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COUNTY ASSESSOR OFFICE

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COUNTY OF SAN BENITO

CANCELLATION OF A WILLIAMSON ACT CONTRACT

The California Land Conservation Act (Williamson Act) was enacted in 1965 to preserve agricultural land by discouraging premature and unnecessary conversion to urban uses. The Williamson Act authorizes local government and property owners to enter voluntarily into contracts to commit their land to agricultural uses for a term of 10 years. In return, the land is valued for property tax purposes on its agricultural value. Generally, this means that property taxes are reduced, sometimes significantly.

An application for full or partial contract cancellation must meet the legal requirements contained in Government Code Section 51280 et. seq. The decision to terminate a contract is made by the Board of Supervisors (Board) at a public hearing.

Before the Board can approve a cancellation application, they must find either of the following:

- 1) Cancellation is consistent with the purposes of the Williamson Act; or
- 2) Cancellation is in the public interest.

Under (1) above, the Board must make all of the following findings:

- a. That the cancellation is for land on which a notice of non-renewal has been served.
- b. That cancellation is not likely to result in the removal of adjacent lands from agricultural use.
- c. That cancellation is for an alternative use which is consistent with the applicable provisions of the County General Plan.
- d. That cancellation will not result in discontinuous patterns of urban development.
- e. That there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.

Under (2) above, (cancellation is in the public interest), the Board must specifically find:

- a. That other public concerns substantially outweigh the objectives of the Williamson Act.

- b. That there is no proximate non-contracted land which is both available and suitable for the use to which it is proposed the contract land should be put or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.

In addition to the above findings, the Board will also consider all comments offered by the California Department of Conservation and the recommendation from the San Benito County Agricultural Preserve Advisory Committee.

Besides the above application materials, per the California Environmental Quality Act (CEQA), the project must be reviewed to determine potential environmental impacts from the proposed Williamson Act cancellation. Prior to submitting an application, the applicant should discuss the project with San Benito County Planning staff, who will then determine what level of environmental review will be required and what additional application materials and fees will be required.

If the cancellation request is approved, the Clerk to the Board of Supervisors records a certificate of tentative cancellation which will cite all conditions and contingencies that must be satisfied in order for the certificate of cancellation to be recorded. One condition of approval will require that the cancellation fee, determined by the County Assessor and equal to 12.5% of the fair market value of the property, be paid in full within one year from the date that the certificate of tentative cancellation is recorded. If the fee is not paid within that time frame, the fee shall be recomputed by the County Assessor. The full cancellation fee is forwarded to the State of California.

The landowner shall notify the Board when the conditions and contingencies enumerated in the certificate of tentative cancellation have been satisfied. Within thirty (30) days of receipt of such notice, and determination that conditions and contingencies have been satisfied, the Clerk to the Board shall record a certificate of cancellation of the contract.

If the landowner has been unable to satisfy the conditions and contingencies enumerated in the certificate of tentative cancellation, the landowner shall notify the Board of the particular conditions or contingencies they are unable to satisfy. Within 30 days of receipt of such notice, and upon a determination that the landowner is unable to satisfy the conditions and contingencies listed, the Board shall execute a certificate of withdrawal of tentative approval of a cancellation of contract and cause the same to be recorded. However, the landowner shall not be entitled to the refund of any cancellation fee paid.

**COUNTY OF SAN BENITO
ASSESSOR'S OFFICE**

LAND CONSERVATION ACT CONTRACT CANCELLATION PROCEDURE

INSTRUCTIONS FOR FILING APPLICATION:

A Petition for Cancellation of Williamson Act Contract shall be filed per contract between March 1 and March 31 and September 1 and September 30 of each year and shall contain the following items:

- (1) Application Fee***Set per Board Resolution No. 2007-11 (attached)**
- (2) Postage for Public Notification of Public Hearing**Actual Cost**
- (3) Original signed Petition for Cancellation (or partial cancellation) of a Williamson Act Contract signed by owner(s) and notarized.
- (4) Legible and reproducible copy of legal description of property subject to the cancellation.
- (5) Map showing size and location of land and adjoining parcels to be Exhibit B.
- (6) Copy of title or preliminary report showing ownership by the Assessor's Parcel Number and/or any other documentation showing authority for cancellation.
- (7) If the applicant is requesting cancellation on only a portion of a contract, applicant shall also provide a survey of the property subject to the cancellation request, which shall be prepared by a licensed surveyor and shall include a legal description for that portion of the property that is proposed to be removed from the contract.
- (8) List of names and addresses of every owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the land upon which the contract is proposed to be cancelled.
- (9) A copy of each Williamson Act contract to be cancelled.
- (10) Reasons for cancellation, including a proposal for a specified alternative use of the land and anticipated time frame for implementation of the alternative use.
- (11) Written information relating to the findings per Government Code Section 51282.
- (12) Any other displays or information which the applicant believes may support the request.

Once an application has been received, a public hearing will be scheduled before the San Benito County Agricultural Preserve Advisory Committee. **You or your authorized representative must attend the public hearing to answer any questions the Committee may have.** At the hearing, the Committee will consider the staff recommendation, your comments, and any input from the public. Then the Committee will make their recommendation to the Board of Supervisors.

Your proposal will then be scheduled for a review by the Board of Supervisors who have final authority for approving or denying your request. The Board will also consider all comments offered by the California Department of Conservation. (If a rezoning or any other land use approval is required, a separate hearing before the Planning Commission may be necessary.)

If you have any questions during the processing of this application, please contact the San Benito County Assessor's office at (831) 636-4030.

**APPLICATION FOR CANCELLATION OF
WILLIAMSON ACT CONTRACT
(CALIFORNIA LAND CONSERVATION ACT CONTRACT)**

TO THE HONORABLE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO

Pursuant to the California Land Conservation Act of 1965 (hereafter "law") the undersigned respectfully represent:

Applicant's Name	Address	Telephone #
_____	_____	_____
_____	_____	_____
_____	_____	_____

Contact Person: _____ Telephone: _____

Address: _____

(The contact person should be an individual with adequate responsibility for the project to carry out all discussions with the County)

1. Is applicant requesting cancellation on only part of a contract? No _____ Yes _____
2. Land. The petitioners constitute all of the present owners of the land whose legal description is set forth in Exhibit A attached to this petition and is hereby incorporated herein by reference. The land is located within the following Agricultural Preserve which includes Assessor's Parcel Numbers: _____

3. Map. A map showing the size and location of said lands and its relationship to adjoining parcels is set forth on Exhibit B attached to this petition and is hereby incorporated herein by reference.
4. Contract. A Land Conservation Contract has heretofore been entered into between _____

and County of San Benito.

The Contract was recorded in the Office of the Recorder of San Benito County on _____, in Book _____, Page ____ thru ____; or Document No., _____ land described in (2) is all / part of that land subject to LCA Contract No. _____. Please attach a copy of same.

5. Has a Notice of Non-Renewal been recorded in the Office of the Recorder of San Benito County? No _____ Yes _____ When Recorded? _____. Please attach a copy of same.
6. Cancel Contract. The undersigned hereby request that the Board of Supervisors of the County of San Benito approve the cancellation of the Contract as to the land described in (2). The applicant is required to present a detailed written report containing substantial evidence in compliance with the requirements of the Land Conservation Act of 1965, as amended, Title 5, Division 1, Chapter 7, Section 51200, *et seq.*, of the Government Code, including, but not limited to those pertaining to cancellation of the contract, commencing with Section 51280. The report must be attached as Exhibit C. Each petition shall be accompanied by a proposal for a specific alternative use of the land and anticipated time frame for implementation of the alternative use.

7. The applicant agrees, in the event the Contract, Contracts or portion or portions thereof described above (hereinafter "Contract") is cancelled, to defend at its sole expense and cost any action brought against San Benito County because of or resulting from any proceeding preliminary to or the actual cancellation of the Contract. Applicant shall reimburse San Benito County for any court costs and attorney's fees which San Benito County may be required by a court to pay as a result of such action. San Benito County may at its sole discretion, participate in the defense of any such action, but such participation shall not relieve applicant of its obligations under this condition.

I (We), the undersigned, am (are) the owner(s) of property involved in this application and I (we) have completed this application and all other documents required. I (We) acknowledge the preparation and submission of this application. Wherefore, I (we) hereby request that the above matter be heard and that the Board of Supervisors take action thereon as provided by law.

The undersigned does hereby declare that the above is true and correct under penalty of perjury.

Petition must be signed by all property owners in identical manner as property is vested and signatures acknowledged by notary public.

<u>NAME (TYPED)</u>	<u>MAILING ADDRESS</u>	<u>SIGNATURE(S) OF ALL CURRENT OWNER(S)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

State of California)
) ss:
 County of _____)

On _____, before me, _____, Notary Public, personally appeared _____, 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(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature: _____

(Seal)

INDEMNIFICATION AGREEMENT

(Must be signed by Applicant(s) and/or Property Owner(s)
(Additional sheets may be necessary)

The Applicant(s) and/or Property Owner(s) agree to defend, indemnify, release and hold harmless the County, its agents, officers, attorneys, employees, boards and commissions from any claim, action or proceeding brought against the foregoing individuals or entities, the purpose of which is to attack, set aside, void or nullify the approval of this development entitlement or approval or certification of the environmental document which accompanies it, or to obtain damages relating to such action(s). This indemnification agreement shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of the entitlement whether or not there is concurrent passive or active negligence on the part of the County.

Applicant(s):

Signed: _____

Print: _____

Date: _____

Address: _____

RESOLUTION NO. 2007 - 11

RESOLUTION ESTABLISHING FEES FOR APPLICATIONS PURSUANT TO THE
AGRICULTURE PRESERVE ORDINANCE OF SAN BENITO COUNTY

WHEREAS, the Land Conservation Act of 1965 (California Government Code §51200, *et seq.*) authorized counties to establish Agricultural Preserves; and

WHEREAS, the purposes of the Land Conservation Act are to maintain the agricultural economy and to prevent premature and unnecessary conversion of land from agricultural uses; and

WHEREAS, the Board of Supervisors of the County of San Benito finds it to be in the public interest to assist in the maintenance of the state's agricultural economy and in the avoidance of conversion of land from agricultural uses by establishing Agricultural Preserves; and

WHEREAS, the Board of Supervisors of the County of San Benito enacted an Agricultural Preserve Ordinance (San Benito County Code, ch. 18A), which establishes the procedures for administration of Agricultural Preserves, including initiating, filing and processing requests for the establishment of Agricultural Preserves; and

WHEREAS, California Government Code section 51287 and section 18A-6(c) of the County's Agricultural Preserve Ordinance authorize the Board of Supervisors to determine, by resolution, the amount of a non-refundable fee to process applications pursuant to the Agricultural Preserve Ordinance; and

WHEREAS, the County conducted a fee study to establish the actual cost of providing services related to applications filed under the Agricultural Preserve Ordinance; and

WHEREAS, the Agricultural Preserve Advisory Committee considered the recommendations in the fee study and made the following recommendations to the Board of Supervisors:

1. that the Board adopt a non-refundable application fee of \$500.00 for applications for new Land Conservation Act contracts regarding land entering into the Land Conservation Act Program for the first time; this represents a fee that is below the actual cost of providing the services related to processing such applications, in the interest of encouraging property owners to enter into the Land Conservation Act program, to prevent premature and unnecessary conversion of land from agricultural uses and support the County's agricultural economy;
2. that the Board adopt a non-refundable application fee of \$750.00 for each new Land Conservation Act contract requested, for all other applications regarding land currently in the Land Conservation Act Program, including but not limited to, adjustments to existing preserves, enlargements of existing preserves, divisions, lot line adjustments, cancellations and compatible use determinations; this represents a fee that will recoup, but not exceed, the actual cost of providing the services related to processing such applications; and

3. that the Board adopt an annual Consumer Price Index (CPI) inflation factor, for all application fees to be increased annually, consistent with the CPI.

NOW THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of San Benito hereby finds that the recommendations in the fee study reflect fees that will recoup, but not exceed, the actual cost of providing services regarding processing applications under the San Benito County Agricultural Preserve Ordinance; and

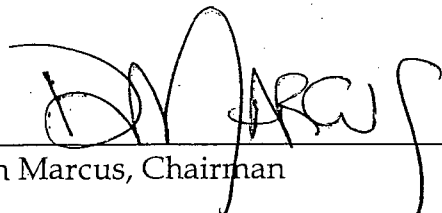
BE IT FURTHER RESOLVED, that the Board of Supervisors of the County of San Benito hereby accepts the findings and recommendations of the Agricultural Preserve Advisory Board; and

BE IT FURTHER RESOLVED, that the Board of Supervisors of the County of San Benito hereby establishes the following non-refundable filing fees for applications under the San Benito County Agricultural Preserve Ordinance, effective February 28, 2007:

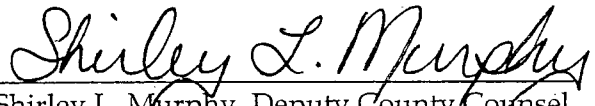
1. \$500.00 for applications for new Land Conservation Act contracts regarding land entering into the Land Conservation Act Program for the first time;
2. \$750.00 for each new Land Conservation Act contract requested, for all other applications regarding land currently in the Land Conservation Act Program, including but not limited to, adjustments to existing preserves, enlargements of existing preserves, divisions, lot line adjustments, cancellations and compatible use determinations; and
3. all application fees shall be increased annually, at the beginning of each calendar year, consistent with the inflation factor specified in the Consumer Price Index (CPI) for Pacific Cities: San Francisco, Oakland and San Jose, in an amount not to exceed two percent (2%).

PASSED AND ADOPTED by the San Benito County Board of Supervisors, on the 13th day of February, 2007 by the following vote:

AYES: SUPERVISORS: Monaco; Loe; Botelho & Marcus
 NOES: SUPERVISORS: None
 ABSENT: SUPERVISORS: De La Cruz

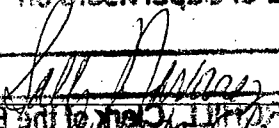
By: 
 Don Marcus, Chairman 2/13/07

APPROVED AS TO LEGAL FORM:
 Dennis LeClere, County Counsel

By: 
 Shirley L. Murphy, Deputy County Counsel

Date: Jan. 29, 2007

ATTEST:
 Linda Churchill, Clerk of the Board

By: 
 Linda Churchill, Clerk of the Board
 Date: 2/13/07