TEMPORARY FARMING REQUEST FOR EXEMPTION CONFIRMATION LETTER

Subject: File Number: _____ (Assigned by the District)

Project Name: _____

County: _____ Section: _____ Township: _____ Range: _____

Total Land Area Owned (acres): _____ Project Area (acres): _____

SECTION 1: GENERAL INFORMATION

A. **OWNER(S):** (of the land upon which the proposed project will be constructed/operated)

Name(s): _____ Telephone: _____

Address: _____

City, State, Zip: _____E-Mail:_____

B. **AGENT*:** (person authorized by the owner to request an exemption letter) (if applicable)

Name: _____ Telephone: _____

Address: _____

City, State, Zip: _____E-Mail:_____

*See Attached Authorized Agent Form

C. **FARM OPERATOR:** (person who will conduct, operate and maintain the project)

Name: _____ Telephone: _____

Address: _____

City, State, Zip: _____E-Mail:_____

D. **PERSON PREPARING THE FARMING PLANS:** (designed, conservation farming practices)

Name: _____ Telephone: _____

Address: _____

City, State, Zip: _____E-Mail:_____

E. **Brief Description of Agricultural Activity:** (land use, crop type, schedule, etc.)

_____

_____

_____

F. **Site Meeting wth District's Agricultural Team?:** Yes _____ No _____

Date: _____ Names: _____

Cost Share Participant? Yes_____(Assigned FARMS #_____) No_____

Associated Water Use Permit #_____

SECTION 2: DEFINITION AND SCOPE

"Temporary Farming" means, construction and operation of an agricultural surface water management system for a limited duration to facilitate land management or to produce seasonal crops; provided, that after completion of the land management practices or the last crop harvest, the temporary activities and water management facilities are reestablished so that the site is restored equivalent to the original hydrologic conditions and cover vegetation reestablished. Seasonal production farming cycles include:

1. either for up to a two year period, with a five years rotation interval until beginning the next production farming period, or
2. other appropriate rotation cycles as mutually agreed upon and specified in the comment section of this document.

Temporary Farming operations typically involve cultivation of seasonal row crops on land with somewhat poorly drained soils, which can be returned to the prior more passive agriculture during rotational fallow periods. Temporary farming is followed by planned restoration and fallow periods where vegetative cover is grown between the primary crop growing seasons. This exemption category is mostly suited for temporary row cropping of crops like watermelons that are done in conjunction with rotation and renovation of cattle pastures.

Please note that the DESIGN AND PERFORMANCE STANDARDS FOR TEMPORARY FARMING referred to in SECTION 4 are suggested and can be met through other means as long as the intent of the performance standard is met. Furthermore, similar activities may also be considered exempt from Environmental Resource Permitting (ERP) without filing this exemption confirmation request.

SECTION 3: PROCEDURE AND DIRECTIONS

A. PROCEDURE – After preliminary crop planning, the land owner is advised to contact the District's agricultural team to schedule an on-site visit and review meeting to discuss whether the proposed project can qualify for the TEMPORARY FARMING exemption, or if other authorization is required. To expedite the planning and implementation, the grower should engage the United States Department of Agriculture – Natural Resources Conservation Service (USDA-NRCS) or others qualified to provide technical assistance. It is helpful to provide the District with the following information in advance:

1. This signed form and the $100 exemption confirmation processing fee.
2. A map or other aerial exhibit that depicts the project location and any topography/drainage patterns for the project area and any important adjacent features;
3. A recent aerial photo map(s), preferably scale 1"=400' or larger, suitable for photo interpretation, showing ownership and project area boundaries with any on-site or near-by wetlands identified and including acreage; and including field orientation with acreages and a conceptual site layout of the surface water management system:
4. If associated with a newly planned crop, a Conservation Plan (done by USDA-NRCS or equivalent) or a notice of intent to follow Florida Department of Agriculture & Consumer Services (FDACS) adopted Best Management Practices BMPs for the specified crop(s). This typically shows the overall field layout, any proposed water management facilities, and any specific management practices which are to be implemented;
5. The permit number(s) for existing or proposed Water Use Permits that serve the project area; and
6. If the property owner is not the farm operator, a letter from the owner that identifies and authorizes the farm operator to sign for and represent the owner.

B. TO RECEIVE AN EXEMPTION CONFIRMATION LETTER, the owner or authorized agent contacts the District agricultural team staff to schedule an on-site meeting and pre-construction review to discuss the farm's specific design details.

C. UPON SUCCESSFUL COMPLETION of the review process to qualify for a rule exemption confirmation letter, the producer will have the following:

1. An exemption confirmation letter from the District, with attachments including this REQUEST, design and performance standards, specific conditions and other information;
2. An aerial map showing the project area with the approximate location of wetlands, and/or other surface water features; and
3. When associated with a newly planned crop, a conservation farming plan with construction details and conservation practices to be implemented consistent with a USDA-NRCS conservation plan or adopted FDACS crop specific BMP manual guidelines.

SECTION 4: TECHNICAL STANDARDS FOR TEMPORARY AGRICULTURE

A. GENERAL REQUIREMENTS

1. Agricultural surface water management systems that qualify for an exemption confirmation letter as an agricultural minimum development project or activity should generally be designed in accordance with the TEMPORARY FARMING STANDARDS.

2. If at any time the District discovers that a Request for exemption has been received, or an exemption confirmation letter issued, for an activity which does not qualify for an Temporary Farming rule exemption; or operations are being conducted in non-conformance with the agreed upon terms, conditions and general standards of the exemption confirmation letter; the District may revoke this exemption and review the issue to determine if the activity requires an ERP. Prior to initiating a compliance/enforcement action, a binding determination request may be sent to FDACS to determine if the activity requires an ERP.

3. Usually, this Request for Exemption Confirmation Letter should be filed with the District prior to beginning any construction for the first temporary farming cycle, however, upon the discretion of the District "After the Fact" exemptions can be issued if the activity qualifies. The Request for Exemption shall be invalid if any current enforcement violations are unresolved.

4. If an activity is conducted that exceeds the Temporary Farming exemption standards and is an activity that requires an ERP, compliance/enforcement action can be taken by the District. Project areas with existing MSSW/ERP rule violations that are subject to District enforcement action shall be disqualified for rule exemption until compliance is assured or the enforcement is resolved.

5. If associated with a newly planned crop, Temporary Farming shall be implemented according to a conservation plan using planning and operational practices suitable to comply with District objectives, including site specific measures to protect the resource base which are consistent with USDA-NRCS and IFAS guidelines. Furthermore, the project should be irrigated consistent with the water use permit for the land.

B. ENVIRONMENTAL

1. Wetlands shall not be adversely impacted unless a variance is identified in the final section of this form and agreed upon by the District. Construction and operation of the proposed farm plan should not be conducted within fifty feet of the exterior boundary of the identified wetlands. Additional setbacks, sediment sumps, or other infrastructure may be required from operations expected to have extra sediment transport. Wetlands and associated upland buffers should be identified both on the project plans/exhibits and in the field in a manner that can be reproduced from season-to-season and will be clearly identified to the grower, farm workers, and District staff.

Discussion:
The District protects wetlands, fish and wildlife, and their habitats. While certain insignificant wetland impacts are allowable under this exemption, the goal of the AGSWM program is to promote environmentally sustainable agriculture, therefore wetland impacts are generally not approved by this program. Maintaining a minimum 50-foot upland buffer zone helps ensure that inadvertent intrusion will not occur into wetlands; including lakes, streams and other water bodies and water courses. Buffers also allow for less precise delineation of wetland boundaries than is usually required for permitting. Wetland identification and delineation is typically conducted by the NRCS (when performed in conjunction with the AGSWM Agreement) or by private consultant but may be conducted by District staff in some cases, if requested, pending staff availability. In any case, District staff will verify the delineation conducted.

When contemplating activities within a wetland, please contact the District's agricultural teams for guidance. For additional information, the following FDACS website contains a list of adopted BMPs for various crops: (http://www.floridaagwaterpolicy.com/BestManagementPractices.html).

C. QUANTITY

1. New ditches shall be used primarily for field irrigation or bedding channels and field pick-up ditches, constructed in a "V" shape cross-section with a general depth of up to 18 inches; and the average ditch slope should not exceed 0.5% or 1.5 feet per second without grade control or other designed erosion prevention measures. Depth shall be measured below re-graded land surface for irrigation and pick-up ditches and below the bed planting surface for bedding channels. New or expanded ditches are to be abandoned during site restoration.

Discussion: The intent of the exemption is to minimize offsite impacts due to changes in quantities as result of agricultural activities that are considered normal and customary. It is the responsibility of the applicant or consultant to address these concerns as they relate to upstream and downstream properties. If adverse impacts are observed due to the design discharges and the applicant refuses to address these issues, the District will rescind this exemption authorization. The District will pursue compliance/enforcement only if it is determined by FDACS that the activity requires a permit.

2. Drainage patterns and discharge points from the project should mimic pre-development conditions. An undisturbed buffer area to reduce water quantity impacts during major rainfall events is required based on the slope and the sensitivity of the downstream area.

Discussion: The purpose is to ensure that water remains distributed within the project and leaves the property in ways similar to pre-farming conditions without causing hydrologic problems on site, upstream or downstream. Any temporary changes in discharge patterns or locations should be done in a manner that minimizes and/or eliminates impacts to wetlands and adjacent properties. Discharge points that must change temporarily from sheetflow to point discharge shall be abandoned after farming operations and during site restoration.

(1) Specifications: Construction of temporary points of discharge on uplands that are within 50 feet of existing ditches or wetlands are recommended to be in compliance with the following requirements:

i) The location and alignment should be pre-determined;

ii) A flow control invert and outlet should provide adequate stabilization and grade control to prevent erosion and sediment transport;

iii) The flow control invert shall be more than 15 feet away from the wetlands or ditch boundaries and the invert elevation shall coincide with the existing ground level at the wetlands limit; and

iv) All excavated material shall be deposited and stabilized (to prevent erosion) upland of the 50 feet wetlands setback, and available for restoration.

3. The flow rate and level of water upstream and downstream of the project shall be consistent with what is considered normal and customary for the area. It is recommended the design incorporate drainage features such as undisturbed buffers at discharge areas in order to minimize and/or eliminate the potential for adverse impacts to receiving areas. To reduce or eliminate the potential for erosion and/or sediment transport, it is recommended that all discharge points into sensitive receiving systems contain a sediment sump of at least 6 feet deep and 0.25 acres in size.

Discussion: This is a general provision to ensure that agricultural construction and operations do not significantly increase or decrease the flow or level of water upstream or downstream of the project in a manner that can adversely impact sensitive receiving systems, and/or upstream and downstream properties. If it is determined that adverse impacts have occurred and the applicant refuses to address these issues, the District shall rescind this exemption approval. If it is determined by FDACS that the activity does not qualify for Part IV of Chapter 373.406(2), F.S. and no other exemption under the District's regulatory program applies, the District will initiate enforcement action. When discussing the project with the grower, District staff will point out any observed activities which may result in unacceptable impacts. The land owner and farm operator shall certify their understanding and agreement that the agricultural construction and operations shall not affect the flow rate and level of water upstream and downstream of the project in a manner that causes adversely impacts. Specific comments or additional conditions can be used in the exemption confirmation letter to explain special measures that shall be implemented to minimize potential adverse impacts.

During non-growing seasons, and as possible during fallow rotation periods, temporary and permanent cover vegetation shall be established, and all ditches shall be operated to restore wetland water levels, reduce erosion and recreate on site detention storage. A high residue annual vegetative cover shall be planted between crop seasons. Within 90 days after the last crop is harvested, site abandonment and restoration measures shall be undertaken for all areas disturbed by the temporary farming. Measures taken shall render the site hydrologically equivalent to pre-farming land conditions.

Performance Standard and Specifications: Digging of farm ponds that are individually not over 15 acres in size at design capacity is allowable for purposes such as stock watering and tailwater recovery/irrigation supply. The District recommends the following design parameters be utilized:

(1) ponds be designed, built and operated according to appropriate USDA-NRCS guidelines (usually FOTG practice no. 378), and other standards herein;

(2) primarily "pit" ponds generally used, which are dug below ground;

(3) excavation occur in uplands (except for certain less than 0.5 acre isolated wetlands not requiring mitigation) and normally not have an average depth of more than 15 feet below ground surface;

(4) the material excavated must not be used to fill flood plains or wetlands;

(5) the cumulative size of farm ponds shall not exceed 10% of the total land area; and

(6) all side slopes be stabilized and vegetated and provisions must be made to prevent excessive seepage migration off site.

4. It is recommended that filling or flow impeding activities not occur within the limits of the 100-year floodplain.

Discussion: Filling or other encroachment in the 100-year floodplain should be avoided to avoid higher levels of District authorization (ERP, etc.) as this activity can cause off site flooding if not properly designed to include compensating measures. The grower and/or person preparing plans and specifications for construction shall review flood plain information, usually in the form of maps obtained from the Federal Emergency Management Agency (FEMA). If activities are proposed within the 100-year floodplain, the District may require an evaluation from Florida licensed professional engineer.

5. Unless meeting the Temporary Farming variance criteria below, the use of drainage pumps are generally not authorized through an exemption and will require an ERP.

Discussion: Drainage pumps are generally designed to be used with complex flood control systems, or systems which require water table drainage or level control due to outlet construction. These types of facilities are usually not suitable for exempt agricultural systems due to the potential drainage capacity, dewatering impacts and design complexity of the system. Drainage pumps jointly associated with the capture and reuse of surface water as an alternative water supply source may be allowed on a case-by-case basis where appropriate. The land owner and grower shall agree to not utilize drainage pumps, except as a Temporary Farming variance.

a. VARIANCE Performance Standard: A portable "throw-out" drainage pump that is tractor power-take-off driven may be used to augment temporary flood relief at outlet points of discharge for individual fields. The maximum combined pump discharge capacity from all field outlets shall not exceed 10,000 gallons/minute (approximately equivalent to a 20 inches diameter axial pump) and is applicable where the average land slope in the field shall be less than 0.10% (approximately 5 feet/mile). The point of pump discharge shall be set back from existing ditches, wetlands and adjoining property to promote spreading and sheet flow through vegetation. It is recommended the minimum setback be 200 feet or more if needed for downstream protection. The pump intake and discharge splash areas shall have adequate soil erosion protection to prevent sediment transport, including additional setback, revetment or other measures as needed. Adverse impacts are minimized and/or eliminated to water quality, wetlands and adjoining or off-site properties in a manner that is normal and customary for the area.

6. Operational drainage structures are typically not authorized except for on-site irrigation control structures.

Discussion: Operational drainage structures, such as any structure with discharge capability below a designed drainage or flood control elevation, are generally utilized on complex designed systems which are typically not suitable for exempt projects. However, irrigation control structure devices used to maintain dry season water levels and reduce irrigation water needs and runoff from fields. These operational irrigation devices can encourage water conservation when installed and operated in an appropriate manner. Such irrigation control devices should not function as operational drainage structures below a 24 inch depth.

7. Subsurface drainage systems for the sole purpose of lowering the soil high water table more than 24 inches will typically exceed exemption criteria.

Discussion: Subsurface drainage systems (under drains, tile drains, relief drains, etc.) transfer water from the project area, and if improperly utilized can adversely impact wetlands and waste the water resource. Utilization of these deeper subsurface drainage systems often requires an ERP. However, random subsurface drainage by tile draining less than 10 acres and up to 2000 feet in cumulative length shall be allowable. It is recommended the USDA-NRCS typical depth and spacing be utilized. Utilizing random subsurface drains must not cause significant offsite flooding or water quality degradation in the receiving waters or adversely affect the water level in adjacent wetlands.

8. The water management system shall be effectively operated and maintained.

Discussion: It is essential that actions taken to minimize water resource impacts and thus qualify for a rule exemption do not malfunction because of impractical or improper operation and maintenance of the water management system. The project shall be operated and maintained at all times in a manner that minimizes water resource impacts, including during crop rotations and fallow periods. If the water management system fails to prevent adverse impacts from occurring, enforcement action may ensue.

a. Performance Standard: For each temporary farming cycle, the grower is required to notify the District prior to the next growing cycle if they have significantly deviated from what was approved within this exemption authorization.

9. The project shall be irrigated consistent with the water use permit for the land.

Discussion: Cultivated areas which are properly irrigated have less runoff than those which are over-irrigated. Properly irrigated systems are also more efficient and promote water conservation. The District's Water Use Permit outlines the appropriate water use quantities for the farm and should be followed. Voluntary assistance in evaluating the farm's irrigation system efficiency and uniform distribution is available free through the District sponsored USDA-NRCS Mobile Irrigation Lab (MIL).

D. QUALITY

1. For new or expanded farm areas, discharges from the site shall not degrade applicable state water quality standards, as set forth in State Law.

Discussion: Excessive fertilization and pesticide application can cause unacceptable pollutant levels in surface and ground water. Good nutrient and pest management practices have been shown to be effective in reducing water pollution levels and are especially helpful in the absence of additional treatment facilities. One aid to help decide the proper fertilizer rate is periodic soil fertility testing with the help of the IFAS Extension Soil Testing Laboratory.

Performance Standard: The project shall utilize guidelines and planning practices consistent with those recognized by the USDA-NRCS for a Conservation Plan. As an option, the grower may instead sign the Notice of Intent (NOI) to implement the statewide adopted FDACS BMP Manual for the applicable crop being grown. Conservation BMP guidelines recommended by the USDA-NRCS and/or FDACS address resource management practices for erosion and sediment control, wetlands protection, irrigation management, nutrient management and pesticide usage and identify other site specific ways to protect the resource base. Temporary farming conducted in compliance with practices recommended by the USDA-NRCS and/or FDACS, together with other setback, land slope, land cover, abandonment, and restoration requirements herein are presumed to provide reasonable assurance to meet state water quality standards for exempt Temporary Farming activities.

E. SPECIFIC COMMENTS & FIELD VARIATIONS NOTED:	
REFERENCE STANDARD NO.:	**SPECIFIC COMMENTS: FILE NO.:**

SECTION 5: ADDITIONAL CONDITIONS

The Land Owner and Farm Operator understands and agrees that:

1. Efforts shall be made during construction, operation and maintenance to prevent soil erosion and transport and discharge of sediment to wetlands or any property off site.

2. A copy of this Temporary Farming Exemption Letter and any related documents or attachments are required to be kept at the work site of the agricultural project, or otherwise be readily available for inspection, during the entire period of construction or operation. This includes, but is not limited to, the conservation farming and site development Conservation Plan that uses guidelines and Conservation Practices recommended by the USDA-NRCS, IFAS, and/or FDACS.

3. Filing of this Temporary Farming REQUEST for Exemption Confirmation Letter with the District, or subsequent delivery of such a Letter, does not relieve the land owner and farm operator of the responsibility to obtain all necessary Federal, State, Local or Special District permits or authorizations; including any present or future District regulation requirements, such as: existing wells to be abandoned shall be properly plugged or secured, fuel storage tanks and fuel pumps on this site shall be properly established and licensed, water use permitting shall be in order, etc. **THE LAND OWNER IS ADVISED THAT IMPACTS TO ANY WETLANDS OR THREATENED/ENDANGERED WILDLIFE MAY JEOPARDIZE THEIR RIGHTS TO FEDERAL ASSISTANCE AND/OR USDA PROGRAMS, UNLESS FEDERAL PERMITTING IS APPROVED PRIOR TO CONSTRUCTION. THE LOCAL USDA-NRCS OFFICE CAN PROVIDE FURTHER ASSISTANCE AS TO FEDERAL NATURAL RESOURCES REGULATIONS.**

4. By conducting on site review and inspection of this TEMPORARY FARMING project or activity the District, its employees and representatives shall assume no responsibility and/or liability in regard to either the design, construction or performance of the planned facilities and operations.

5. The Land Owner and Farm Operator are responsible for assuring compliance with the Statements, DESIGN AND PERFORMANCE STANDARDS FOR TEMPORARY FARMING, Specific Comments and Additional Conditions contained in SECTIONS 3. 4, 5, AND 6 of this REQUEST for Exemption Confirmation Letter; and they shall further agree to be responsible for any significant adverse impacts that occur.

6. If alteration, expansion or renewal of the farming operations and procedures are needed that are different than as contemplated by the initial exemption REQUEST, the District shall be notified in advance, and the exemption status of the project shall be subject to additional on site review and re-qualification based on current exemption or permitting requirements.

7. It is the responsibility of the land owner or authorized agent that the exempt activities authorized by this exemption notification are properly constructed and are operated and maintained in accordance with the appropriate agricultural exemption STANDARDS.

8. District approved wetland lines and buffers included in the project's design shall be shown on the approved construction plans and visibly marked in the field.

9. The property represented as being the agriculture project area is owned or legally controlled by the Owner and Farm Operator. District representatives are granted permission to periodically inspect the site and review the project for compliance at any time after reasonable prior announcement.

SECTION 6: SIGNATURES BY THE LAND OWNER/GROWER

Signature of the Owner or Authorized Agent*

Printed Name and Title

Date: _____

***Attach a letter of authorization from the owner, except for corporate officers**

Signature of the Authorized Farm Operator

Printed Name and Title

Date: _____

Signature of the Person* Preparing Plans and Practices for Farming

Printed Name and Title

Date: _____

Address

***A qualified licensed Professional Engineer (P.E.) as registered in Florida when engineering is performed. However, a P.E. is typically not necessary for this Temporary Farming Exemption Confirmation.**

LETTER OF AUTHORIZATION/APPOINTMENT OF AGENT FROM THE LAND OWNER

DATE:_____

TO: Southwest Florida Water Management District

_____

_____

_____

TO WHOM IT MAY CONCERN:

The undersigned Owner of the following described land hereby appoints

(Name of Person) _____
with full authority to act as its agent, sign for and bind the Owner relative to the application for a surface water management permit or exemption letter for the below described project which is subject to regulation by the Southwest Florida Water Management District.

LEGAL DESCRIPTION of land located in _____ County, Florida:

_____

_____

FROM:

_____
Typed Name

_____
Signature of Land Owner

_____
Title (Owner or Corporate Officer)

_____
Telephone Number

_____
Address

_____

STATE OF FLORIDA, COUNTY OF _____

Sworn and subscribed before me this _____ day of _____, 19 _____.

_____ (SEAL)
NOTARY PUBLIC, State of Florida

My Commission Expires:

Southwest Florida Water Management District Service Office Locations and Regions

Brooksville Service Office
2379 Broad Street
Brooksville, Florida 34604-6899
Phone (352) 796-7211
Toll Free 1-800-423-1476*

Tampa Service Office
7601 U.S. Hwy 301 N.
Tampa, Florida 33637-6759
Phone (813) 985-7481
Toll Free 1-800-836-0797*

Bartow Service Office
170 Century Blvd.
Bartow, Florida 33830-7700
Phone (863) 534-1448
Toll Free 1-800-492-7862*

Sarasota Service Office
6750 Fruitville Road
Sarasota, Florida 34240-9711
Phone (941) 377-3722
Toll Free 1-800-320-3503*

* Florida only