

SAMPLE

Contract #:

TRI-COUNTY COUNCIL FOR SOUTHERN MARYLAND

TOBACCO BUYOUT AGREEMENT

THIS TOBACCO BUYOUT AGREEMENT (hereinafter “Agreement”), dated this 1 day of January 2005, is by and between tobacco grower _____ (hereinafter “Grower,” as defined to include an individual or entity, including officers, members, shareholders, or partners created by the Grower after the date of this Agreement) and the Tri-County Council for Southern Maryland, a government agency created pursuant to Art. 20 § 1-101, et seq., Md. Ann. Code, and acting as agent for the State of Maryland (hereinafter “Council”);

WHEREAS, the Council is responsible for implementing a strategic plan to buy a tobacco grower’s right to grow tobacco;

WHEREAS, the Grower has applied to participate in the Council’s voluntary tobacco buyout program;

WHEREAS, the Grower agrees not to grow, harvest, or store any tobacco crop in the State of Maryland, including on the Grower’s owned, leased, or operated land.

NOW, THEREFORE, in consideration of the sum of \$ _____ per year for ten years, the Grower agrees to refrain from doing any of the various acts described below.

Article I

Conditions, Limitations, and Restrictions

Grower Duties and Responsibilities

The Grower agrees:

(A) To give up, as of the date of this Agreement and for the

remainder of the Grower's life, the right to ever plant, grow, harvest, or store tobacco (except for the 2004 crop year) on behalf of the Grower or others on any land, building, or other structure owned, leased, utilized, or operated by the Grower. The Grower also agrees as of the date of this Agreement and for the remainder of the Grower's life not to allow anyone else to plant, grow, or store tobacco on any land, building, or other structure owned, leased, utilized, or operated by the Grower. The Grower agrees as of the date of this Agreement and for the remainder of the Grower's life not to have any interest whatsoever in the production of tobacco.

If the Grower owns land, the Grower also agrees to place a covenant on the land, enforceable by the Council that prohibits any future owner from growing tobacco on the land for a period of 10 years from the date of this Agreement. The Grower acknowledges that Attachment A will be signed by the Grower and filed by the Council among the county land records restricting the land as described in this section.

(B) The Grower agrees to remain in agricultural production for a period of 10 years from the date of this Agreement as a condition to payment under this Agreement. The Grower agrees to submit Attachment B to the Council on an annual basis to qualify for payment.

Article II

Council Duties and Responsibilities

The Council, subject to the availability of state or local funds, agrees as follows:

(A) To pay the Grower the annual amount of \$ ____ for 10 years from the date of this Agreement. This amount is based on:

\$1.00 per pound x the average number of pounds sold by the Grower during 1997,

1998, and 1999, as indicated by verifiable Maryland Department of Agriculture records.

(B) Upon the Grower's death, to pay the Grower's estate the annual amount due, as provided in section (A) of this Article.

(C) To pay the Grower a bonus, if the Grower sells a perpetual agricultural land preservation easement that includes a covenant not to grow tobacco to a qualifying agricultural land preservation program approved by the Council. The bonus is 10% of the easement's price and is subject to the availability of budgeted funds.

(D) Upon the Grower's written application, to consider an exception at the Council's sole discretion to Article 1 of this Agreement, for the purpose of producing tobacco that is not for human consumption or smoking, for the purpose of allowing the Grower to work on a limited basis for a person who is not related to the Grower in that person's tobacco business, or for the purpose of granting an exemption from the agricultural production requirement in Article 1(B) of this Agreement because of the Grower's age or physical condition. An exception may be granted only upon review and written approval of the Council.

Article III

Non-assignment of Payment

Except as provided in Article II(B) of this Agreement, the Grower agrees that the right to payment under this Agreement may not be assigned or otherwise transferred to any individual or entity.

Article IV

Default and Violation of the Tobacco Buyout Agreement

The Grower agrees that a default of this Agreement occurs if the Grower violates any provision of Articles I or VI of this Agreement. Upon

default by the Grower, the Council shall be entitled to those remedies set forth in Article VIII.

Article V

Termination of Tobacco Buyout Agreement

The Council and the Grower agree this Agreement terminates without any obligation on either party if funds are not appropriated by the Legislature to pay the Grower.

Article VI

Right to Monitor for Compliance

After notice to the Grower, the Council or its authorized representative shall have the right to enter any land owned, leased, or operated by the Grower, including any barns or other structures where tobacco may be stored from time to time, for the sole purpose of inspection and enforcement of the conditions, limitations, and restrictions herein contained.

Article VII

Amendment

No provision of this Agreement may be amended or changed in any manner without prior written approval of the Council.

Article VIII

Enforcement

This Agreement may be enforced by the Council, or any other department, agency, or public body authorized by the Council. Upon proof of a default or violation of this Agreement by the Grower, as provided in Article IV, the Council may, after notice to the Grower, bring an action to enjoin, by ex parte, temporary or permanent injunction any

default or breach of this Agreement. Upon default, the Grower agrees to grant the Council a lien with the power to possess and to sell any tobacco crop grown, growing, or to be grown or otherwise owned, in whole or in part, or hereinafter acquired whether planted, harvested, or stored on the property of the Grower whether owned or leased in the State of Maryland. Furthermore, that upon any default, the Council has the right to require the Grower to repay any money, including collection expenses and attorneys' fees, with 6% annual interest, paid by the Council to the Grower under this Agreement.

WITNESS, the hand of the Grower and the Council as of the date of this Agreement.

Grower

WITNESS

Grower

WITNESS

Tri-County Council for
Southern Maryland

WITNESS

Approved as to legal form and sufficiency this ___ day of _____, 200__.

Assistant Attorney General