

RESOLUTION NO. 2017- 185

**A RESOLUTION OF THE COLLIER COUNTY BOARD OF
COUNTY COMMISSIONERS AMENDING RESOLUTION 2008-
329, RELATING TO THE STEWARDSHIP SENDING AREA
WITH A DESIGNATION AS "CLH AND CDC SSA 15";
APPROVING THE EXTENSION OF CERTAIN DATES TO
NOVEMBER 18, 2020 IN THE STEWARDSHIP SENDING AREA
CREDIT AGREEMENT AND THE ESCROW AGREEMENT
FOR CLH AND CDC SSA 15.**

WHEREAS, on November 18, 2008, by Resolution No. 2008-329, the Board of County Commissioners created a Stewardship Sending Area with a designation of "CLH and CDC SSA 15" and entered into a Stewardship Sending Area Credit Agreement, a Stewardship Easement Agreement and an Escrow Agreement with Collier Land Holdings, Ltd. and CDC Land Investments, LLC; and

WHEREAS, on September 10, 2013, by Resolution No. 2013-200, the Board of County Commissioners approved the extension of certain dates to November 18, 2014 in the Stewardship Sending Area Credit Agreement and the Escrow Agreement for CLH and CDC SSA 15; and

WHEREAS, on September 23, 2014, by Resolution No. 2014-186, the Board of County Commissioners approved the extension of certain dates to November 18, 2017 in the Stewardship Sending Area Credit Agreement and Escrow Agreement for CLH SSA 15; and

WHEREAS, Collier Land Holdings, Ltd. and CDC Land Investments, LLC, represented by Richard Yovanovich, Esquire of Coleman, Yovanovich & Koester, PA, have requested an extension to certain time frames to November 18, 2020 in the Stewardship Sending Area Credit Agreement for CLH and CDC SSA 15 and the Escrow Agreement for CLH and CDC SSA 15; and

WHEREAS, the Board of County Commissioners agrees to the requested extensions.

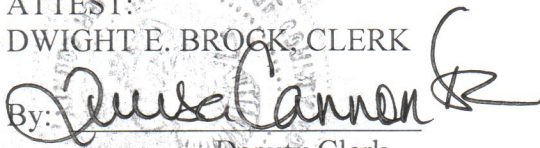
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

1. The third amendment to the Stewardship Credit Agreement for CLH and CDC SSA 15, attached hereto as Exhibit 1, is hereby approved.
2. The third amendment to the Escrow Agreement for CLH and CDC SSA 15, attached hereto as Exhibit 2, is hereby approved.

140

This Resolution adopted after motion, second and majority vote, this 10th day of October, 2017.


ATTEST:
DWIGHT E. BROCK, CLERK

By: 
Deputy Clerk
Attest as to Chairman's
signature only.

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: 
PENNY TAYLOR, Chairman

Approved as to form and legality:

 HFAC
Heidi Ashton-Cicko 9-6-17
Managing Assistant County Attorney

Attachments:

- Exhibit 1 – Third Amendment to Stewardship Credit Agreement for CLH and CDC SSA15
- Exhibit 2 – Third Amendment to Escrow Agreement for CLH and CDC SSA 15

Exhibit 1

THIRD AMENDMENT TO
STEWARDSHIP SENDING AREA CREDIT AGREEMENT
(CLH and CDC SSA 15)

THIS THIRD AMENDMENT TO STEWARDSHIP SENDING AREA CREDIT AGREEMENT (hereinafter referred to as the "Amendment") is made and entered into this 10th day of October, 2017, by and between COLLIER COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "County" whose mailing address is the Harmon Turner Building, 3299 East Tamiami Trail, Naples, Florida 34112, and Collier Land Holdings, Ltd., a Florida Limited Partnership ("CLH") and CDC Land Investments, LLC, a Florida Limited Liability Company ("CDC") hereinafter individually and jointly referred to as "Owner", whose mailing addresses are 2550 Goodlette Road North, Suite 100, Naples, Florida 34103, for the purpose of extending certain dates.

WITNESSETH:

WHEREAS, Owner submitted, and the County reviewed, a SSA Designation Application filed with the County on May 27, 2008 for the CDC and CLH SSA 15 land; and

WHEREAS, the County and Owner entered into a Stewardship Sending Area Credit Agreement ("CLH and CDC SSA 15") on November 18, 2008 ("Agreement"); and

WHEREAS, on September 10, 2013 the County approved the First Amendment to the Agreement to extend certain dates by one year; and

WHEREAS, on September 23, 2014 the County approved the Second Amendment to Agreement, which Second Amendment extended the date by which the SSA 15 stewardship credits must be exchanged for development of the Town of Rural Lands West SRA to November 18, 2017 ("Deadline"); and

WHEREAS, due to the complexity of the regulatory regime and the multiple governmental and quasi-governmental actors involved in such approvals, the Parties desire to extend the Deadline, as more particularly set forth herein.

NOW THEREFORE in consideration of the above premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of the mutual covenants contained herein, the parties agree as follows:

1. The above recitals are true and correct and incorporated herein by reference. Any capitalized terms not expressly defined herein shall have the definition set forth in the Escrow Agreement.

2. Any reference in the Agreement to the "Town of Big Cypress" shall be replaced

with the following reference:

“Town of Rural Lands West SRA”.

3. Paragraph 8 of the Stewardship Sending Area Credit Agreement (CDC and CLH SSA 15) is amended to read as follows:

Restriction on Land Use Amendments.

Upon designation of the land described in Exhibit “A” as an SSA, the Owner shall not seek or request, and the County shall not grant nor approve, any increase in the density or any additional uses beyond those specified in this Agreement. One thousand eight hundred and twenty six and nine tenths (1826.9) acres of the lands subject to this Agreement are within a Habitat Stewardship Area (HSA) and two thousand one hundred and ninety eight and five tenths (2,198.5) acres of the lands subject to this Agreement are within a Flow Way Stewardship Area (FSA) and one thousand two hundred and twenty two, three tenths (1,222.3) acres of Water Retention Area (WRA) and eleven and two tenths (11.2) acres are designated open as depicted on the RLSA Overlay Map, officially entitled “Collier County Rural and Agricultural Area Assessment Stewardship Overlay Map”. Upon designation of these lands as an SSA, the Owner shall neither seek nor request, and the County shall not in violation of Sections 4.08.06 A.2. and 3., thereafter grant or approve any expansion or conversion of agricultural land uses. Notwithstanding any condition herein to the contrary, this Agreement and the Stewardship easement shall terminate on ~~November 18, 2017~~ November 18, 2020 unless the CDC and CLH SSA 15 Stewardship Credits have been exchanged for the ~~Town of Big Cypress SRA~~ the Town of Rural Lands West SRA, and the ~~Town of Big Cypress SRA~~ the Town of Rural Lands West SRA has received all necessary final and non-appealable local, state and federal permits other than a plat, site development plan or building permit necessary to commence construction of the Town. All affirmative obligations and negative covenants contained in this Agreement and the Stewardship Easement shall be null and void upon such termination without further action from the parties hereto. Upon Such termination the land shall revert to its underlying zoning classification as of the date of this Agreement, free and clear of any encumbrance from the Stewardship Easement. If requested by the Owner, Collier County shall provide a written release and termination of this Agreement and the Stewardship easement for recording in the public records within fifteen (15) days of the request from the owner. Collier County shall update the overlay map to reflect the termination of CDC and CLH SSA 15 or any SRA.

2. Except as amended herein, the Agreement shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their duly authorized officers or representatives and their official seals hereto affixed the day and year first written above.

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: 

Penny Taylor, Chairwomen

ATTEST:
DWIGHT E. BROCK, Clerk

By: 

Attest as to Chairman's
signature only.

APPROVED as to Form and
Legal sufficiency:



Heidi Ashton-Cicko, Managing Assistant County Attorney

Signatures continue on the following pages.

WITNESS:

COLLIER LAND HOLDINGS, LTD.
A Florida Limited Partnership

Sandra Mahoney
(Signature)

Sandra Mahoney
(Print full name)

Val D.
(Signature)

Valerie Pike
(Print full name)

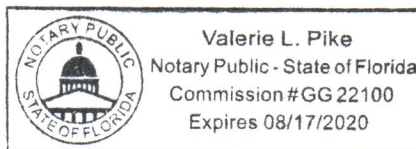
By: Collier Enterprises, Inc. a
Florida Corporation,
it's General Partner

By: Patrick L. Utter
Printed Name: Patrick L. Utter
Title: Vice President

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing Amendment to Stewardship Sending Area Credit Agreement was executed before me this 6th day of September, 2017, by Patrick L. Utter, as Vice President of Collier Enterprises, Inc., General Partner of Collier Land Holdings, Ltd., said person personally known to me ~~or produced~~ as identification.

Val L. D.
Notary Public
Name: Valerie L. Pike



Signatures continue on the following page.

WITNESS:

Sandra Mahoney
(Signature)

SANDRA MAHONEY
(Print full name)

Val D.
(Signature)

Valerie Pike
(Print full name)

CDC Land Investments, LLC
a Florida Limited Liability Company
By: CDC Land Investments, Inc., its

By: Patrick L. Utter
Printed Name: PATRICK L. UTTER
Title: VICE PRESIDENT

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing Amendment to Stewardship Sending Area Credit Agreement was executed before me this 6th day of September, 2017, by Patrick L. Utter, as Vice President of CDC Land Investments, Inc., the Manager of CDC Land Investments, LLC., said person being personally know to me ~~or~~ produced as identification.

Val D.
Notary Public
Name: Valerie L. Pike

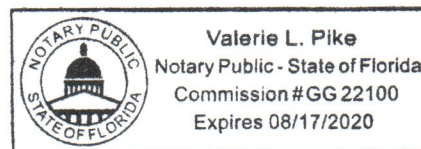


Exhibit 2

THIRD AMENDMENT TO ESCROW AGREEMENT (CLH and CDC SSA 15)

This THIRD AMENDMENT TO ESCROW AGREEMENT ("Amendment") is made as of the 10th day of October, 2017 by and between Collier County, a political subdivision of the State of Florida ("County"), Collier Land Holdings, Ltd., a Florida limited partnership ("CLH") and CDC Land Investments, LLC, a Florida Limited Liability Company ("CDC"), and COLEMAN, YOVANOVICH & KOESTER, P.A., (the "Escrow Agent. The County, CLH and CDC, and Escrow Agent are collectively referred to herein as the "Parties".

RECITALS

WHEREAS, Collier County, CLH, CDC and Escrow Agent's Successor entered into an Escrow Agreement on November 18, 2008, as subsequently amended, pertaining to the Stewardship Sending Area designated as CLH and CDC SSA 15 ("Escrow Agreement"); and

WHEREAS, on September 10, 2013 the County approved the First Amendment to the Escrow Agreement to extend certain dates by one year; and

WHEREAS, on September 23, 2014, the County approved the Second Amendment to Escrow Agreement, which Second Amendment extended the date by which CLH and CDC must deliver certain approvals to Escrow Agent to November 18, 2017 ("Deadline"); and

WHEREAS, due to the complexity of the regulatory regime and the multiple governmental and quasi-governmental actors involved in such approvals, the Parties desire to extend the Deadline, as more particularly set forth herein.

AGREEMENTS

NOW THEREFORE, in consideration of the mutual promises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The above recitals are true and correct and incorporated herein by reference. .
2. Any reference in the Escrow Agreement to the "Town of Big Cypress" shall be replaced with the following reference:

"Town of Rural Lands West SRA".

3. Paragraph 3 of the Escrow Agreement is amended to read as follows:

3. The Escrow Agent shall deliver the original Documents to the County for



recording in the public records of Collier County upon presentment of the following by CLH and CDC:

- a. An approved SRA for the ~~Town of Big Cypress~~ Town of Rural Lands West SRA which requires the exchange of Stewardship Credits from CLH and CDC SSA 15 for the additional residential and non-residential entitlements; and
- b. All necessary final and non-appealable development orders, permits, or other discretionary approvals necessary to construct the ~~Town of Big Cypress~~ Town of Rural Lands West SRA consistent with the provisions of Section 4.08.07 of the Collier County Land Development Code; and

In the event the approvals referenced above are not delivered to the Escrow Agent on or before ~~November 18, 2017~~ November 18, 2020, this Escrow Agreement shall terminate and the original Documents shall be returned to CLH and CDC. If a challenge and/or appeal of a necessary development order, permit or other discretionary approval are filed, CLH, CDC and County may elect to extend the Escrow Agreement by written agreement until the challenge or appeal is finally resolved. If the challenge or appeal is not resolved such that the construction may commence under terms acceptable to CLH and CDC, CLH and CDC may within 180 days of the final disposition of the challenge or appeal terminate this Escrow Agreement.

4. Except as amended herein, the Escrow Agreement dated November 18, 2008 remains in full force and affect.
5. Executed counter-part copies of the original of this document shall be treated as if the originals were so executed and shall bind the executing party and shall have the same force and effect as the original. Execution of this Agreement by facsimile shall be treated as an original.



IN WITNESS WHEREOF, the parties hereto have executed this Amendment Escrow Agreement by their duly authorized officers or representatives and their official seals hereto affixed the day and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

COLLIER COUNTY CLERK OF COURTS

By: 

Attest as to Chairman's

signature only.

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: 

Heidi Ashton-Cicko, Managing Assistant County Attorney

By: 

Penny Taylor, Chairwomen

Signatures continue on the following pages.

WITNESS:

Sandra Mahoney
(Signature)

Sandra Mahoney

(Print full name)

Val P.
(Signature)

Valerie Pike
(Print full name)

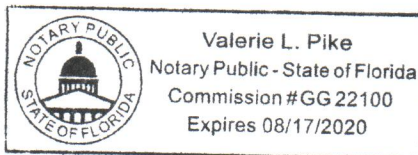
COLLIER LAND HOLDINGS, LTD.
A Florida Limited Partnership

By: Collier Enterprises, Inc. a
Florida Corporation,
it's General Partner

By: Patrick L. Utter
Printed Name: Patrick L. Utter
Title: Vice President

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing Escrow Agreement was executed before me this 6th day of SEPTEMBER,
2017, by Patrick L. Utter, as Vice President of Collier Enterprises, Inc.,
General Partner of Collier Land Holdings, LTD, said person being personally known to me ~~or~~
~~produced~~ as identification.



Val P.
Notary Public
Name: Valerie L. Pike
Certificate No. GG 22100
My Commission expires: 8-17-2020

Signatures continue on the following pages.

WITNESS:

Sandra Mahoney
(Signature)

Sandra Mahoney
(Print full name)

Val P -
(Signature)

Valerie Pike
(Print full name)

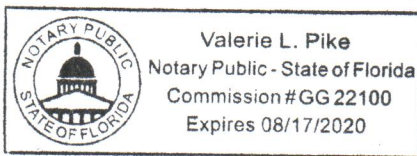
CDC Land Investments, LLC,
A Florida Limited Liability Company

By: CDC Land Investment, Inc., its manager

By: Patrick L. Urrutia
Printed Name: Patrick L. Urrutia
Title: Vice President

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing Escrow Agreement was executed before me this 6th day of September, 2017, by Patrick L. Urrutia, as Vice President of CDC Land Investments, Inc., the manager of CDC Land Investments, LLC., said person being personally know to me or produced as identification.



Val P -
Notary Public
Name: Valerie L. Pike
Certificate No. GG 22100
My Commission expires: 8-17-2020

ESCROW AGENT:
COLEMAN, YOVANOVICH & KOESTER, P.A.

Richard D. Yovanovich
By: Richard D. Yovanovich, Esq.
Its: Vice President
Date: 9/16/17