

NRCS Agreement Number: \_\_\_\_\_ for Allotted Lands

Agricultural Conservation Easement Program - Wetland Reserve Easements (ACEP-WRE)

**CONTRACT FOR 30-YEAR LAND USE**

**THIS PROGRAM CONTRACT** is made by and between \_\_\_\_\_, owners of Allotment Number \_\_\_\_\_, (“Landowners”), and the Natural Resources Conservation Service (“NRCS”), on behalf of the Commodity Credit Corporation (“CCC”). The Landowners agree to comply with all terms and conditions of this Contract. The Landowners and NRCS are collectively referred to as “the Parties.”

PART I. Authority.

Authority of NRCS. NRCS enters into this Contract pursuant to the authorities of Subtitle H of Title XII of the Food Security Act of 1985, as amended, for the Agricultural Conservation Easement Program - Wetland Reserve Easements, funded through the Agricultural Act of 2014.

PART II. Property

The lands encumbered by this Contract, referred to hereafter as the “Property” is comprised of \_\_\_\_\_ acres more or less, and is described by the legal description or spatial data set forth in EXHIBIT A, appended hereto;

TOGETHER, with any associated rights-of-way, waters, minerals, oil, gas, geothermal resources, and right of access for ingress/egress to the Property as described in EXHIBIT B, appended hereto.

PART III. Purpose

The purpose of ACEP-WRE is to assist landowners in restoring and protecting the wetland functions and values of their property. The Landowners agree that by signing this contract, they agree to the restoration and maintenance of the Property for the duration of this Contract in accordance with the Wetland Reserve Plan of Operations (“WRPO”). A copy of the WRPO is appended to this contract as EXHIBIT D.

PART IV. Contract Payment

In consideration for the Landowners’ agreement to restore and manage the land for the 30 year contract period, and consistent with the previously executed Agreement to Enter Contract for 30 Year Land Use at EXHIBIT E, NRCS will make a single lump-sum payment upon contract

execution in the amount of \_\_\_\_\_ unless the Landowners have previously requested installment payments, as specified by EXHIBIT F, if applicable. Payment will be made by the United States using Electronic Fund Transfers (EFT).

The Landowners agree and understand that 25 percent of the projected restoration costs will be withheld from the contract payment by NRCS to cover the Landowners' share of the restoration costs. The Landowners agree and understand that the actual cost of restoration may vary from the original projection. Because NRCS cannot cost-share more than 75 percent of the total restoration cost, the Landowners agree to be responsible for any increase over the original 25 percent projection and, conversely, the Landowners will receive a refund from the withheld funds should restoration costs be less than the original projection.

The Landowners must choose and initial below the method through which NRCS will provide restoration cost-share assistance.

- Method:  Landowner Agreement \_\_\_\_\_  
 Federal Contract \_\_\_\_\_  
 Partner Agreement \_\_\_\_\_

#### PART V. Duration of contract

The Contract is for a term of 30 years, to commence on the date the contract is executed by NRCS. NRCS will only execute this Contract after the Bureau of Indian Affairs (BIA) approves the contract. NRCS will send a copy of the fully-executed Contract to the designated BIA official.

#### PART VI. Management and Restoration Responsibilities of the Landowners.

A. By signing this Contract, the Landowners agree to the restoration and management of the Property in accordance with the attached WRPO (EXHIBIT D) and consistent with the provisions of this Contract.

B. In the event a landowner(s) transfer(s) the Property to another person, legal entity, or Indian Tribe prior to the Landowners fulfilling the requirements of the WRPO, and the person, legal entity, or Indian Tribe refuses to allow restoration of the Property in accordance with the approved WRPO, the Landowners agree to repay to NRCS fair compensation with interest from the date the contract is commenced.

#### PART VII. Permitted Uses of the Property During the Term of this Contract.

The Landowners may conduct the following activities and uses on the Property consistent with the terms of this Contract:

A. Control of Access. The right to prevent trespass and control access by the general public subject to the operation of Tribal and Federal law.

B. Recreational Uses. The ability to engage in undeveloped recreational uses, including undeveloped hunting and fishing and leasing of such rights for economic gain, pursuant to applicable Tribal and Federal regulations that may be in effect at the time. Undeveloped recreational uses must be consistent with the long-term protection and enhancement of the wetland and other natural values of the Property. Undeveloped recreational use may include hunting equipment, such as tree stands and hunting blinds, that are rustic and customary for the locale as determined by NRCS.

C. Traditional Cultural Uses. The ability to engage in non-commercial traditional cultural activities is permitted to the extent that such activities do not interfere with the long-term protection and enhancement of the wetland and other natural values of the Property.

D. Subsurface Resources. The ability to explore or exploit any owned rights to oil, gas, minerals, and geothermal resources underlying the Property area, provided that any drilling or mining or related activities are to be located outside the boundaries of the Property unless activities within the boundaries are specified in accordance with the terms and conditions of EXHIBIT C, which is appended to and made part of this Contract, if applicable.

E. Water uses and water rights. The right to water uses and water rights identified as reserved to the Landowners in EXHIBIT G which is appended to and made a part of this Contract, if applicable.

#### PART VIII. Obligations of the Landowners.

The Landowners agree to comply with all terms and conditions of this Contract, including the following:

A. Prohibitions. The Landowners understand and agree that by signing this Contract, the Landowners will not engage in, or allow others to engage in, the following uses and activities on the Property, unless authorized by NRCS under Part IX or specifically permitted in the WRPO:

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, wastes, 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, except as specifically set forth in EXHIBIT G, if applicable;
6. diverting or causing or permitting the diversion of surface or underground water into, within or out of the Property by any means, except as specifically set forth in EXHIBIT G, if applicable;

7. building, placing, or allowing structures to be placed on, under, or over the Property, except for structures for undeveloped recreational use or traditional non-commercial cultural uses or as provided in EXHIBIT C for mineral development;
8. planting or harvesting any crop;
9. grazing or allowing livestock on the Property;
10. disturbing or interfering with the nesting or brood-rearing activities of migratory birds;
11. use of the Property for developed recreation. These uses include but are not limited to, camping facilities, recreational vehicle trails and tracks, sporting clay operations, skeet shooting operations, firearm range operations and the infrastructure to raise, stock, and release captive raised waterfowl, game birds and other wildlife for hunting or fishing;
12. any activities which adversely impact or degrade wildlife cover or other habitat benefits, water quality benefits, or other wetland functions and values of the Property.

B. Noxious plants and pests. The Landowners are responsible for noxious weed control and emergency control of pests as required by all applicable Federal, and Tribal laws. A plan to control noxious weeds and pests must be approved in writing by NRCS prior to implementation by the Landowners.

C. Fences. Except for establishment cost incurred by NRCS and replacement cost not due to the Landowners' negligence or malfeasance, all other costs involved in maintenance of fences and similar facilities to exclude livestock shall be the responsibility of the Landowners.

D. Use of water for contract purposes. The Landowners shall use water for Contract purposes as set forth in EXHIBIT G, which is appended to and made a part of this Contract, if applicable.

E. Protection of water uses and water rights. As set forth in EXHIBIT G, if applicable, the Landowners shall undertake actions necessary to protect any water rights and water uses for contract purposes.

F. Reporting. The Landowners shall report to NRCS any conditions or events which may adversely affect the wetland, wildlife, and other natural values of the Property.

G. Survival. Notwithstanding any violations by the Landowners of the terms of this Contract or the WRPO, the Contract survives for its duration.

#### PART IX. Compatible Uses by the Landowners.

A. General. The NRCS may authorize, in writing and subject to such terms and conditions as prescribed at its discretion, the use of the Property for compatible economic uses, including, but not limited to, managed timber harvest, periodic haying, or grazing.

B. Limitations. Compatible use authorizations will only be made if such use is consistent with the long-term protection and enhancement of the wetland and other natural values of the Property. The NRCS shall prescribe the amount, method, timing, intensity, and duration of the compatible use. If NRCS authorizes a compatible use, the Landowners remain responsible for obtaining all other necessary authorizations or permits, including approvals by the BIA, as may be required by regulation or law.

PART X. Rights of NRCS. The Landowners agree that NRCS has the following rights related to the Property for the duration of this Contract:

A. Management activities. NRCS has the right to enter on to the Property to undertake, on a cost-share basis with the Landowners or other entity, any activities to restore, protect, manage, maintain, enhance, and monitor the wetland and other natural values of the Property.

B. Access. NRCS has a right of reasonable ingress and egress to the Property over other property held by the Landowners, whether or not the property is adjacent or appurtenant to the Property, for the exercise of any of the rights of NRCS under this Contract. To the extent practical, NRCS shall utilize the ingress/egress route identified in EXHIBIT B. The authorized representatives of NRCS may utilize vehicles and other reasonable modes of transportation for access purposes.

C. Property Management. The Secretary of Agriculture, by and through the NRCS, may, in consultation with the Landowners, delegate all or part of the management, monitoring, or enforcement responsibilities under this Contract to any entity authorized by law that the NRCS determines to have the appropriate authority, expertise and resources necessary to carry out such delegated responsibilities. Federal agencies may utilize their general statutory authorities in the administration of any delegated management, monitoring or enforcement responsibilities for this Property. The authority to modify or terminate this Contract is reserved to the Secretary of Agriculture in accordance with applicable law.

D. Violations and Remedies — Enforcement. The Parties agree that this Contract may be introduced in any enforcement proceeding as the stipulation of the Parties hereto. If NRCS determines that any Landowner is in violation of the terms of this Contract, or the terms of documents incorporated by reference into this Contract, the Landowners shall be given reasonable notice and an opportunity to voluntarily correct the violation within 30 days of the date of notice, or such additional time as the State Conservationist determines is necessary to correct the violation. If there is a continued failure of the Landowners to comply with any of the provisions of this Contract, NRCS or other delegated authority shall have any legal or equitable remedy provided by law, including the right to wholly or partially recapture payments paid to the Landowners, and the right:

1. To enter upon the Property to perform necessary work for prevention of or remediation of damage to wetland or other natural values; and,
2. To assess all expenses incurred by NRCS (including any legal fees or attorney fees) against the Landowners, to be owed immediately to the United States.

## PART XI. General Provisions

A. Landowners agree that officers and authorized agents of NRCS have, at all reasonable times, the right to enter upon the Property for any purpose related to the implementation of this Contract, including inspection of the Property and the resources upon it, restoration planning, survey, and other due diligence work related to this Contract.

B. Landowners agree not to do or authorize others to do any act by which the value of the Property may be diminished or devalued, including the extraction of resources or materials (for example, oil, gas, minerals, timber), except as otherwise provided in this Contract; the manipulation of topography; or the release of hazardous materials or substances.

C. In the event of any violation of any of the terms of this Contract, and following the notice and opportunity to cure specified in Part X, NRCS may terminate this contract and require repayment by Landowners of costs incurred by NRCS in furtherance of this Contract.

D. Upon notice to the Landowners, NRCS may, at its discretion and without liability, terminate this Contract at any time due to the lack of availability of funds, risk of hazardous substance contamination, or other reason.

E. The Parties agree that this Contract may not be assigned in whole or in part, except with advance permission of NRCS.

F. The Parties agree that no Member or Delegate to Congress or Resident Commissioner shall be a party to any share or part of this Contract.

G. Any changes to this Contract or the WRPO will require an amendment of this agreement and must be consistent with the ACEP-WRE regulations. Contract or WRPO modification requires the approval of both Parties.

H. Exhibits appended hereto are fully incorporated into and made part of the terms of this Contract.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Landowner(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_, before me personally appeared \_\_\_\_\_, a single person, known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that she/he executed the same.

(SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_ County, \_\_\_\_\_

My commission expires: \_\_\_\_\_

**ACCEPTANCE BY NATURAL RESOURCES CONSERVATION SERVICE:**

I \_\_\_\_\_(Name), \_\_\_\_\_(Title), being the duly authorized representative of the United States Department of Agriculture, Natural Resources Conservation Service, do hereby accept this Contract with respect to the rights and duties of the United States of America.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**APPROVAL BY BUREAU OF INDIAN AFFAIRS:**

I \_\_\_\_\_(Name), \_\_\_\_\_(Title), being the duly authorized representative of the United States Department of Interior, Bureau of Indian Affairs, do hereby approve this Contract.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

## **NONDISCRIMINATION STATEMENT**

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## **PRIVACY ACT STATEMENT**

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 522a). Furnishing this information is voluntary; however, failure to furnish correct, complete information will result in the withholding or withdrawal of such technical or financial assistance. The information may be furnished to other USDA agencies, the Internal Revenue Service, the Department of Justice, or other State or Federal Law enforcement agencies, or in response to orders of a court, magistrate, or administrative tribunal.