



St. Mary's County Department of Land Use and Growth Management

23150 Leonard Hall Drive, Leonardtown, Md. 20650

Phone (301) 475-4200, ext. 1500 Fax (301) 475-4672

AGREEMENT TO TRANSFER DEVELOPMENT RIGHTS



INSTRUMENT OF ORIGINAL TRANSFER

(TO BE USED WHEN TDR IS BEING INITIALLY SEVERED FROM SENDING PARCEL)

NOTE: THIS FORM IS A COUNTY FORM AND MAY NOT BE SUBSTANTIVELY ALTERED WITHOUT THE APPROVAL OF THE COUNTY ATTORNEY

THIS AGREEMENT, made this ____ day of _____ 20 ____ by and between _____ (hereinafter jointly and severally referred to as "Transferor") and _____ (hereinafter jointly and severally referred to as "Transferee").

WHEREAS, the Transferor is the fee simple owner of certain property (hereinafter referred to as the "Sending Parcel") located in the Rural Preservation District (RPD) as defined in the St. Mary's County Comprehensive Zoning Ordinance, adopted September 14, 2010 as amended, (the "Zoning Ordinance") and the Sending Parcel from which the development right(s) is/are being removed is more specifically described on Exhibit A, incorporated by reference herein;

WHEREAS, it is the intent of the Transferor to sever the development right(s) set forth below from the underlying fee of the Sending Parcel and to vest title to the development right(s) with the Transferee, as permitted by and in compliance with Chapter 26 of the Zoning Ordinance;

WHEREAS, the St. Mary's County Planning Director has certified that the number of development right(s) applicable to the Sending Parcel as of the date of the Planning Director's certification, as required by Section 26.7 of the Zoning Ordinance, as set forth on the Certificate of Transferable Development Rights attached hereto as Exhibit B and incorporated by reference herein;

WHEREAS, attached hereto as Exhibit C is a certificate of title for the Sending Parcel, which has been certified to by an attorney licensed to practice law in Maryland in the format approved by the County Attorney for St. Mary's County;

NOW, THEREFORE, in consideration of the sum of _____ (\$_____, WHICH THE TRANSFEROR AND TRANSFEE UNDER PENALTIES OF PERJURY DO SWEAR CONSTITUTES THE FULL AND FAIR CONSIDERATION PAID OR PAYABLE FOR THE TDRS BEING TRANSFERRED HEREUNDER, the parties hereby covenant and agree as follows:

FIRST: The Transferor hereby grants, conveys and assigns to the Transferee, the Transferee's personal representatives, heirs, successors and assigns, a total of ____ developments right(s) from the Sending Parcel, as defined in Chapter 26 of the Zoning Ordinance and the serial number of each development right being transferred pursuant to this instrument of transfer are as follows: (LUGM to fill in)

The serial numbers of any additional development right(s) being transferred by this instrument, if any, are attached hereto as Exhibit D, which is incorporated herein.

SECOND: The number of development right(s) being transferred herein which are derived from any portion of the Sending Parcel which may lie within the Critical Area is _____ and those development

right(s) which are derived from that portion of the Sending Parcel which may lie within the Critical Area, if any, are, identified by serial number as set forth on **Exhibit D**.

THIRD: The Transferor acknowledges and covenants that Transferor has no further use or right to use with respect to the development right(s) being transferred herein. The Transferor acknowledges that the TDRs have been severed from the Sending Parcel and are no longer attached to, or appurtenant to the Sending Parcel and the TDRs will be conveyed and encumbered independently of any conveyance or encumbrance of the Sending Parcel. The TDRs are to be hereinafter considered personally owned by the Transferee, to be subsequently assigned and encumbered as such, subject to the terms of the Zoning Ordinance.

FOURTH: The Transferee acknowledges and covenants that pursuant to Section 26.6 of the Zoning Ordinance, between the time of the transfer of a development right by an original transferor and the time when its use on a specific receiving parcel is final in accordance with the provisions of Chapter 26, a transferee has only the right to use the development right to the extent authorized by all applicable provisions of the Zoning Ordinance in effect at the time when the use of the development right for the specific receiving parcel is finally approved. No transfer shall be construed to limit or affect the power of the Commissioners of St. Mary's County to amend, supplement or repeal any or all of the provisions of Chapter 26, or any other section of the Zoning Ordinance or to entitle any transferor or transferee to damages or compensation of any kind as the result of any such amendment, supplement or repeal.

FIFTH: The Transferee acknowledges and covenants that at the time any development rights involved in this transfer are finally approved for use on a specific receiving parcel, such rights shall be transferred to the Commissioners of Saint Mary's County for no consideration.

SIXTH: The Transferor acknowledges and covenants that the development rights being transferred herein represent **ALL /A PORTION (CHECK ONE)** of the development rights with respect to the Sending Parcel under the existing or any future Zoning Ordinance or other similar ordinance regulating the use of land in St. Mary's County.

SEVENTH: The Transferor acknowledges and covenants that the Sending Parcel may not be subdivided to a greater density than permitted by the remaining development rights.

EIGHTH: The Transferor acknowledges and covenants that the Sending Parcel is restricted to such development as may be permitted by the remaining development rights, and if all transferable development rights have been removed from or used on the property, the sending parcel may be used only for any existing dwellings, uses and structures which are lawfully being made under the Zoning Ordinance as of the date of the Planning Director's Certification and the following uses:

- Agricultural Industry, minor (on-the-farm processing, e.g. small grain mills, dairy processing);
- Animal Husbandry;
- Aquaculture (raising finfish, shellfish, aquatic plants);
- Crop production and horticulture (e.g. typical row & field crops, orchards, nursery);
- Auction House (wholesaling of locally produced goods)
- Roadside stand
- Silviculture
- Burial Grounds (family plots only)
- Day Care; family, home;
- Rural medical practice;
- Bed and breakfast (in existing dwelling);
- Personal improvement service (accessory to principal residence)
- Extractive industry (mining, gravel pits)

- Production industry, custom (small scale, hand manufactured e.g. blacksmith, welding, carpentry)
- Communication towers, commercial and public
- Regional flood and stormwater management facility;
- Utilities, minor;
- Various accessory uses;
- Various temporary events
- Such other uses as may be permitted pursuant to Section 26.12 of the Zoning Ordinance, as amended.

NINTH: The Transferor represents that based upon knowledge, information and belief, the Sending Parcel is not already subject to a recorded covenant or agricultural or environmental easement which expressly prohibits the transfer of developments rights from the Sending Parcel. The Transferor acknowledges that the development rights may be derived from property subject to the St. Mary's County Agriculture Land Tax Credit Program between an owner and Commissioners of St. Mary's County.

TENTH: The Transferor acknowledges that once any development right has been transferred from the Sending Parcel, the Sending Parcel shall not later become a Receiving Parcel, unless in the future permitted by the Zoning Ordinance.

ELEVENTH: The Transferor acknowledges and covenants that all provisions of this instrument shall run with and bind the Sending Parcel and may be enforced by the Commissioners of St. Mary's County, the Planning Director, and their respective designees. This instrument may not be amended, except with the consent of the Commissioners of St. Mary's County, Maryland. This instrument may be executed in counterparts.

THE TRANSFEROR AND TRANSFEREE DO HEREBY AGREE THIS INSTRUMENT OF TRANSFER AND ALL SUBSEQUENT INSTRUMENTS OF TRANSFER SHALL BE RECORDED IN THE LAND RECORDS OF ST. MARY'S COUNTY, MARYLAND, AND THAT UPON RECORDATION OF THIS INSTRUMENT OF ORIGINAL TRANSFER THAT THEY SHALL IMMEDIATELY DELIVER AS COPY OF THE RECORDED INSTRUMENT TO: (I) THE DEPARTMENT OF LAND USE AND GROWTH MANAGEMENT AT THE ADDRESS SET FORTH AT THE TOP OF THIS INSTRUMENT; AND (II) THE ST. MARY'S COUNTY GOVERNMENT DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT P.O. BOX 653 ♦ PATUXENT BUILDING ♦ 23115 LEONARD HALL DRIVE, LEONARDTOWN, MD 20650

WITNESS the hands and seals of the parties on the date first written above.

WITNESS:

		(SEAL)
	Transferor	
		(SEAL)
	Transferor	
		(SEAL)
	Transferee	
		(SEAL)
	Transferee	

PURSUANT TO SECTION 26.7.4 OF THE ZONING ORDINANCE THE UNDERSIGNED COUNTY ATTORNEY DOES HEREBY APPROVE THIS INSTRUMENT FOR LEGAL SUFFICIENCY.

County Attorney

INDIVIDUAL ACKNOWLEDGMENTS
(Use When an Individual Is Executing the Instrument)

STATE OF _____, City/County of _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____, 20____, before the undersigned, a Notary Public of the state and county aforesaid, personally appeared _____, personally known to me or satisfactorily proven to me to be the aforesaid **Transferor**, and said Transferor acknowledged the foregoing Agreement to Transfer Development Rights-Instrument of Original Transfer to be said Transferor's voluntary act.

WITNESS my hand and notarial seal.

NOTARY PUBLIC
My Commission expires:

STATE OF _____, City/County of _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____, 20____, before the undersigned, a Notary Public of the state and county aforesaid, personally appeared _____, personally known to me or satisfactorily proven to me to be the aforesaid **Transferor**, and said Transferor acknowledged the foregoing Agreement to Transfer Development Rights-Instrument of Original Transfer to be said Transferor's voluntary act.

WITNESS my hand and notarial seal.

NOTARY PUBLIC
My Commission expires:

STATE OF _____, City/County of _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____, 20____, before the undersigned, a Notary Public of the state and county aforesaid, personally appeared _____, personally known to me or satisfactorily proven to me to be the aforesaid **Transferee**, and said Transferee acknowledged the foregoing Agreement to Transfer Development Rights-Instrument of Original Transfer to be said Transferee's voluntary act.

WITNESS my hand and notarial seal.

NOTARY PUBLIC
My Commission expires:

STATE OF _____, City/County of _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____, 20____, before the undersigned, a Notary Public of the state and county aforesaid, personally appeared _____, personally known to me or satisfactorily proven to me to be the aforesaid **Transferee**, and said Transferee acknowledged the foregoing Agreement to Transfer Development Rights-Instrument of Original Transfer to be said Transferee's voluntary act.

WITNESS my hand and notarial seal.

NOTARY PUBLIC
My Commission expires:

ENTITY ACKNOWLEDGMENT
(Use When An Entity is Executing the Instrument)

STATE OF _____, City/County of _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____, 20____, before the undersigned, a Notary Public of the state and county aforesaid, personally appeared _____, in said person's capacity as the _____ of _____, the **Transferor**, personally known to me or satisfactorily proven to me to be the person executing the within instrument, and acknowledged that, being authorized to do so, said person executed the within instrument in the aforesaid capacity, as the act and deed of the **Transferor**.

WITNESS my hand and notarial seal.

NOTARY PUBLIC
My Commission expires:

STATE OF _____, City/County of _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____, 20____, before the undersigned, a Notary Public of the state and county aforesaid, personally appeared _____, in said person's capacity as the _____ of _____, the **Transferee**, personally known to me or satisfactorily proven to me to be the person executing the within instrument, and acknowledged that, being authorized to do so, said person executed the within instrument in the aforesaid capacity, as the act and deed of the **Transferee**.

WITNESS my hand and notarial seal.

NOTARY PUBLIC
My Commission expires:

RELEASE OF LIENHOLDER OF SENDING PARCEL

IT IS THE INTENT OF THIS INSTRUMENT TO SEVER THE TDR(s) FROM THE SENDING PARCEL SO THAT THE TDR IS NO LONGER ATTACHED OR APPURTENANT TO THE SENDING PARCEL AND THAT THE SAID TDR(s) WILL BE CONVEYED AND ENCUMBERED INDEPENDENTLY OF ANY CONVEYANCE OR ENCUMBRANCE OF THE SENDING PARCEL. IF THERE IS A MORTGAGE OR DEED OF TRUST ON THE SENDING PARCEL IT IS A REQUIREMENT OF THE COUNTY THAT THE DEVELOPMENT RIGHTS MUST BE CONVEYED TO THE TRANSFEREE INITIALLY FREE AND CLEAR OF ANY LIENS ENCUMBERING THE SENDING PARCEL. THIS REQUIREMENT DOES NOT PROHIBIT THE TRANSFEREE FROM SUBSEQUENTLY ENCUMBERING THE TDR(s) AS PERSONALY OWNED BY THE TRANSFEREE, BUT AS A CONDITION TO THE INSTRUMENT OF ORIGINAL TRANSFER, ANY LIENHOLDER OF THE SENDING PARCEL MUST ACKNOWLEDGE THE SEVERANCE OF THE TDR(s) FROM THE SENDING PARCEL INITIALLY FREE AND CLEAR OF THE LIENHOLDER'S LIEN AND MUST EXECUTE THE RELEASE SET FORTH BELOW

The undersigned, constituting the lienholder, Trustee, Beneficiary or Mortgagee of that Deed of Trust or Mortgage or lien recorded among the Land Records of St. Mary's County, Maryland at Liber No. _____, Folio _____ encumbering the Sending Parcel referred to in the Instrument of Original Transfer attached hereto does hereby grant and release to the Transferor any interest of the lienholder in the development rights referred to in the attached Instrument of Original Transfer, so that the development rights referred to herein are transferred to the Transferee fully discharged from the lien, operation and effect of the deed of trust or mortgage or other lien of the undersigned, provided, however, that the aforesaid lien shall be retained by the Trustee, Beneficiary, or Mortgagee or lienholder as to all of the other property described in the aforesaid deed of trust or mortgage.

Signature _____
Name: _____
Title: _____

STATE OF _____, City/County of _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____, 20____, before the undersigned, a Notary Public of the state and county aforesaid, personally appeared _____, in said person's capacity as the _____ of _____, personally known to me or satisfactorily proven to me to be the person executing the within instrument, and acknowledged that, being authorized to do so, said person executed the within instrument in the aforesaid capacity, as the act and deed of said entity.

WITNESS my hand and notarial seal.

NOTARY PUBLIC
My Commission expires:

**EXHIBIT A
TO INSTRUMENT OF ORIGINAL TRANSFER
SENDING PARCEL DESCRIPTION**

INSERT DESCRIPTION OF SENDING PARCEL WHICH COMPLIES WITH §26.8.3 OF THE ZONING
ORDINANCE.

EXHIBIT B (LUGM USE ONLY)

CERTIFICATE OF TRANSFERABLE DEVELOPMENT RIGHTS

Property Owner _____

Address _____

Election District 1 2 3 4 5 6 7 8 9

Community _____

Adjoining Road (s) _____

Tax Map, Grid, Parcel _____

Property Deed Reference _____

Zoning District _____

Title Report submitted Attached _____

Acreage _____ divided by 5= _____

of Existing Dwelling Units _____

of Proposed Dwelling Units _____

RCA Transferable Development Rights _____

Non-conforming Transferable Development Rights _____

Standard Transferable Development Rights _____

Total Certified Number of Transferable Development Rights _____

Number of Rights Assigned by this Instrument of Transfer _____

Serial Numbers of TDRs

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Approved for the Record

William B. Hunt, Director
Department of Land Use & Growth Management

Date

**EXHIBIT C
TO INSTRUMENT OF ORIGINAL TRANSFER**

CERTIFICATE OF TITLE

The undersigned hereby certifies that he/she is an attorney admitted to practice law in the State of Maryland and he or she has caused to be examined the Land Records of St. Mary's County, Maryland, as the same are indexed, for a period of at least sixty (60) years prior to the date hereof, and that based on his or her review of the abstract of title, title to **the Sending Parcel described on Exhibit A to the Instrument of Original Transfer**, to which this Certificate of Title is attached, is vested with the Transferor described in the within Instrument.

Being all/part of the same land conveyed to the Transferor by deed dated _____ and recorded on _____ among the Land Records of St. Mary's County, Maryland at Liber _____ Folio _____

AND KNOWN AS TAX MAP _____, GRID _____, PARCEL _____, LOT _____; TAX ACCOUNT NUMBER: _____;

Subject to the following exceptions:

SEE EXHIBIT C-1 ATTACHED HERETO AND INCORPORATED HEREIN;

THE UNDERSIGNED HEREBY CERTIFIES THAT BASED ON THE ABSTRACT OF TITLE THERE ARE NO RECORDED RESTRICTIVE COVENANTS OR AGRICULTURAL OR ENVIRONMENTAL EASEMENTS WHICH EXPRESSLY PROHIBIT THE TRANSFER OF DEVELOPMENT RIGHTS FROM THE SENDING PARCEL.

Further, the undersigned certifies that there are no easements, liens, encumbrances, restrictions or covenants recorded in the Land Records for St. Mary's County, Maryland applicable to the foregoing described property except for those referred to an Exhibit C-1 attached hereto.

Respectfully submitted as of 8:30 a.m. on _____, 20____. (Certificate of Title Must be dated no later than 60 days from the date of the review by the County Attorney's office).

Printed Name: _____
Address _____

Phone Number: _____

**EXHIBIT C-1 TO CERTIFICATE OF TITLE
EXCEPTIONS TO TITLE**

ATTORNEY TO LIST ANY EXCEPTIONS TO TITLE ON THIS EXHIBIT C-1. COPIES OF ALL EXCEPTIONS CITED MUST BE PROVIDED TO LUGM WITH CERTIFICATE OF TITLE FOR REVIEW BY THE COUNTY ATTORNEY'S OFFICE. NO EXCEPTIONS ARE ALLOWED WHICH CONTAIN RESTRICTIVE COVENANTS OR AGRICULTURAL OR ENVIRONMENTAL EASEMENTS WHICH EXPRESSLY PROHIBIT THE TRANSFER OF DEVELOPMENT RIGHTS FROM THE SENDING PARCEL. IF THERE ARE ANY LIENS ON THE PROPERTY, THE LIENHOLDER MUST RELEASE THE TDRS FROM THE LIEN ENCUMBERING THE SENDING PARCEL

