Prepared by and return to:

Derek D. Perry, Esq.

Collier County Attorney’s Office

3299 Tamiami Trail East, Suite 800

Naples, FL 34112

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**FLOW-WAY EASEMENT AND AGREEMENT FOR**

**BELLE MEADE FLOW-WAY TDR BONUS CREDITS**

**THIS FLOW-WAY EASEMENT AND AGREEMENT** (hereinafter, “Agreement”), made this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_, between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, whose mailing address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as Grantor, and COLLIER COUNTY, a political subdivision of the State of Florida, whose mailing address is c/o County Attorney’s Office, 3299 Tamiami Trail E., Ste. 800, Naples, FL 34112, as Grantee.

RECITALS:

1. Grantor owns certain real property by virtue of a Deed recorded in Official Records Book \_\_\_\_\_\_\_, Page \_\_\_\_\_\_, of the Public Records of Collier County, Florida.
2. Grantor entered into a Limitation of Development Rights agreement to receive base Transfer of Development Rights (“TDR”) credits, recorded in Official Records Book \_\_\_\_\_\_\_, Page \_\_\_\_\_\_, of the Public Records of Collier County, Florida, incorporated herein by reference.
3. The Future Land Use Element of the Collier County Growth Management Plan (FLUE), Future Land Use Designation, Description Section, section II.B.1.C.4.c) (found beginning on page 96 of the FLUE) states:

For Sending Land properties in private ownership located within, or partially within, the Belle Meade Hydrologic Enhancement Overlay (BMHEO), the Environmental Restoration and Maintenance TDR Bonus Credit shall be granted when, within two (2) years of the effective date of this provision: (1) the property owner provides a “Flow-Way Easement” to Collier County; and, (2) the property owner removes the invasive exotic plants from the parcel. The County will assume responsibility for the recording of the easement and the perpetual exotic maintenance of the parcel as a condition of the property owner granting the easement.

1. The Future Land Use Element of the Collier County Growth Management Plan (FLUE), Future Land Use Designation, Description Section, section II.B.1.C.6 states:

Belle Meade Flow-Way TDR Bonus: Owners of private property located within or partially within the Belle Meade Hydrologic Enhancement Overlay (BMHEO), as depicted on the BMHEO Map, may sever development rights from Sending Lands at a maximum rate of 0.4 TDR credits per acre (2 TDR Credits per five acres) or legal nonconforming lot of record in exchange for providing a “Flow-Way Easement” to Collier County. Eligibility is limited to within two (2) years of adoption of the establishment of the BMHEO. Eligible parcels are identified on the Belle Meade Hydrologic Enhancement Overlay Area Flow Way TDR Bonus Credit Eligibility Map, adopted by separate resolution (Res. 23- 098A).

1. The subject property described in Exhibit “A”, attached hereto and incorporated herein by reference (the “Easement Area”), (1) is located within or partially within the Belle Meade Hydrologic Enhancement Overlay (BMHEO), and (2) has had invasive exotic plants removed from it by the property owner, as determined by the County Manager or their designee.
2. The Grantor seeks to convey a Flow-Way Easement to the Grantee to obtain 0.4 TDR credits per acre (2 TDR Credits per five acres), for a total bonus of \_\_\_\_ TDR credits.
3. Grantee desires to obtain an easement over, under, upon and across a portion of Grantor’s property, in exchange for bonus TDR credits pursuant to those aforementioned portions of the FLUE, 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.

WITNESSETH:

That said Grantor, for and in consideration of the sum of $10.00 and other valuable consideration in hand paid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and transferred, and by these presents does grant, bargain, sell and transfer unto Grantee, ***a permanent, non-exclusive Flow-Way Easement***(hereinafter, “Easement”) over, under and across a portion of the property more particularly described in Exhibit “A”, attached hereto and incorporated by reference.

The Grantor reserves unto itself, its heirs, successors or assigns, the right to the continued free use and enjoyment of the property herein described, for any purposes which are not inconsistent with the rights granted herein unto the Grantee.

The Grantee has the right to access across the property described above to install, place, or otherwise maintain the free flow of water, stormwater, and/or drainage runoff. However, the Grantee shall not be held responsible for the maintenance of the free flow of water, stormwater, and/or drainage runoff for all other stormwater improvements which only serve the use of the Grantor, its heirs, successors, assigns and/or designees.

The Grantor, and its heirs, successors, and assigns, accept all responsibility for the placement of non-structure surface improvements within the Easement described herein. The Grantor, and its heirs, successors, and assigns agree to assume all risk of and indemnify, defend, and save harmless the Grantee, and its officials, employees, agents, contractors and all other permitted agencies, from and against any and all losses, damages, costs, expenses, claims, lawsuits and/or judgments, including attorney’s’ and experts’ fees, arising in any manner as a result arising out of or in connection with any undertaking arising out of or otherwise related to this Easement.

The Grantor, and its heirs, successors, and/or assigns agree to remove and/or replace any portion of said non-structure surface improvements, should the Grantee and/or any agency exercise their rights to use any portion of the Easement. Grantor shall remove the invasive exotic plants from the Easement by June 23, 2025. Grantee will assume responsibility for the recording of the easement and the perpetual exotic maintenance of the parcel as a condition of the Grantor granting this Easement.

This Agreement shall constitute a covenant running with the land and shall be binding upon the undersigned Parties. This Agreement shall be recorded with the Clerk of the Circuit Court in the Public Records of Collier County, Florida.

IN WITNESS WHEREOF, Grantor and Grantee have executed this instrument on the day and year first above written.

As to Grantor:

Witnesses:

Signature (Witness 1) **[name of grantor, caps not bold]**

Printed Name

Mailing Address:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature (Witness 2) **[name of grantor, caps not bold]**

Printed Name

Mailing Address:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_, by **[insert grantor(s) name(s) in caps and bold followed by marital status in lower case non-bold]**, who:

\_\_\_\_\_ is / are **[choose one]** personally known to me;

**OR**

\_\_\_\_\_ produced  a driver’s license, OR  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as identification.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Notary Public

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (affix notarial seal above) Printed Name

*[County Signature Page to Follow]*

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| --- | --- |
|  | As to Grantee:  **BOARD OF COUNTY COMMISSIONERS**  **COLLIER COUNTY, FLORIDA**  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  CHRISTOPHER MASON, Division Director, Community Planning & Resiliency Division, as designee of the County Manager pursuant to Resolution No. 2007-218. |

STATE OF FLORIDA

COUNTY OF COLLIER

The foregoing Collier County Limitation of Development Rights Agreement was acknowledged before me by physical presence this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_, by CHRISTOPHER MASON, Division Director, Community Planning & Resiliency Division, Growth Management Department, on behalf of the County. He is personally known to me.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Signature

*[Affix Notarial Seal]*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Printed Name

Approved as to form and legality:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Derek D. Perry

Assistant County Attorney

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| **THIS CONVEYANCE ACCEPTED BY THE BOARD OF COUNTY COMMISSIONERS, COLLIER COUNTY, FLORIDA, PURSUANT TO AGENDA DATED 2/23/2010, ITEM NO. 16.B.1, RESOLUTION NO. 2010-39.** |