

*Prepared by and kindly
Record and return to:*

Growth Management Division, Planning & Regulation
Planning & Zoning Department, Comprehensive Planning Section
2800 N. Horseshoe Drive
Naples, FL 34104

**COLLIER COUNTY
LIMITATION OF DEVELOPMENT RIGHTS AGREEMENT**

THIS LIMITATION OF DEVELOPMENT RIGHTS AGREEMENT (Agreement) is entered into on this _____ day of _____, 20____, by Name/Address: _____

(hereinafter “Property Owner”), to Collier County, Florida, a political subdivision of the State of Florida, having a mailing address of: 3299 E. Tamiami Trail, Naples, FL 34112, (hereinafter “County”).

RECITALS

A. The County has adopted amendments to the Future Land Use Element of the Collier County Growth Management Plan (“FLUE Amendments”) that are designed to prevent the premature conversion of agricultural lands to other uses and to direct incompatible uses away from wetlands and upland habitat in order to protect water quality and quantity, to maintain the natural water regime, and to protect listed species of fish, plants and wildlife and their habitats.

B. The FLUE Amendments delineate a Transfer of Development Rights (“TDR”) process in order to provide an equitable method of protecting and conserving the most valuable environmental lands, including large connected wetland systems and significant areas of habitat for listed species of fish, plants and wildlife, while allowing owners of such lands to recoup lost value and development potential through an economically viable process of transferring the development rights in such lands to other, more suitable lands.

C. The Transfer of Development Rights process permits a landowner to sever development rights attached to the subject property for transfer as developer credits (verified and registered with the County) (the “TDR Credits”) to other lands more suitable for development. A condition precedent to the establishment of the TDR Credits is the limitation of development rights impressed upon the Sending Lands (as hereafter defined) that restricts uses of such Sending Lands to those uses permitted under Subsection 2.03.08 A.4.b of the Collier County Land Development Code.

D. The FLUE Amendments include establishment of a land use classification system identified as Sending Lands within the Rural Fringe Mixed Use District (“Sending Lands”). The Sending Lands classification includes those lands that have the highest degree of environmental value and sensitivity and generally include significant wetlands, uplands, and/or habitat for listed plant and animal species, such that the Sending Lands are principal targets for preservation and conservation.

E. The Property Owner is the owner in fee simple of certain real property in Collier County, Florida, more particularly described in Exhibit “A” attached hereto and incorporated by this reference (“the Property”). As of the effective date of this Agreement, the Property is designated as a Sending Land on the Future Land Use Map of the Collier County Growth Management Plan.

F. The Property Owner desires to sever the development rights from the Property and to establish TDR Credits therefore in the manner specified in the Collier County Land Development Code.

G. The County and the Property Owner have agreed hereby to restrict the uses on the Property to those set forth in Section 2.03.08 A.4.b of the Collier County Land Development

Code. The County has agreed to recognize and register _____TDR (Base) Credits in exchange for the limitation of development rights attributable to the Property.

H. This Agreement is made pursuant to, and in full compliance with, the TDR process established in the FLUE Amendments and Subsections 2.03.07 D.4.f of the Collier County Land Development Code to enable the transfer of the TDR Credits to other lands and to impose limitations upon development rights attributable to the Property.

AGREEMENT

In consideration of the mutual covenants, terms, conditions and restrictions contained and imposed by this Agreement, including, but not limited to, the severance of development rights from the Property and the creation of TDR Credits, the parties agree to the following terms and conditions:

1. Recitals. The parties acknowledge that the foregoing recitals are true and correct.
2. Limitation of Development Rights. The Property Owner agrees to limit the development rights over and across the Property forever, subject to the terms and conditions stated in this Agreement. The Property Owner fully warrants the fee title to the Property and will defend the same against the lawful claims of all persons whomsoever.
3. Purpose. The purpose of this Agreement is to restrict the development and use of the Property, from which TDR Credits have been severed, in order to promote the protection and conservation of valuable environmental lands and to protect against the premature conversion of the Property from agricultural use.
4. Reserved Right of Possession. The Property Owner shall have the right to sell, give, or otherwise convey the Property, or any portion of the Property, subject to the terms of this Agreement; provided, however, the instrument of any such conveyance shall specifically set

forth that the interest thereby conveyed is subject to all of the terms and conditions of this Agreement, and the instrument of conveyance shall incorporate this Agreement by reference, specifically setting forth the date and page of its recording; provided, however, that the failure of any such instrument to comply with the provisions of this Paragraph shall not affect the County's rights pursuant to this Agreement.

5. Prohibited and Allowed Uses. The Property Owner, and its successors and assigns, may use the Property only for uses allowed in Sending Lands where residential density has been transferred, as set forth in the Collier County Growth Management Plan and Subsection 2.03.08 A.4.b of the Collier County Land Development Code.

6. Effective Date. This Agreement shall be deemed effective upon the date of its recordation in the Public Records of Collier County, Florida. Prior to this Agreement being effective, the Property Owner hereby agrees that it shall not allow any activities on the Property which are contrary to the terms and conditions contained in this Agreement.

7. Enforcement. Pursuant to the Collier County Land Development Code, the terms and conditions of this Agreement may be enforced by the County, or its respective successors and assigns. This Agreement may be enforced by injunction or proceeding in equity or at law. The enforcement, or attempted enforcement, of rights held by the County pursuant to this Agreement shall not subject the County to any liability for any damage or injury that may be suffered by any person on the Property, or as a result of the condition of the Property.

8. General. This Agreement is entered into pursuant to the Collier County Land Development Code, and shall be interpreted in accordance with laws of the State of Florida. All headings contained herein are for informational purposes only and shall not be construed as defining or limiting the terms of this Agreement.

9. County's Discretion. The County may enforce the terms of this Agreement at its discretion, but if the Property owner breaches any term of this Agreement and the County does not exercise its rights under this Agreement, the County's forbearance shall not be construed to be a waiver by the County of such term, or of any subsequent breach of the same, or any other term of this Agreement, or of any of the County's rights under this Agreement. No delay or omission by the County in the exercise of any right or remedy upon any breach by the Property Owner shall impair such right or remedy or be construed as a waiver. The County shall not be obligated to the Property Owner, or to any other person or entity, to enforce the provisions of this Agreement.

10. Rights of the Public. Nothing contained in this Agreement shall give or grant to the public a right to enter upon, or to use the Property, or any portion thereof where no such right existed in the public immediately prior to the execution of this Agreement, except as may be granted or expressly authorized by Property Owner.

11. Limitation or Severance of Invalid Provisions. If any provision of this Agreement restricting Property Owner's activities is determined to be invalid or unenforceable by a court, such provision shall not be rendered a nullity if the provision can be reduced or limited to the extent that the court determines will make it enforceable and effective. If any provision of this Agreement is determined to be completely invalid or unenforceable by a court, such provision shall be severed from the other provisions, and the remaining provisions shall remain enforceable and effective.

12. Modifications. This Agreement may be modified only upon the written consent of both the Property Owner and the County, or their respective heirs, representatives, successors or assigns; provided, however, no modification of this Agreement may be made that would result in

this Agreement failing to qualify as a Limitation of Development Rights Agreement pursuant to the Collier County Land Development Code.

13. Recording. The County shall record this Agreement in timely fashion in the Official Records of Collier County, Florida, and may rerecord it at any time the County may require to preserve its rights. The Property Owner, or such person to whom the Property Owner conveys the TDR Credits severed from the Property, shall pay all recording costs and taxes necessary to record this Agreement for the first time in the public records.

14. Successors. The covenants, terms, conditions and restrictions of this Agreement shall run with the title to the Property and shall be binding upon, and insure to the benefit of, the respective parties hereto and their respective personal representatives, heirs, successors and assigns and shall constitute as a servitude running in perpetuity with the title to the Property.

IN WITNESS WHEREOF, the Property Owner and County have executed this Agreement on the day and year first above written.

Executed and delivered
in our presence as WITNESSES:

PROPERTY OWNER(S):

Witness Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Witness Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____day of _____
20____, by _____, who is personally known to me or produced as
identification _____.

(Notary Seal)

Notary Public Signature

Print Name: _____

My Commission Expires: _____

Commission No. _____

COUNTY:
Board of County Commissioners of
Collier County, Florida

By: _____
Michael Bosi, Director
Planning & Zoning Department
Comprehensive Planning Section
Pursuant to Resolution #07-218

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing Collier County Limitation of Development Rights Agreement was acknowledged before me this ____ day of _____, 20____, by Michael Bosi, Interim Director of Comprehensive Planning Section, Land Development Services Department, on behalf of the County. He is personally known to me.

(Notary Seal)

Notary Public Signature
Print Name: Marcia R. Kendall
My Commission Expires: August 03, 2016
Commission No. #EE 185905

Approved as to form
and legal sufficiency:

Heidi Ashton-Cicko or Emily R. Pepin,
Managing Assistant County Attorney/Assistant County Attorney
[remove one as necessary]