Planning, that it has become legally impossible for Owner, for reasons beyond the control of Owner, to either complete such merger of the subject property into a single legal parcel or to rescind and replace this Contract with new Williamson Act contracts for all of the subject property, then by their respective approval of this Contract the board of supervisors of County shall be deemed to have authorized Owner, and Owner shall be deemed to have consented and agrees to immediately file with the County Director of Conservation, Development and Planning a Notice of Non-Renewal (partial) of the Contract, as permitted by Government Code section 51245 and provided in Section VII, below, for the portions of the subject property for which such corrective actions have been so determined to be legally impossible, as permitted by Government Code section 51245. Such Notice of Non-Renewal (partial) shall be accompanied by the processing fee then in effect established to cover the cost of processing the request. Simultaneously with filing such Notice of Non-Renewal (partial), Owner shall also file an application with the County Assessor, accompanied by the processing fee then in effect, requesting the County Assessor to separate for purposes of assessment ("SFAP") as of the next assessment roll the portion of the property to which the Notice of Non-Renewal (partial) applies from the remaining portion of the subject property. As long as Owner has filed and not withdrawn such Notice of Non-Renewal (partial) and SFAP Application with the accompanying processing fees, following such determination of legal impossibility, County agrees not to seek court redress from Owner for the violation of this subsection otherwise caused by this multiplicity of legal parcels within the subject property during the remainder of term of the Contract applicable to the non-renewed portion of the subject property.

**B. Minimum Parcel Size.** Except as otherwise permitted in accordance with Government Code section 51230.2 in relation to certain subdivisions made for the purpose of agricultural laborer housing facilities, the legal parcel containing and comprised of the subject project during the term of this Contract shall be no less than ten (10) acres in size in the case of "prime agricultural land" and no less than forty (40) acres in size in the case of land which is not "prime agricultural" land," as such term is defined in Section 51201(c) of the Government Code.

**VI. TERM:**

**A. Date of Commencement.** The term of this Contract shall commence on the property tax lien date (January 1) immediately following the date of its execution by Owner and County.

**B. Length of Initial Term.** The initial term of this Contract shall be ten (10) years from the Date of Commencement, unless sooner terminated in accordance with the provisions hereof.

**C. Automatic Renewal.** This Contract shall be automatically renewed on each succeeding January 1st, which shall be deemed to be the “annual renewal date” of the Contract. Upon each such annual renewal date, one (1) additional year shall be automatically added to the initial term hereof, unless Notice of Non-Renewal is given by Owner or County as provided in Section VII, below.

**D. Length of Term after Notice of Non-Renewal.** If County or Owner serves notice of intent in any year to not renew this Contract, the Contract shall remain in effect for the balance of the term remaining, dated from the Date of Commencement of the Contract or from the last automatic renewal of the Contract, whichever is latest. During the balance of the term remaining after service of the Notice of Non-Renewal, the terms and conditions of the Contract shall remain in full force and effect.

**VII. NOTICE OF NON-RENEWAL:**

**A. Service of Notice of Non-Renewal.** If either party desires in any year not to renew this Contract, the party shall serve written Notice of Non-Renewal upon the other party in advance of the annual renewal date of the Contract. If the notice is filed by the owner, the notice shall be accompanied by the fee then in effect established to cover the cost of processing the Notice. Unless such written Notice of Non-Renewal is served by Owner at least ninety (90) days prior to the annual renewal date, or by County at least sixty (60) days prior to the annual renewal date, this Contract shall be considered renewed for another year as provided in Section VI(C), above. A Notice of Non-Renewal filed after such dates but prior to the annual renewal date shall be deemed to have been filed after the annual renewal date and shall not become effective until the next annual renewal date.

No later than twenty (20) days after County receives a Notice of Non-Renewal from Owner, serves a Notice of Non-Renewal upon Owner, or withdraws a Notice on Non-Renewal, the clerk of the board shall record with the county recorder a copy of the Notice of Non-Renewal or Notice of Withdrawal of Non-Renewal.

**B. Protest and Withdrawal.** If County serves a written Notice of Non-Renewal of this Contract as provided in (A), above, Owner may submit to County, within ten (10) days after Owner’s receipt of the Notice of Non-Renewal, a written protest of such non-renewal. County may, in its sole discretion, at any time prior to the next annual renewal date, withdraw its Notice of Non-Renewal, in which case this Contract shall continue in full force and effect as if no Notice of Non-Renewal had been served by County.

**C. Execution of Notice of Non-Renewal.** A written Notice of Non-Renewal submitted for Owner must be executed by all owners of a fee interest and by all owners of a security interest in the subject property.

**D. Partial Non-Renewal.** Except as provided in Section V(A), above, a written Notice of Non-Renewal under this Contract must relate to the whole of the subject property, including but not limited to all property that was originally included in a single Williamson Act contract but later was subdivided for joint family management purposes pursuant to Government Code section 51230.1 and each resulting parcel placed in its own Williamson Act contract.

## VIII. ASSESSMENT:

**A. Enforceable Restriction.** The subject property shall be enforceably restricted within the meaning, and for the purpose, of Section 8 of Article XIII of the California Constitution. The County Assessor shall assess the subject property in accordance with the provisions of Article 1.5 of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code, commencing with Section 421 thereof.

**B. Calculation of Income.** For the purposes of Revenue and Taxation Code Section 423(a)(3), the parties stipulate as follows:

(1) Rental Income. For purposes of calculating the value of the subject property, County, through its Assessor, shall apply either (i) the then actual agricultural and compatible uses rental income earned by the subject property, or (ii) the fair rental income (also known as the market or economic rental income) which the subject property is capable of earning, whichever is greater.

(2) Minimum Imputed Income. In all events, the rental income to be used by the Assessor pursuant to subsection (1) above shall not be less than \_\_\_\_\_ per acre (or fraction thereof) per year, this amount being designated as the "minimum imputed income" for the purposes of the Contract.

(3) Adjustment of Minimum Imputed Income. The "minimum imputed income" shall be subject to review by the Board during each fifth year of the Contract. As a consequence of such review, including consideration of the trend of real estate sales and rental values, and general economic movements, the Board may determine to increase or decrease the "minimum imputed income" by an amount not to exceed ten percent (10%) for the next succeeding five (5) year period. Subsequent fifth year reviews by the Board may authorize County to make similar adjustments upward or downward to said "minimum imputed income," but in no event shall such amount decline below that specified in Section VIII(B)(2) above.

**C. Valuation After Service of Notice of Non-Renewal.** If either party serves a Notice of Non-Renewal pursuant to the provisions of Section VII, above, the County Assessor shall thereafter value the subject property in the manner provided in Revenue and Taxation Code Section 426; provided, however, that if during the term of this Contract the State of California provides through appropriate legislation other methods for assessing the subject property either before or after the filing of a Notice of Non-Renewal, the County Assessor shall assess the subject property in accordance with such legislation and any amendments thereto.

**IX. AUTOMATIC TERMINATION BY EMINENT DOMAIN:** The effect on the subject property and the legal relationship of the parties under this Contract of any of the following events shall be as set forth in the Williamson Act, as such may be amended from time:

**A. Eminent Domain.** Any action in eminent domain for condemnation of the fee title or any interest less than the fee title of the subject property or any portion thereof; or

**B. Acquisition in Lieu of Eminent Domain.** The acquisition of the subject property for a "public improvement" by a public agency or other person "in lieu of eminent domain," as those terms are defined in the Act; or

**C. Federal Acquisition.** Any such action or acquisition by the federal government or any person, instrumentality or agency acting under authority or power of the federal government.

**X. CONTRACT SUBJECT TO EXERCISE OF POLICE POWER:** Nothing in this Contract shall limit or supersede the planning, zoning, health, safety or other police powers of County or the right of County to exercise such powers with regard to the subject property, including, but not limited to, those powers derived from the State Planning and Zoning Law and the State Housing Law.

**XI. CANCELLATION:**

**A. Petition for Cancellation.** Except as otherwise provided in Government Code section 51257 in relation to removal of land from Williamson Act contracts in connection with certain lot line adjustments, this Contract may not be canceled in whole or in part in relation to any portion of the subject property except following a request by Owner in conformance with the provisions of this Section and in compliance with the provisions of the Williamson Act pertaining to cancellation. In accordance with such cancellation provisions, Owner may petition the Board for cancellation of this Contract as to all or any portion of the subject property. Any Owner-initiated request to cancel must be joined in by all owners of a fee interest and all owners of a security interest in the subject property. For purposes of this Section, "subject property" includes, but is not limited to, all property originally included in a single Williamson Act contract but later subdivided pursuant to Government Code section 51230.1 and each resulting parcel placed in its own Williamson Act contract.

**B. Notice and Hearing on Petition for Cancellation.** Following the filing of the petition for cancellation of the Contract described in subsection (A), above, County shall give notice of, and the Board shall hold a public hearing on the matter in accordance with the provisions of California law pertaining to cancellation of Williamson Act contracts, including Government Code Section 51284. In addition, at least ten (10) working days prior to the hearing, a notice of the hearing and a copy of the Owner's Petition for Cancellation shall be mailed to the Director of Conservation.

**C. Required Findings.** Following such public hearing, the Board may approve the requested cancellation of the Contract only if the Board makes such findings as are required by Sections 51280 et. seq. of the Act. The existence of an opportunity for another use of the subject property shall not be sufficient reason for the cancellation of this Contract. A potential alternative use of the subject property may be considered only if there is no proximate, non-contracted land suitable for the use proposed for the subject property. Likewise, the uneconomic character of an existing agricultural use shall not be sufficient reason for cancellation of this Contract, but shall be considered only if the subject property may be put to no other reasonable or comparable agricultural use.

**D. Payment of Cancellation Fee.** As part of any petition by Owner for the cancellation of this Contract, Owner shall acknowledge Owner's readiness and willingness to pay to the County Treasurer a cancellation fee equal to the amount calculated pursuant to Section 51283 of the Code, as that section may be in effect at the time of the petition. If the petition for cancellation is approved by the Board, collection and distribution of the cancellation fee shall be accomplished in the manner as specified in the Williamson Act. Upon compliance with the provisions of Government Code section 51283.4, the Board shall execute certificate of cancellation of contract and cause the same to be recorded.

**XII. SUBDIVISION; LOT LINE ADJUSTMENT:**

**A. Subdivision.** The subject property shall not be subdivided during the term of this Contract except to the extent:

(1) permitted by section 51230.1, in which case Owner and County shall simultaneously rescind and enter into new Williamson Act contracts for each of the resulting parcels; or

(2) permitted by section 51230.2, in which case all of the subdivided property shall be subject to the same contract.

**B. Lot Line Adjustment.** County and Owner expressly agree that application by Owner for a lot line adjustment involving the subject property or any portion thereof shall be deemed by Owner and County to constitute a request and consent by Owner to rescind and replace this Contract with one or more new Williamson Act contracts for the resulting parcels, so as to ensure that all of the subject property will remain under Williamson Act contract following approval and completion of the lot line adjustment, except as otherwise provided by Government Code section 51257 if the lot line adjustment is approved prior to sunset of that provision, and to further ensure that all of the property within each adjusted parcel which contains any portion of the subject property will fully comply with the requirements of subsection (A) of Section V that each replacement Williamson Act contract contain only one legal parcel and all property within each successor legal parcel remains subject to a Williamson Act contract. County hereby agrees that as long as Owner has executed such replacement contracts, obtained execution of such contracts with any other owners of land involved in the lot line adjustment, and filed such executed contracts with County, along with any required contract application fees, prior to or simultaneously with the filing with County Director of Public Works of the deeds necessary to consummate the lot line adjustment, County will not deem Owner to be in breach of Section V of this Contract even though, in consequence of those provisions of the Williamson Act pertaining to the timing of approval of new contracts, approval and recording of the replacement Williamson Act contracts at the earliest legally available opportunity may not occur until after the lot line adjustment deeds have been recorded.

**XIII. VOLUNTARY CONVEYANCE; ENCUMBRANCES:**

**A. Conveyance Limitations for Subject Property under Joint Management Agreement.** Subject property originally included with other property in a single Williamson Act contract but later subdivided into a separate legal parcel pursuant to Government Code section 51230.1 subject to a family joint management agreement and thereafter incorporated into this Contract shall not be conveyed by Owner to anyone other than a member of his/her immediate family unless all of the resulting parcels containing the property included in the original single Williamson Act contract are conveyed to a single individual by deeds which merge all such parcels into a single legal parcel subject to a replacement Williamson Act contract.

**B. Encumbrance Limitations for Subject Property under Joint Management Agreement.** Subject property originally included with other property in a single Williamson Act contract but later subdivided into a separate legal parcel pursuant to Government Code

section 51230.1 subject to a family joint management agreement and thereafter incorporated into this Contract shall not be encumbered unless all of the parcels containing the property that had been included in the original Williamson Act contract prior to such subdivision are also encumbered as a part of the same transaction.

**XIV. AUTOMATIC TERMINATION:** If it should be finally determined by judicial proceedings that this Contract does not constitute an enforceable restriction within the meaning of the California Revenue and Taxation Code, except for an unenforceability arising out of the non-renewal of this Contract, for any tax year during the term of this Contract or any renewals thereof, then, and in that event, this Contract shall be null, void and without further effect, and the subject property shall be from that time free from any restriction whatsoever under this Contract.

**XV. ENFORCEMENT OF CONTRACT:** Any conveyance, contract, or authorization (whether oral or written) by Owner or the successors in interest of Owner which would permit use of the subject property contrary to the terms of this Contract may be declared void by the County's Board of Supervisors and such declaration and the terms and provisions of this Contract may be enforced by County by an action filed in the Superior Court of the County for the purpose of compelling compliance or restraining the breach thereof. The enforcement proceedings provided in this Contract shall not be exclusive, and both the Owner and County may pursue any other remedies available to them in law or equity.

**XVI. MATERIAL BREACH:** Any commercial, industrial, or residential building constructed that exceeds 2,500 square feet, that is not allowed under the Williamson Act, this contract, local uniform rules or ordinances consistent with the provisions of the Williamson Act, and that is not related to an agricultural use or compatible use, will be considered to be a material breach of the contract pursuant to California Government Code Section 51250. The County shall notify the Owner of the breach. The Owner will have sixty (60) days from the time of delivery of the notice, if delivered in person, sixty-five (65) days from the date of mailing if the notice is mailed to the Owner at an address within the State of California, or seventy (70) days from the date of mailing if the notice is mailed to the Owner at an address outside the State of California to eliminate the condition that caused the breach. If the breach is not eliminated within the specified timeframe, the Board shall hold a noticed public hearing pursuant to California Government Code Section 51250 to hear evidence regarding the alleged breach and if the Board determines at the conclusion of the hearing that a material breach continues to exist as described in this section, the Board may order the Owner to eliminate the condition that caused the breach or assess a monetary penalty and record a certificate of contract termination. If the Owner disagrees with the determination, he or she may pursue any other legal remedy that is available. All County costs associated with elimination of the breach shall be borne by the Owner. Costs shall be as established by Resolution of the Board.

**XVII. INDEMNIFICATION; EXCULPATORY CLAUSE:**

**A. Hold Harmless, Defense and Indemnification.** Owner agrees to defend, indemnify and hold County harmless from any claim, demand or causes of action or action for

damages involving Owner's interest or rights in and to the subject property or arising out of the existence or implementation of this Contract.

**B. Warranty of Authority of Signatories for Owner and Encumbrance Holders.**

All persons signing this Contract as Owner represent that they own fee title interest in the subject property and are entitled to and possess the authority to enter into this Contract and to bind the subject property in accordance with the terms of this Contract. All persons signing this Contract as lessees or as holders of encumbrances on the subject property represent that they legally own such leasehold interest or hold such encumbrances and are authorized and entitled to subrogate such encumbrances or leasehold interests to the terms and conditions of this Contract.

**XVIII. COSTS OF LITIGATION:** If County is made party, without any fault on its part, to any litigation commenced by or against Owner, Owner shall and will pay all costs together with reasonable attorney's fees incurred by or imposed upon County by or in connection with such litigation; further, Owner shall and will pay all costs and reasonable attorney's fees which may be incurred or paid by County in enforcing the covenants and agreements of this Contract.

**XIX. PENALTY:**

**A. Failure of Interested Party to Sign Contract.** If, after submission of this Contract by Owner to County and execution of this Contract by County, it is determined that a person or entity who has an interest in the subject property has not signed the Contract, then Owner shall be obligated to County for a sum equal to the difference between the taxes actually assessed and paid under the Contract and the taxes that would have been assessed and paid in the absence of a Contract. Such additional sum shall be levied for all times during which such interested person has not signed the Contract. The calculation of such tax differential shall be pro rated on a monthly basis until Owner obtains the necessary additional signatures.

**B. Continuing Obligation Absent Recorded Assumption.** In the event of a conveyance of the subject property, the Owner shall continue to be personally liable for such additional sums incurred under subsection (A) even after the conveyance of all of Owner's interest in the subject property, unless there has been recorded in the office of the Napa County Recorder a document approved as to form by the Napa County Counsel, by which the new Owner assumes all such liabilities.

**XX. NO WAIVER:** The waiver by either party to this Contract of any breach or violation of any requirement of this Contract by the other party shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Contract.

**XXI. NOTICES:** All notices required or authorized by this Contract shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this

paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

COUNTY

Napa County  
Conservation, Development  
And Planning Department  
1195 Third Street, Suite 210  
Napa, CA 94559

OWNER

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AGENT FOR SERVICE OF PROCESS

\_\_\_\_\_  
\_\_\_\_\_

**XXII. SEVERABILITY:** If any of the provisions of this Contract shall contravene, or be invalid under any law, such contravention or invalidity shall not invalidate the whole Contract, but it shall be construed as if not containing the particular provision or provisions held to be invalid, and the rights and obligations of the parties hereto shall be construed and enforced accordingly.

**XXIII. SUCCESSORS IN INTEREST:** This Contract shall constitute a covenant running with the subject property and shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. This Contract may be enforced by either party or by any owner of land within the same agricultural preserve which is subject to a similar Contract.

**XXIV. ASSESSMENT INFORMATION:** During the term of this Contract and thereafter until all statutes of limitation applicable to assessment of property taxes for the subject property for periods during the term of the Contract, Owner shall provide County, upon request, with all information concerning Owner's agricultural activities upon the subject property, including income derived and expenses incurred in the course of Owner's agricultural pursuits in relation to the subject property. Said information is agreed by the parties to be necessary to implement the property tax assessment process, pursuant to the Williamson Act and the corresponding relevant portions of the California Revenue and Taxation Code, and said information shall be, at the request of the County, verified by a public accountant without expense to County.

**XXV. JOINT MANAGEMENT AGREEMENT:** If, during the term of this Contract, Owner desires to subdivide the subject property under the conditions permitted by Government Code section 51230.1 for intra-family transfers under joint management agreement, the following provisions shall apply:

**A. Obligation to Submit Joint Management Agreement to County.** Owner agrees that no final subdivision or parcel map submitted by or on behalf of Owner to the County Director of Public Works shall be deemed authorized by Owner for recordation unless Owner has simultaneously submitted to County a fully executed written joint management agreement

between Owner and the immediate family members of Owner who are parties to the proposed transfer of the parcels to be created by the subdivision map or parcel map.

**B. Minimum Contents of Joint Management Agreement.** The joint management agreement required under subsection (A), above, shall provide, at a minimum, the following: the parties to the agreement warrant that the portion of land to be transferred will be operated under the joint management of the parties subject to the terms and conditions and for the duration of this Contract as if it were still a single unsubdivided unit; for purposes of the joint management agreement and Government Code section 51230.1, the term "immediate family" means the spouse, domestic partner, the biological, adopted, or step children, the parents, or the siblings of Owner; the parties to the agreement agree and acknowledge that County is an intended third party beneficiary of the joint management agreement; County shall have the right, as a third party beneficiary to the agreement, to enforce the terms thereof; and the parties to the agreement, including Owner, shall be jointly and severally liable to pay all costs and reasonable attorney's fees which may be incurred or paid by County in enforcing the agreement.

SAMPLE

**IN WITNESS WHEREOF**, Owner and County have hereunto executed this Contract the day and year first above written.

OWNER(S)

COUNTY OF NAPA, a political subdivision of the State of California

\_\_\_\_\_  
Signature Title

By \_\_\_\_\_

\_\_\_\_\_  
Printed Name

DIANE DILLON, Chair  
Napa County Board of Supervisors

\_\_\_\_\_  
Signature Title

\_\_\_\_\_  
Printed Name

ATTEST:

GLADYS COIL  
Clerk of the Board

By: \_\_\_\_\_

<p><b>Approved by the Napa County Board of Supervisors</b></p> <p>Date: _____</p> <p>Processed by:</p> <p>_____ Deputy Clerk of the Board</p>
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<p><b>APPROVED AS TO FORM Office of County Counsel</b></p> <p>By: _____ Deputy County Counsel</p> <p>Date: _____</p>
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SAMPLE



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SAMPLE

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF CONTRACTED LAND  
UNDER P09-00XXX**

SAMPLE