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(See Page 6 for Privacy Act and Paperwork Reduction Act Statements)

FSA-2535
(proposal 4)

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency

Position 5

CONSERVATION CONTRACT

1. This contract related to real property is made (a) _____ by and between
(b) _____

(Grantor), and the United States of America, acting through the U.S. Department of Agriculture, Farm Service Agency (Grantee). Grantor and Grantee are jointly referred to as the "Parties."

2. Grantor warrants sole ownership with marketable title to the contract area and will honor the intentions of Grantee stated herein and preserve and protect the conservation values of the contract area. Grantor agrees to comply with the terms and conditions contained herein for the use of the contract area and adjacent lands for access, and to refrain from any activity not specifically allowed or that is inconsistent with the purposes of this contract.

3. **Authority:** This contract related to real property is authorized by Section 349 of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1997), which authorizes the Secretary of Agriculture to enter into contracts on real property for conservation, recreation, and wildlife purposes.

4. **Consideration.** Consideration for this contract shall be an amount determined by Grantee which cancels the indebtedness described below:

| A. Amount of Original Note | B. Date | C. Principal Amount Canceled | D. Interest Amount Canceled |
|-------------------------------|------------|---------------------------------|--------------------------------|
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5. **Purpose.** It is the purpose of this contract to restore, protect, manage, maintain, and enhance the functional values of wetlands, uplands, highly erodible lands, and other eligible lands for conservation, recreation, and wildlife purposes.

6. **NOW THEREFORE**, Grantor hereby grants and conveys to Grantee, for (a) _____ years, commencing on the date of this agreement, all rights and interests in the lands comprising the contract area, including rights of access to the contract area, but reserving to Grantor only those rights, title and interests listed in Item 8. It is the intention of Grantor to grant and convey for (b) _____ years any and all other rights not so reserved. This contract shall constitute an equitable interest upon the land so encumbered; shall run with the land for (c) _____ years; and shall bind Grantor, heirs, successors, assigns, lessees and any other person claiming under them. This contract will terminate automatically without further action at 11:59 PM on (d) _____, subject however to all valid rights of record, if any.

7. **Contract Area Description.** The land encumbered by this contract is described as follows:

8. **Grantor's Reservations.** Subject to Grantee's rights granted by this contract, Grantor reserves:

- A. Title. Record title, along with Grantor's right to convey or transfer title to these reserved rights.
- B. Control of access. The right to prevent trespass and control access by the general public as long as such control does not interfere with the purpose of the contract.
- C. Recreational uses. The right to enjoyment and those undeveloped recreational uses of the contract area specified in the conservation plan, including but not limited to hunting, fishing, and leasing of such rights for economic gain, pursuant to applicable State and Federal regulations that may be in effect at the time.
- D. Subsurface resources. The right to oil, gas, minerals, and geothermal resources underlying the contract area, provided that any drilling or mining activities are to be located outside the boundaries of the contract area and will not have an adverse impact on the contract area.

9. **Grantor's Obligations.** Grantor shall comply with all terms and conditions of this contract as follows:

- A. Prohibitions. Unless authorized as a compatible use, the rights to the following activities and uses have been conveyed to Grantee and are prohibited on the contract area:
 - (1) Haying, mowing, or seed harvesting for any reason;
 - (2) Altering of grassland, woodland, wildlife habitat or other natural features by burning, digging, plowing, disking, cutting, or otherwise destroying the vegetative cover;
 - (3) Dumping refuse, waste (including hazardous waste), sewage, or other debris;
 - (4) Harvesting wood products;
 - (5) Draining, dredging, channeling, filling, leveling, pumping, diking, impounding, or related activities, as well as altering or tampering with water control structures or devices;
 - (6) Diverting or causing or permitting the diversion of surface or underground water into, within, or out of the contract area by any means;
 - (7) Building or placing buildings or structures on the contract area;
 - (8) Planting or harvesting any crop; and

- (9) Grazing or allowing livestock on the contract area.
- B. Conservation plan. Grantor, and heirs, successors, and assigns, are responsible for complying with the requirements of the conservation plan and any amendments. The conservation plan is developed by Grantee and appropriate parties to describe the schedule of operations and activities required to address identified natural resource concerns and achieve the objectives of this contract.
- C. Fences. Unless specifically accepted by Grantee, all costs associated with the construction and maintenance of fences and similar facilities to exclude livestock shall be the responsibility of Grantor. All fences must be constructed in accordance with the terms and conditions of the conservation plan.
- D. Liability. Grantor shall be liable for actions occurring within or on the contract area.
- E. Notice. Grantor shall notify Grantee 30 days prior to sale or foreclosure of the property which includes the contract area and provide the name and address of the purchaser or foreclosing party, if known.
- F. Noxious plants and pests. Grantor is responsible for noxious weed control and emergency control of pests as required by all Federal, State, and local laws. A plan to control noxious weeds and pests must be approved in writing by Grantee prior to implementation by Grantor.
- G. Reporting. Grantor shall report to Grantee any conditions or events that may adversely affect the wetland, upland, highly erodible land, wildlife, and other natural values of the contract area.
- H. Taxes. Grantor shall pay when due, any and all real property and any other taxes and assessments, which may be levied against the contract area.
- 10. Compatible Uses by Grantor.** Grantee, at its sole discretion, may authorize in writing and subject to such terms and conditions Grantee may prescribe, compatible uses of the contract area related to conservation purposes by Grantor, including, but not limited to, managed timber harvest, periodic haying, or grazing.
- A compatible use will only be allowed if such use is consistent with the long-term protection and enhancement of the wetland, upland, highly erodible land, wildlife, and other natural values of the contract area. Grantee's written authorization shall prescribe the amount, method, timing, intensity, and duration of the compatible use.
- If access across the contract area will not adversely affect the resource protected by the contract, Grantor may be allowed access across existing roads or paths in accordance with the terms and conditions of the conservation plan.
- (a) The existing road network is more particularly described in (b)
- (c) There is no existing road network

11. Grantee's Rights. The rights of Grantee include:

- A. Management activities. Grantee shall have the right to enter the contract area to undertake, at its own expense or on a cost-share basis with Grantor or other entity, any activities to restore, protect, manage, maintain, enhance, and monitor the wetland, upland, highly erodible land, wildlife, and other natural values of the contract area. Grantee, at its own cost, may apply or impound additional waters on the contract area to maintain or improve wetland, upland, wildlife habitat, and other natural values.

- B. Access. Grantee has a right of reasonable ingress and egress to the contract area over Grantor's property, whether or not the property is adjacent to the contract area, for the exercise of any of the rights of Grantee under this contract. The authorized representatives of Grantee may utilize vehicles and other reasonable modes of transportation for access purposes.
- C. Contract management. Grantee may delegate all or part of the management, monitoring, or enforcement responsibilities under this contract to any entity authorized by law that it determines to have the appropriate authority, expertise, and resources necessary to carry out such delegated responsibilities. State or Federal agencies may utilize their general statutory authorities in the administration of any delegated management, monitoring or enforcement responsibilities for this contract. The authority to modify or terminate this contract is reserved to Grantee.
- D. Violations and remedies. The Parties agree that this contract may be introduced in any enforcement proceedings at the stipulation of the Parties; notwithstanding any violation or breach of the terms of this contract, this contract shall remain in full force. If Grantor fails to comply with any of the provisions of this contract, Grantee will declare the contract breached. If the contract is breached, the Grantor must restore the land to be in compliance with the contract and all terms of the conservation management program within 90 days. If the cure is not completed, Grantee shall have any legal or equitable remedy provided by law and the right to:
 - (1) Reinstate all or a portion of the debt. Grantee may reinstate all or a portion of the debt canceled in addition to assessing liquidated damages in the amount of 25 percent of the debt cancelled. Grantor will cooperate in executing any documents necessary to reestablish the secured debt. Such reinstated debt shall be deemed a mortgage on the real property encumbered by this contract and other lands which were under mortgage at the time this contract was entered into;
 - (2) Subsequent landowners who breach the Conservation Contract must pay the Agency the amount of the debt cancelled when the contract was executed, plus interest at the non-program interest rate to the date of payment, plus liquidated damages in the amount of 25 percent of the cancelled debt, plus any actual expenses incurred by the Agency in enforcing the terms of the Conservation Contract.
 - (3) Enter upon the contract area. Grantee retains the right to enter the contract area to perform necessary work for prevention of or remediation of damage to wetland, upland, highly erodible land, wildlife, and other natural values;
 - (4) Assess all expenses incurred by Grantee. All expenses incurred by Grantee, including any legal fees or attorney fees, may be assessed against Grantor, to be owed to Grantee immediately upon assessment.

12. General Provisions

- A. Contract modifications. The terms and conditions of this contract shall not be modified except by the Grantee as provided in Item 10. Grantee may modify the conservation plan to add or substitute conservation practices.
- B. Successors-in-interest. The rights granted to Grantee shall accrue to any of its agents, successors, or assigns. The agents, successors, or assigns shall have all of the discretionary powers of Grantee under this contract, except that the power to release or modify in any manner the terms of this contract may be exercised only by a designated employee of the U.S. Department of Agriculture. All obligations of the Grantor under this contract shall also bind Grantor's heirs, successors, agents, assigns, lessees, and any other person claiming under them. All the landowners who are parties to this contract shall be jointly and severally liable for compliance with its terms.

- C. Rules of construction and special provisions. All rights in the contract area not reserved by Grantor shall be deemed granted to Grantee. Any ambiguities in this contract to affect the conservation, recreation, or wildlife purposes shall be construed in favor of Grantee. The grants, covenants, and servitudes benefiting Grantee under this contract shall be unaffected by any action related to any loan or mortgage between Grantor and Grantee, including satisfaction or foreclosure, or by any subsequent amendments or repeal of Section 349 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1997).

- D. In the event any provision of this contract is held to be invalid, it shall be stricken while leaving the remaining provisions in force.

| | | |
|--------------------------------------|----------------|-----------|
| 13A. Borrower's Name | 13B. Signature | 13C. Date |
| 14A. Borrower's Name | 14B. Signature | 14C. Date |
| 15A. Borrower's Name | 15B. Signature | 15C. Date |
| 16A. Borrower's Name | 16B. Signature | 16C. Date |
| 17A. Authorized Agency Official Name | 17B. Title | |
| 17C. Signature | 17D. Date | |

ACKNOWLEDGEMENT

NOTE : The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 761 and the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1921 et. seq.). The information will be used to determine eligibility for landowners with FSA loans secured by real estate to qualify for cancellation of a portion of their FSA indebtedness in exchange for entry into a voluntary legal agreement (conservation contract) that restricts the type and amount of development and farming practices that may take place on portions of a landowner's property. The information collected on this form may be disclosed to other Federal, State, and local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in the applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated) and USDA/FSA-14, Applicant/Borrower. Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility for conservation contract program benefits.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0233. The time required to complete this information collection is estimated to average 60 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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