

<p>RECORDING REQUESTED BY:</p> <p>WHEN RECORDED SEND TO:</p> <p>Clerk of the Board of Supervisors 70 West Hedding Street, 10th Floor, E. Wing San Jose, CA 95110</p>	
--	--

URBAN AGRICULTURE INCENTIVE ZONES ACT CONTRACT

This is a Urban Agriculture Incentives Zones Act Contract (the “Contract”) between the County of Santa Clara, State of California (the “County”), and [PLEASE PRINT OR TYPE NAMES OF ALL PROPERTY OWNERS IN THE SAME MANNER IN WHICH OWNERSHIP TO THE PROPERTY IS VESTED]

(collectively, the “Owner”).

RECITALS

WHEREAS, Owner is the legal owner of certain real property located in the unincorporated area of Santa Clara County in the State of California described in Exhibit A, which is attached hereto and incorporated herein, (the “Property”); and

WHEREAS, the County Board of Supervisors has determined that the Property is eligible under the California Urban Agriculture Incentives Zones Act for an urban agriculture incentive zones contract and Owner desires to implement a small-scale urban agricultural use for the Property; and

WHEREAS, the State of California has adopted the Urban Agriculture Incentive Zones Act (California Government Code Sections 51040, et seq., and California Revenue & Taxation Code, Article 1.5, Section 422.7 et seq.) authorizing local governments to enter into contracts with property owners to reduce their property taxes, or to prevent increases in their property taxes, in return for a commitment to a sustainable urban farm in an urban area. The County has adopted enabling legislation, Santa Clara County Code Division C21, authorizing it to participate in the Urban Agriculture Incentive Zones Act program; and

WHEREAS, Owner desires to enter into an Urban Agriculture Incentive Zones Act Contract with the County to help mitigate expenditures for the use of the Property for small-scale urban agricultural use. The County is willing to enter into such Contract to promote the use of vacant, undeveloped land for sustainable urban agricultural use and to provide public benefits to the County such as connecting residents to the broader food system, providing green space and recreational opportunities, building community, and promoting food access, public health, and economic development potential.

WHEREAS, both Owner and County desire to limit the use of the Property to urban agricultural use consistent with the Urban Agriculture Incentive Zones Act; and

NOW, THEREFORE, in consideration of the mutual obligations, covenants, and conditions contained herein, the parties hereto do agree as follows:

1. CONTRACT SUBJECT TO CALIFORNIA URBAN AGRICULTURE INCENTIVE ZONES ACT AND RELATED COUNTY ORDINANCES AND GUIDELINES

This Contract is entered into pursuant to the Urban Agriculture Incentive Zones Act (California Government Code Sections 51040, et seq., and California Revenue & Taxation Code, Article 1.5, Section 422.7 et seq.) (the “Act”) and is subject to all of the provisions of the Act, including any amendments to the Act that may be enacted in the future. This Contract is also subject to County ordinances implementing the Act, Santa Clara County Code Division C21 (“Ordinance”), including any amendments to the Ordinance that may be enacted in the future. This Contract is also subject to any guidelines adopted by the County Board of Supervisors pertaining to Contracts entered into pursuant to the Act (“Guidelines”), including any amendments to the Guidelines that may be adopted in the future.

2. RESTRICTIONS ON USE OF PROPERTY

During the term of this Contract, the Property may only be used for commercial or noncommercial agricultural use and shall undertake and complete the work set forth in Exhibit B (“Agricultural Use Plan”) attached hereto and incorporated herein. The Agricultural Use Plan sets forth the permitted agricultural use of the Property and includes the proposed site plan and development schedule for the Property. Owner shall proceed diligently in commencing agricultural use as set forth in Agricultural Use Plan and shall commence such use not less than thirty (30) days after recordation of this Contract if not already using the Property for agricultural use. Owner shall permit members of the public to periodically access the site as set forth in the Agricultural Use Plan. No dwelling units shall be permitted on the Property. Failure to timely commence agricultural use, failure to permit public access according to the Agricultural Use Plan, or the presence or construction of any dwelling unit(s) on the Property shall result in cancellation of this Contract as set forth in Section 12 herein.

3. CESSATION OF AGRICULTURAL USE

Owner shall report in writing to the Agricultural Commissioner any cessation of agricultural use for any reason or any other change in use from that approved under the attached Agricultural Use Plan within two (2) weeks of the cessation or change of activity. Owner shall resume agricultural activity consistent with the Agricultural Use Plan within three (3) months of any such cessation. Failure to timely resume agricultural use shall result in cancellation of this Contract as set forth in Section 12 herein.

4. INSURANCE

Owner shall secure adequate liability insurance to cover the uses proposed in the attached Agricultural Use Plan, including coverage for any third parties on the Property, and shall submit evidence of such insurance to the County upon request.

5. INSPECTIONS

Owner shall permit periodic examination of the Property by representatives of the County, upon forty-eight (48) hours advance written notice by the Agricultural Commissioner, to monitor Owner’s compliance with the terms of this Contract. Owner shall provide all reasonable information and documentation about the Property demonstrating compliance with this Contract as requested by the County.

6. TERM OF CONTRACT

This Contract is effective on the date of execution by the County and remains in full force and effect for an initial term of at least five years, which five year term commences on the first day of January following execution of the Contract.

7. VALUATION

This Contract must have been executed and recorded on or before the lien date (December 31) for a fiscal year for the Property to be valued under the taxation provisions of the Act for that fiscal year.

8. RENEWAL AND EXTENSION

Owner may apply for an extension of the Contract for an additional term of up to five (5) years, provided that the Act and, Santa Clara County Code Division C21 permit such an extension. Any such

extension shall be subject to the same requirements as an initial application as set forth in Santa Clara County Code Division C21.

9. PAYMENT OF FEES

Owner agrees to pay any fee authorized by the Santa Clara County Board of Supervisors under the Act and Santa Clara County Code Division C21 for the County's reasonable costs related to implementing and administering the Contract, including but not limited to the costs of inspecting the Property and determining compliance with the Contract, as provided for in Government Code Section 51042(a)(2)(A). Owner shall promptly pay any such request amount within thirty (30) days of receipt of notice of the fee amount due.

10. DEFAULT

An event of default under this Agreement may be any one of the following by the Owner:

- (a) Failure to conduct the agricultural use set forth in Exhibit B;
- (b) Failure to resume agricultural use after cessation in accordance with the requirements of Section 3 herein;
- (c) Failure to allow any inspection as provided in Section 5 herein;
- (d) Termination of this Contract during the term specified herein;
- (e) Failure to pay any fees imposed by the County as provided in Section 9 herein;
- (f) Failure to maintain adequate insurance for the Property; or
- (g) Failure to comply with any other provision of this Contract.

An event of default shall result in cancellation of this Contract as set forth in 12 herein and payment of the cancellation fee and all property taxes due upon the Assessor's determination of the assessed value of the Property as set forth in Section 13 herein.

11. CANCELLATION BY OWNER

In the event Owner cancels this Contract during the Term, Owner shall provide written notice to the Agricultural Commissioner and Assessor and pay the Cancellation Fee as set forth in Section 13 herein. The Assessor shall determine the assessed value of the Property as of the date of cancellation and shall assess all property taxes for the Property without regard to any restriction imposed on the Property by this Contract.

12. CANCELLATION BY COUNTY

County may initiate cancellation of this Contract if it makes a reasonable determination that Owner has breached any condition or covenant contained in this Contract or has defaulted as provided in Section 10 herein. The Agricultural Commissioner shall provide written notice to Owner, the Assessor, and the Department of Planning and Development of his or her intent to cancel the Contract. Owner may file a written appeal of this determination with the Clerk of the Board of Supervisors within fifteen (15) days of the notification as set forth in Santa Clara County Ordinance Code Section C21-10. The Board of Supervisors

shall hold a public hearing to determine whether the Contract should be cancelled. If the Contract is cancelled, the Owner shall pay the Cancellation Fee as set forth in Section 13 herein, and the Assessor shall determine the assessed value of the Property as of the date of cancellation and shall assess all property taxes for the Property without regard to any restriction imposed on the Property by this Contract.

13. CANCELLATION FEE

If Contract is cancelled pursuant to Section 11 or 12, Owner shall pay a cancellation fee equal to the cumulative value of the tax benefit received during the duration of the Contract, as determined by the Assessor, as set forth in Government Code Section 51042(a)(2)(B). This fee shall include the cumulative tax owed, including interest. The cancellation fee shall be paid to the County Tax Collector at such time and in such manner as County shall prescribe. Owner may appeal payment of this fee to the Board of Supervisors as set forth in Santa Clara County Ordinance Code Section C21-10. The Board of Supervisors may waive payment of the fee, or any portion thereof, if it determines that the cancellation was caused by extenuating circumstances despite the good faith effort by Owner to comply with the Contract.

14. ENFORCEMENT OF CONTRACT

In lieu of the provisions to cancel the Contract contained herein, the County may bring an action to specifically enforce or to enjoin any breach of any condition of this Contract. If the County determines that Owner has breached this Contract, the County shall give Owner written notice by registered or certified mail setting forth the grounds for the breach. If Owner does not correct the breach, or if Owner does not undertake and diligently pursue corrective action, to the reasonable satisfaction of the County within thirty (30) days from the date of receipt of the notice, then the County may, without further notice, initiate default procedures under this Contract as set forth in Section 11 and bring any action necessary to enforce the obligations of Owner set forth in this Contract. The County does not waive any claim of default by Owner if it does not enforce or cancel this Contract.

15. SUCCESSORS IN INTEREST

This Contract is binding upon and inures to the benefit of all heirs, executors, administrators, trustees, assigns and successors in interest of the Owner. If the Property or any portion thereof is annexed by a city, the city succeeds to all rights, duties and powers of the County under this Contract, except as otherwise provided by the Act.

16. INDEMNITY

Owner and its successors in interest agree to indemnify, defend and hold harmless the County and its officials, employees, and agents from any claim, liability, loss, injury or damage arising out of or in connection with this Contract. Owner shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which Owner is obligated to indemnify, defend and hold harmless the County under this Contract.

17. NO COMPENSATION

It is recognized and agreed that the consideration for the execution of this Contract is the substantial benefit to be derived from, and the advantage that may accrue to Owner as a result of, the effect upon the assessed value of the Property from the restrictions on the Property's use as provided herein. Owner will not receive any payment from County in consideration of the obligations imposed under this Contract.

18. NOTICES

All notices required or permitted by this Contract, including notice of a change of address, must be in writing and given by personal delivery or sent by United States Mail, postage prepaid, return receipt requested, addressed to the party intended to be notified. Notice will be deemed given as of the date of delivery in person or as of the date when deposited in any post office or any mail receptacle regularly maintained by the United States Postal Service.

Notice to the County must be addressed:

COUNTY OF SANTA CLARA
Clerk of the Board of Supervisors
County Government Center, 10th Floor, East Wing
70 West Hedding Street
San Jose, California 95110

//

//

//

//

//

//

//

//

//

//

//

//

//

//

Notice to Owner must be addressed:

Name: _____

Address: _____

City, State, Zip: _____

19. VOLUNTARY EXECUTION

Owner and County acknowledge that they have been furnished with copies of, and have read, this Contract and that this Contract has been freely and voluntarily entered into by them and they agree to be fully bound by the terms of this Contract. Furthermore, this Contract is executed without reliance upon any representation by any person that is not set forth in this Contract.

20. OWNERS OF RECORD

Each signatory to this Contract personally warrants that he/she has full authority to enter into this Contract and, if signing in a representative capacity, that he/she has full authority to sign on behalf of the person or entity whom he/she represents. Owner warrants that they are the only owners, in fee title, of the Property, and will continue to be the only owners of the Property until the Contract is recorded in the official records of the County Clerk-Recorder.

21. AMENDMENT

This Contract may be amended in whole or in part only by a written recorded instrument executed by the parties hereto in the same manner as this Contract.

22. SEVERABILITY

If any provision of this Contract is determined to be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and each other provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

23. SIGNATURES

This Contract may be signed and dated in parts.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by Owner on _____ and by County on _____.

COUNTY OF SANTA CLARA

Dave Cortese, President
Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

Elizabeth G. Pianca, Deputy County Counsel

PROPERTY OWNER(S):

Signature

Signature

Name/Title

Name/Title

Signature

Signature

Name/Title

Name/Title

Signature

Signature

Name/Title

Name/Title

[NOTE: Each Owner signature must be properly notarized/acknowledged.]

Exhibits to this Contract:

A – Property Description (Legal Description)

B – Agricultural Use Plan

County of Santa Clara

Office of the Clerk of the Board of Supervisors
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110-1770
(408) 299-5001 FAX 938-4525 TDD 993-8272



Megan Doyle
Clerk of the Board

Certificate of Acknowledgment (Civil Code § 1189)

State of California }
County of Santa Clara } ss.

On _____ before me, _____, Deputy Clerk of the
(date) (Deputy's name)

Board of Supervisors, personally appeared _____
(name of individual signing document)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.
Megan Doyle, Clerk of the Board of Supervisors

By _____
Deputy Clerk of the Board of Supervisors