

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF  
 JAMES CITY, VIRGINIA, HELD ON THE 7TH DAY OF SEPTEMBER, NINETEEN HUNDRED  
 NINETY-THREE, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM,  
 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. ROLL CALL**

Judith N. Knudson, Chairman, Jamestown District  
 Stewart U. Taylor, Vice Chairman, Stonehouse District

Perry M. DePue, Powhatan District  
 Jack D. Edwards, Berkeley District  
 David L. Sisk, Roberts District  
 David B. Norman, County Administrator  
 Frank M. Morton, III, County Attorney

**B. PRESENTATION**

1. Citizenship Award - Police

Ms. Knudson expressed the Board's appreciation and presented plaques to Mr. William Veneris and Mr. Bryan Sanderson for their roles in apprehension of the suspect in a robbery at the Crestar Bank on July 23, 1993.

**C. MINUTES - August 10, 1993, Special Meeting  
 August 16, 1993, Regular Meeting**

Ms. Knudson asked if there were corrections or additions to the minutes.

Mr. Taylor made a motion to approve the minutes as presented.

On a roll call, the vote was: AYE: Taylor, Edwards, DePue, Sisk, Knudson (5).  
 NAY: (0).

**D. CONSENT CALENDAR**

Ms. Knudson asked if any Board member wished to remove an item from the Consent Calendar.

Ms. Knudson made a motion to approve the Consent Calendar.

On a roll call, the vote was: AYE: Taylor, Edwards, DePue, Sisk, Knudson (5).  
 NAY: (0).

1. Termination of Local Emergency

R E S O L U T I O N

TERMINATION OF LOCAL EMERGENCY

WHEREAS, the Board of Supervisors of the County of James City, Virginia, on August 10, 1993, did proclaim and declare a State of Local Emergency to exist in James City County; and

WHEREAS, all emergency actions have been taken.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors, of James City County, Virginia, hereby terminate the declaration of a local emergency.

BE IT FURTHER RESOLVED that all emergency powers, functions, and duties of the Director of Emergency Services and the Emergency Service Organization of James City County be terminated for this local emergency.

2. Trash and Grass Liens - Drummond's Field, Ltd.

R E S O L U T I O N

CODE VIOLATION LIEN

WHEREAS, the Director of Code Compliance has certified to the Board of Supervisors of James City County, Virginia, that the property owners as described below have failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owner and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that in accordance with Section 7-4 and 7-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT: Drummond's Field, Ltd.  
P.O. Box 1-P  
Richmond, VA 23202-0363

DESCRIPTION: 3501 Mott Lane

TAX MAP NO.: (46-3)(04-0-0028- )  
James City County, Virginia

AMOUNT DUE: \$75.00

ACCOUNT: Drummond's Field, Ltd.  
P.O. Box 1-P  
Richmond, VA 23202-0363

DESCRIPTION: 3503 Mott Lane

TAX MAP NO.: (46-3)(04-0-0027- )  
James City County, Virginia

AMOUNT DUE: \$75.00

ACCOUNT: Drummond's Field, Ltd.  
P.O. Box 1-P  
Richmond, VA 23202-0363

DESCRIPTION: 3504 Mott Lane

TAX MAP NO.: (46-3)(04-0-0030- )  
James City County, Virginia

AMOUNT DUE: \$75.00

ACCOUNT: Drummond's Field, Ltd.  
P.O. Box 1-P  
Richmond, VA 23202-0363

DESCRIPTION: 3200 Derby Lane

TAX MAP NO.: (46-3)(05-0-0004- )  
James City County, Virginia

AMOUNT DUE: \$75.00

ACCOUNT: Drummond's Field, Ltd.  
P.O. Box 1-P  
Richmond, VA 23202-0363

DESCRIPTION: 3508 Mott Lane

TAX MAP NO.: (46-3)(04-0-0032- )  
James City County, Virginia

AMOUNT DUE: \$75.00

ACCOUNT: Drummond's Field, Ltd.  
P.O. Box 1-P  
Richmond, VA 23202-0363

DESCRIPTION: 3512 Mott Lane

TAX MAP NO.: (46-3)(04-0-0034- )  
James City County, Virginia

AMOUNT DUE: \$75.00

ACCOUNT: Drummond's Field, Ltd.  
P.O. Box 1-P  
Richmond, VA 23202-0363

DESCRIPTION: 3514 Mott Lane

TAX MAP NO.: (46-3)(04-0-0035- )  
James City County, Virginia

AMOUNT DUE: \$75.00

3. Petty Cash Authorization

R E S O L U T I O N

PETTY CASH AUTHORIZATION

WHEREAS, the Board of Supervisors of James City County has been requested to increase the amount of petty cash by \$200 in order to facilitate the implementation of convenience center coupon sales program using fire stations as coupon sales locations.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves an increase in the authorized petty cash of \$200 and authorizes the Treasurer to establish the necessary procedures to account for its use.

4. Regional Bikeways Plan-CMAQ Funding

R E S O L U T I O N

REGIONAL BIKEWAYS PLAN PILOT PROJECT-CMAQ FUNDING

WHEREAS, the Virginia Department of Transportation has the authority to establish a Congestion Mitigation and Air Quality (CMAQ) Project; and

WHEREAS, in accordance with Virginia Department of Transportation construction allocation procedures, it is necessary that a request by the local government be made in order that the Department program a CMAQ project in James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, requests the Virginia Department of Transportation to establish a project consisting of the following components:

Class II Bikeway (4-foot lanes adjacent to roadway) on Longhill Road between Olde Towne Road and the Longhill Connector Road.

Class II Bikeway (4-foot lanes adjacent to roadway) on Ironbound Road between the Longhill Connector and Strawberry Plains Road.

Class II Bikeway on Monticello Avenue between Ironbound Road and Compton Drive.

Bicycle-Transit transfer station at the Williamsburg/James City Recreation Center.

BE IT FURTHER RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby agrees that if the Board of Supervisors subsequently elects to cancel this project, the Board of Supervisors hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

#### E. PUBLIC HEARINGS

##### 1. Case No. SUP-26-93. William A. Randall Subdivision

Mr. O. Marvin Sowers, Jr., Director of Planning, stated that Mr. Ron Leftwich had applied to amend a previously approved special use permit condition of SUP-10-92 that required a 200-foot undisturbed buffer be maintained from Little Creek Reservoir. That permit allowed a 13-lot subdivision on 13.42 acres in R-8, Rural Residential, located at 2564 Little Creek Road, further identified as Parcel (1-4) on James City County Real Estate Tax Map No. (21-4).

Mr. Sowers explained that the applicant was proposing the location of a detention basin and infiltration trench within the buffer for drainage purposes.

In concurrence with staff, the Planning Commission unanimously recommended approval of the special use permit with conditions listed in the resolution.

Ms. Knudson opened the public hearing, and as no one wished to speak, she closed the public hearing.

Mr. Taylor made a motion to approve Case No. SUP-26-93.

On a roll call, the vote was: AYE: Taylor, Edwards, DePue, Sisk, Knudson (5).

**NAY:** (0).

### R E S O L U T I O N

#### CASE NO. SUP-26-93. WILLIAM A. RANDALL SUBDIVISION

the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 10, 1993, unanimously recommended approval of Case No. SUP-26-93 to allow a subdivision of greater than 5 lots in the R-8, Rural Residential District, on property identified as Parcel (1-4) on James City County Real Estate Tax Map No. (21-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-26-93 as described herein with the following conditions:

1. If final subdivision approval has not been obtained within a period of 18 months, the special use permit shall become void.
2. The site shall be subdivided into no more than 13 lots.
3. No individual lots shall have access to Little Creek Dam Road.
4. At least 8 of the proposed lots shall be priced at or below the Virginia Housing and Development Authority's (VHDA) Home Mortgage Loan program and offered through the Office of Housing and Community Development's Affordable Housing Incentive Plan (AHIP). Prior to final subdivision approval the developer shall provide the Director of Planning conformation of the initial sale price of these lots. The developer shall also enter into an agreement with James City County restricting the initial sales price of these 8 lots, and any improvements for a period of 5 years. Said agreement shall be approved by the County Attorney.
5. No development or land disturbance shall be permitted within 200 feet from the Little Creek Reservoir pool elevation of 60 feet except for stormwater runoff treatment facilities as approved by the City of Newport News and the Planning Director.

2. Case No. SUP-29-93. Alphonzo Melvin

Ms. Sandra E. Barner, Development Management Technician, stated that Mr. Rick Hanson, James City County Office of Housing and Community Development, had applied on behalf of Mr. Alphonzo Melvin, for a special use permit to allow replacement of a manufactured home on 1.274 acres, zoned R-8, Rural Residential, located at 3237 Chickahominy Road, further identified as Parcel (1-75) on James City County Real Estate Tax Map No. (22-2).

Staff recommended approval of the case with conditions listed in the resolution.

Ms. Knudson opened the public hearing, and as no one wished to speak, she closed the public hearing.

Mr. Sisk made a motion to approve Case No. SUP-29-93.

On a roll call, the vote was: AYE: Taylor, Edwards, DePue, Sisk, Knudson (5).  
NAY: (0).

RESOLUTION

CASE NO. SUP-29-93. ALPHONZO MELVIN - MANUFACTURED HOME

WHEREAS, it is understood that all conditions for the consideration of an application for a special use permit have been met; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that a Special Use Permit be granted for the replacement of a manufactured home on property owned and developed by the applicant as described below and on the attached site location map.

Applicant: Alphonzo Melvin

Real Estate Tax Map ID: (22-2)

Parcel No: (01-75)

Address: 3245 Chickahominy Road

District: Stonehouse

Zoning: R-8

- Conditions:
1. If installation of a two-bedroom replacement unit has not occurred within a period of 18 months from the date of issuance of the special use permit, it shall become void.
  2. The manufactured home being replaced shall be removed from the site prior to issuance of any Certificate of Occupancy.
  3. The inoperable vehicle shall be removed or covered in conformance with County Code within 30 days after approval of this special use permit by the Board of Supervisors or the special use permit shall become void.
  4. The manufactured home shall be skirted and shall meet the requirements of the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.

3. Outdoor Gathering Permit - Williamsburg Scottish Festival, Inc.

Mr. Sanford B. Wanner, Assistant County Administrator, stated that an application had been received from the Williamsburg Scottish Festival, Inc., to hold an outdoor gathering on September 25, 1993, at the Williamsburg Winery, Ltd., 2638 Lake Powell Road, James City County, Virginia.

Staff recommended approval of the application.

Ms. Knudson opened the public hearing, and as no one wished to speak, she closed the public hearing.

Ms. Knudson made a motion to approve the resolution.

On a roll call, the vote was: AYE: Taylor, Edwards, DePue, Sisk, Knudson (5).  
NAY: (0).

## R E S O L U T I O N

### OUTDOOR GATHERING PERMIT

WHEREAS, James City County received an application from Williamsburg Scottish Festival, Inc., to hold an outdoor gathering on September 25, 1993, from 9:00 a.m. to 5:00 p.m., at the Williamsburg Winery, LTD., 2638 Lake Powell Road, James City County, Virginia; and

WHEREAS, the application was reviewed and approved with comments by the James City County Fire Chief, Police Chief, Emergency Medical Coordinator, the Health Department and the Zoning Administrator/Building Official.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to issue a permit to the Williamsburg Scottish Festival, Inc., to hold an outdoor gathering as proposed on the Outdoor Gathering Permit Application and the written comments made thereto.

4. Case No. Z-7-93. Jabbo Kenner Boxing Club - Susan Sikich

Mr. Jeffrey J. Mihelich, Senior Planner, stated that Mr. David Otey, Jr., had applied on behalf of Ms. Susan Sikich to rezone approximately one acre from M-2, General Industrial, to M-1, Limited Business/Industrial, to properly zone the site to allow the Jabbo Kenner Boxing Club to occupy the building located at 8008 Hankins Industrial Boulevard, further identified as Parcel (1-16E) on James City County Real Estate Tax Map No. (12-4).

In concurrence with staff, the Planning Commission unanimously recommended approval of the rezoning for the reasons that the project is consistent with surrounding development and zoning and is supported by the Comprehensive Plan.

Ms. Knudson opened the public hearing.

1. Mr. David W. Otey, Jr., Esq., representing Susan Sikich, explained the rezoning would permit an indoor sports facility use. He introduced Dan Campbell from the boxing club. Mr. Campbell introduced two boxers, who were in the audience, to the Board.

2. Mr. Daniel Campbell, Community Diversion Incentive Program Coordinator, spoke of accomplishments of the boxing club and titles won since the group was founded in 1990. He stated the new facility would provide access to children who reside in the upper end of the County.



Ms. Knudson closed the public hearing.

Ms. Knudson made a motion to approve Case No. Z-7-93.

The Board applauded the boxing club for its successful programs and contributions to the community.

On a roll call, the vote was: AYE: Taylor, Edwards, DePue, Sisk, Knudson (5).

## R E S O L U T I O N

### CASE NO. Z-7-93. JABBO KENNER BOXING CLUB - SUSAN SIKICH

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-7-93 for rezoning approximately one acre from M-2, General Industry, to M-1, Limited Business/Industrial, on property identified as Parcel (1-16E) on James City County Real Estate Tax Map No. (12-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-7-93.

5. Case Nos. Z-6-93 and MP-1-93. Ford's Colony Rezoning and Master Plan Amendment

Ms. Elizabeth R. Friel, Senior Planner, stated Mr. Paul Small of AES had applied on behalf of Realtec Incorporated to rezone approximately 85 acres from R-2, General Residential, to R-4, Residential Planned Community, and to amend the Ford's Colony Master Plan to designate parcel being rezoned for single-family development and to delete a 3-acre recreation area designation.

Ms. Friel further stated that the site was located within Ford's Colony, southeast of Edinburgh Drive's intersection with Hunstanton, further identified as Parcel (1-6) on James City County Real Estate Tax Map No. (38-1). She noted that the proposed rezoning, with proffers, and Master Plan amendment are generally consistent with the intent of the Comprehensive Plan and surrounding residential development and zoning.

In concurrence with staff, the Planning Commission unanimously recommended approval of the rezoning and master plan amendment.

Ms. Knudson opened the public hearing.

1. Mr. Vernon Geddy, III, Esq., representing Realtec Incorporated, gave the background of the property and called the request a housekeeping amendment. He urged the Board to approve the cases.

Mr. DePue stated that he would like to see the updated fiscal impact statements if they existed in published form.

Mr. Edwards asked if Ford's Colony considered this an appropriate time to agree to participate in contributing to an upgrade of News Road.

Mr. Drew Mulhare, Vice President, Operations, Ford's Colony, responded that these cases do not create additional units and the current traffic analysis showed less impact than the one done previously. He added that participation might be appropriate in the future if an expansion of Ford's Colony should be considered.

Ms. Knudson closed the public hearing.

Ms. Knudson made a motion to approve the Case Nos. Z-6-93 and MP-1-93.

On a roll call, the vote was: AYE: Taylor, Edwards, DePue, Sisk, Knudson (5).  
NAY: (0).

### R E S O L U T I O N

#### CASE NO. Z-6-93. FORD'S COLONY REZONING

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-6-93 for rezoning approximately 85 acres from R-2, General Residential, to R-4, Residential Planned Community, on property identified as the eastern most portion of Parcel (1-2) and Parcel (1-6) on James City County Real Estate Tax Map No. (38-1); and

WHEREAS, the Planning Commission of James City County, unanimously recommended approval of Case No. Z-6-93.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-6-93, and accepts the voluntary proffers.

### R E S O L U T I O N

#### CASE NO. MP-1-93. FORD'S COLONY MASTER PLAN AMENDMENT

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Master Plan Case No. MP-1-93 for a Master Plan amendment to designate 85 acres as Residential Area A and delete a previously designated 3-acre recreation area on property identified as the eastern most portion of Parcel (1-2) and Parcel (1-6) on James City County Real Estate Tax Map No. (38-1); and

WHEREAS, the Planning Commission of James City County, unanimously recommended approval of Case No. MP-1-93.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Master Plan Amendment Case No. MP-1-93.

**F. BOARD CONSIDERATIONS**

1. Route 5 Transportation Improvement District Agreement

Mr. John T. P. Horne, Manager of Development Management, stated that the Route 5 Transportation Improvement District Agreement between the Commonwealth Transportation Board (CTB), Route 5 Transportation Improvement District, and the James City County Board of Supervisors had been revised by the CTB to remove any possibility that litigation could forestall approval of the agreement. He identified the revisions on pages 4 and 5 of the Agreement.

Staff recommended approval of the Agreement.

Ms. Knudson made a motion to approve the resolution.

On a roll call, the vote was: AYE: Taylor, Edwards, DePue, Sisk, Knudson (5).

NAY: (0).

**R E S O L U T I O N**

**TRI-PARTY AGREEMENT BETWEEN THE COMMONWEALTH  
TRANSPORTATION BOARD, THE ROUTE 5 TRANSPORTATION  
IMPROVEMENT DISTRICT, AND JAMES CITY COUNTY**

WHEREAS, the Board of Supervisors of James City County has approved the creation of the Route 5 Transportation Improvement District in order to provide funding to pay for a roadway in the County on a new alignment beginning at a point approximately one-quarter mile east of the entrance to the Governor's Land project on existing Route 5, a distance of approximately five miles to the vicinity of News Road, where it will connect with planned improvements to State Route 199; and

WHEREAS, a Tri-party Agreement between the Virginia Commonwealth Transportation Board, the Route 5 Transportation Improvement District, and James City County, Virginia is necessary to provide for the advancement of funds to pay for the initial construction of the roadway described herein; and

WHEREAS, the Agreement has been revised with the intent to remove any possibility that any litigation could forestall the approval of the Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs its Chairman, Judith N. Knudson, to execute the Agreement between the Virginia Commonwealth Transportation Board, the Route 5 Transportation Improvement District, and James City County, Virginia, by and between the Virginia Commonwealth Transportation Board, the Route Transportation Improvement District, and James City County, Virginia.

2. School Year-End Surplus

Mr. John E. McDonald, Manager of Financial and Management Services, stated that the Williamsburg-James City County School Board had requested the City of Williamsburg and James City County to reappropriate \$667,245 in FY 1993 year-end surplus funds for other uses by the schools in FY 1994.

Staff recommended approval of the conditions as listed in the resolution.

The Board discussed reasons for the surplus and uses identified for the funds.

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Taylor, Edwards, DePue, Sisk, Knudson (5).  
NAY: (0).

**R E S O L U T I O N**

**SCHOOL FY 1993 OPERATING SURPLUS**

WHEREAS, the Board of Supervisors of James City County has been requested, by the Williamsburg James City County Public Schools, to authorize the reappropriation of the FY 1993 School Operating Surplus; and

WHEREAS, the County has previously appropriated \$139,081 of that expected surplus in the FY 1994 Capital Budget; and

WHEREAS, the Schools have identified three projects at the high school that would be financed with these funds; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, agrees to allow the School Board to retain, and reappropriate, a portion of the FY 1993 School Operating surplus under the following circumstances:

1. The Schools shall return to the County the first \$139,081 of a calculated FY 1993 year-end surplus owed the County.
2. Should the surplus due the County exceed \$139,081, then the Schools may retain up to \$304,800 to assist in the funding of the networking, telephone and carpeting projects for Lafayette High School.
3. Should the surplus due the County exceed the \$443,881 allocated in Sections (1) and (2), then the entire excess shall be returned to the County.

**G. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, questioned at what value does real estate begin to pay its way; commented that the School year-end surplus confirmed his statement of no additional funding needed at budget time; and, spoke to citizens' indifference to resisting taxation.

**H. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. David B. Norman, County Administrator, recommended that the Board go into executive session pursuant to Section 2.1-344(a)(7) of the Code of Virginia to consult with the County Attorney and staff on a matter involving probable litigation.

**I. BOARD REQUESTS AND DIRECTIVES**

Mr. Taylor requested information on how to obtain trash coupons by mail.

Mr. Larry M. Foster, General Manager, James City Service Authority, responded that requests should be made to the Treasurer's office.

Mr. Sisk congratulated the three local soccer teams who were champions in their divisions at the tournament sponsored by James City County Parks and Recreation department and Williamsburg Soccer Club.

Ms. Knudson asked about status of streetlights in the Page Landing Subdivision.

Ms. Knudson had received a telephone call regarding no school signs on Route 60 East at James River Elementary School.

Staff responded that temporary caution signs had been installed and School Administration was responsible for installation of permanent signage.

With Board agreement, Ms. Knudson asked staff to prepare an ordinance to allow farmers to sell produce from truck beds.

Mr. DePue asked the status of final occupancy permits for James River Elementary School.

Mr. Horne responded that the classroom wing was open; administration offices were near completion; kitchen and cafeteria would take additional time; and, the recreation facilities would be completed after construction in the building was finished.

Ms. Knudson made a motion to go into executive session as recommended by the County Administrator, at 8:07 p.m.

On a roll call, the vote was: AYE: Taylor, Edwards, DePue, Sisk, Knudson (5).  
NAY: (0).

Ms. Knudson reconvened the Board into open session at 8:27 p.m.

Ms. Knudson made a motion to approve the executive session resolution.

On a roll call, the vote was: AYE: Taylor, Edwards, DePue, Sisk, Knudson (5).  
NAY: (0).

R E S O L U T I O N

MEETING DATE: September 7, 1993

CERTIFICATION OF EXECUTIVE MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge; (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies; and, (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board.

Mr. Sisk stated that he would be absent at the September 20, 1993, Board of Supervisors' meeting.

The Board discussed a public information plan for the spring bond referendum and policies/practices governing building inspections.

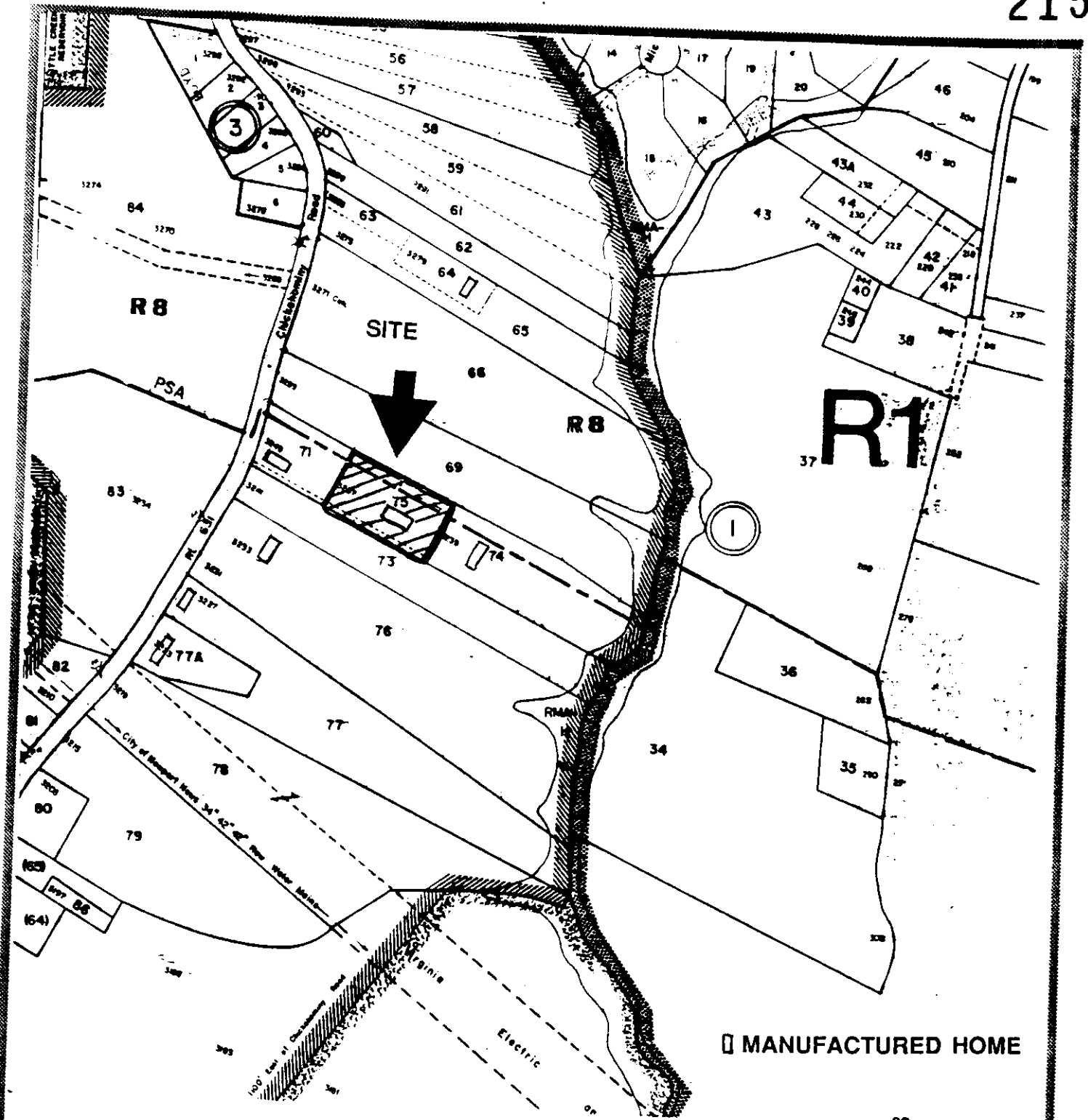
Mr. DePue made a motion to recess until a work session in Building C Board Room at 5:00 p.m., Monday, September 20, 1993.

On a roll call, the vote was: AYE: Taylor, Edwards, DePue, Sisk, Knudson (5).  
NAY: (0).

The Board recessed at 9:57 p.m.

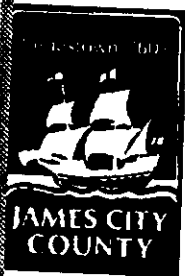


David B. Norman  
Clerk to the Board



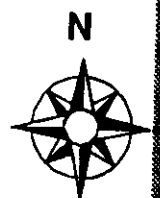
□ MANUFACTURED HOME

SCALE 1"=400 Feet



Case No: SUP-29-93

Name : Alphonzo Melvin - Manufactured Home



PLANNING DIVISION

## JAMES CITY COUNTY

Application for Permit to Hold  
on Outdoor Gathering

The information herein reflects responses to the categories identified on the JCC application form.

## A. General

1. Name, address, phone number of applicant:

WILLIAMSBURG SCOTTISH FESTIVAL Inc., PO Box 866, Williamsburg, VA 23187. Phone: 220-0274, 565-0011. (List of Directors attached)

2. Location of gathering: Williamsburg Winery Ltd., 2638 Lake Powell Road, Williamsburg, VA 23185.

3. Name, address, phone number of property owner of premises:

Williamsburg Winery Ltd, Patrick G. Duffeler, PO Box 359 Williamsburg, VA 23187. Phone: 229-0999. (A copy of the agreement between the WSF and the Williamsburg Winery is attached)

4. Description of the type of outdoor gathering: A gathering of Scottish Americans and others to honor Scottish culture and heritage. A variety of typically Scottish events occur during the day and include: The Parade of the Clans, Clan War Cry Rally, Massed Bagpipe Band performances, Sheepdog demonstrations, and competitions in Scottish Athletics, Pipe Bands, Individual Piping and Drumming, and Highland Dancing. Scottish entertainers are "39 Fingers" (a folk group from Richmond), "Atholl Brose" (a folk group from Norfolk), and Carl Peterson (a balladeer from Philadelphia, PA).

5. Date and Times for gathering: September 25, 1993. 9 a.m.-5 p.m. (Schedule of events is attached)

6. An estimate of the minimum and maximum numbers of customers, spectators, participants, and others expected to attend: Total attendance is expected to be 3,000 to 5,000. Of that number, 2,000 to 4,000 are people who purchase tickets. The remaining number will be volunteer workers, competitors, and others admitted by pass. An average of 2-2500 people will be on site at any one time.

7. Financial statement: (Attached)



- B. Site Plan: (Attached) Note: Although not indicated on the site plan, a public address system will be in place at the parade ground. Estimated operating output is a Db range of 75-80 with a maximum of 90 Db. Approximate distance from the parade field to the access to Lake Powell Road is 9/10 of a mile.

  
APPROVAL: Chief of Police

  
APPROVAL: Fire Chief

C. Service Plan

1. Security and protection plan: Two police officers will be on site. One will be present from 9 a.m. to 5 p.m., while the other will be present from 11 a.m. to 6 p.m. In addition, a private security officer will be on site to provide security for the WSF treasurer.

  
APPROVAL: Chief of Police

2. Fire Protection Plan: All suitable precautionary measures directed by the county Fire Chief will be accomplished.

  
APPROVAL: Fire Chief

3. Sanitation Facilities Plan: Twenty-three standard chemical toilets and two toilets fitted for the handicapped will be positioned on the festival field as indicated on the site map. The permanent facility public rest rooms in the winery will not be available for use by festival attendees. Signs identifying this limitation will be properly posted.

"ARTICLE 6 § 4.33B3d - When portable privies are used at mass gatherings, 1 privy per 100 persons shall be provided as a minimum."  
 (Sewage Handling & Disposal Regulations) Since number of privies does not meet guidelines - Health Dept. is requesting NSF to have signed contract with Privy Company to have pump-off trucks available for immediate use should the need arise.

Valerie Jordan  
 APPROVAL: County Health  
 Department

4. Waste Disposal Plan: Four 8 cubic yard Dumpsters will be located adjacent to the Winery building. Forty-four gallon trash containers will be located throughout the festival field. Boy Scout volunteers will empty the receptacles during the day, as needed. Further, the volunteer Scout troop will completely "police" the grounds following the event.

Valerie Jordan  
 APPROVAL: County Health  
 Department

5. Water Supply/Facilities Plan: One exterior water outlet located at the Winery building will be marked "NON-POTABLE WATER, TO BE USED FOR CLEANING PURPOSES ONLY."

Food vendors must have water available to them that they can obtain from an approved source and be of sufficient quantity and quality.

Valerie Jordan  
 APPROVAL: County Health  
 Department

6. Food Supply/Facilities Plan: Three food vendors will be on site. All will meet Health Department criteria. Further, all food vendors will have temporary food ~~handlers~~ permits prior to the festival. WSF will have a Virginia ABC license to sell beer only. In addition, attendees can be reasonably expected to bring food and beverages into the site in coolers, in keeping with the "family picnic" nature of Scottish festivals.

*We do not require Foodhandlers Cards for temporary events. The Vendor must obtain a Temporary Food Permit however.*

*Valerie Jordan*  
APPROVAL: County Health Department

7. Medical and First-Aid Facilities Plan: One medic unit with driver and medic from the James City County Fire Department will be on site.

*Russell L. Lawry Jr*  
APPROVAL: Emergency Medical Services Director

8. Communications Plan: Telephone access is available at the winery. Further, Two way radios will be used by key WSF personnel to maintain communication links within the festival area. Cellular phones will be available, as well.

*Russell L. Lawry Jr*  
APPROVAL: Emergency Services Coordinator

9. Consistency with Zoning Ordinance.

*Bernard Farnell*  
APPROVAL: Zoning Administrator

10. Consistency with Building code and Regulations.

*Bernard Farnell*  
APPROVAL: Building Official

## AMENDMENTS

1. Restatement. The Existing Proffers are hereby restated and incorporated by reference herein.

2. Additional Property. These Restated Proffers shall apply to the property described in Recital B to the Existing Proffers and, in addition, to the following described property:

That certain piece or parcel of land, situate in Berkeley District, James City County, Virginia, shown and set out as "1993 ADDITION, 85.2 AC±" on the amended Master Plan submitted herewith entitled "1993 Master Plan, Ford's Colony @ Williamsburg" dated June 29, 1993 and made by AES Consulting Engineers (the "Additional Property").

3. Recreation Areas. Owner shall relocate the Recreation Area within the Additional Property shown on the 1987 Master Plan or combine that Recreation Area with another Recreation Area in the project. The location of the relocated or combined Recreation Area shall be within an area with a Master Plan designation "A". Before the County is obligated to grant final subdivision approval of any subdivision plat of Ford's Colony, Owner shall apply for and diligently pursue a Master Plan amendment setting forth the location of the relocated or combined facility. The relocated or combined Recreation Area shall contain at least the amount of acreage of, and equivalent recreational facilities and equipment as, the Recreation Area(s) being relocated or combined. The relocated or combined Recreation Area shall be constructed in phases commencing in 1995 and shall be completed by the end of 1999.

Date Application

Received: 6/28/93

Reviewed by Assistant County Administrator

Sanford B. Wynn \_\_\_\_\_ 8/9/93

Date

h/cood/co/outdgoth.per

## RESTATED FORD'S COLONY PROFFERS

05450

These RESTATED FORD'S COLONY PROFFERS are made this 26<sup>th</sup> day of August, 1993 by REALTEC INCORPORATED, a North Carolina corporation ("Owner").

## RECITALS

A. Owner is the owner and developer of the Ford's Colony at Williamsburg development containing approximately 2,398.4 acres and which is zoned R-4, Residential Planned Community, with proffers, and subject to a Master Plan heretofore approved by James City County.

B. Owner has applied to amend its existing Master Plan to include a tract of approximately 85.2 acres not currently subject to the Master Plan or proffers and to rezone the property from R-2 to R-4, with proffers.

C. In connection with prior Master Plan amendments, Owner has entered into and James City County has accepted Restated Ford's Colony Proffers dated as of October 1, 1987 (the "Existing Proffers").

D. In consideration of the approval of the amendment of its Master Plan, Owner desires to amend and restate the Existing Proffers as set forth below. If the requested amendment of Owner's Master Plan is not approved by James City County, these Restated Ford's Colony Proffers shall be void and the Existing Proffers shall remain unchanged, in full force and effect.

1. Restatement. The Existing Proffers are hereby restated and incorporated by reference herein.

2. Additional Property. These Restated Proffers shall apply to the property described in Recital B to the Existing Proffers and, in addition, to the following described property:

That certain piece or parcel of land, situate in Berkeley District, James City County, Virginia, shown and set out as "1993 ADDITION, 85.2 AC±" on the amended Master Plan submitted herewith entitled "1993 Master Plan, Ford's Colony @ Williamsburg" dated June 29, 1993 and made by AES Consulting Engineers (the "Additional Property").

3. Recreation Areas. Owner shall relocate the Recreation Area within the Additional Property shown on the 1987 Master Plan or combine that Recreation Area with another Recreation Area in the project. The location of the relocated or combined Recreation Area shall be within an area with a Master Plan designation "A". Before the County is obligated to grant final subdivision approval of any subdivision plat of Ford's Colony, Owner shall apply for and diligently pursue a Master Plan amendment setting forth the location of the relocated or combined facility. The relocated or combined Recreation Area shall contain at least the amount of acreage of, and equivalent recreational facilities and equipment as, the Recreation Area(s) being relocated or combined. The relocated or combined Recreation Area shall be constructed in phases commencing in 1995 and shall be completed by the end of 1999.

4. Endangered Plant Species. Owner has heretofore caused surveys to be conducted of the Additional Property for endangered plant species. The location of any small whorled pogonias or Virginia least trillium located on the Additional Property shall be shown on all subdivision or other development plans of the Additional Property and Owner shall submit to the Director of Planning with any subdivision or development plan a conservation plan for such plants. The conservation plan shall provide for the conservation of such plants either through transplanting the plants to other suitable habitat within Ford's Colony or by preserving a 20 foot buffer around the plants and, if necessary planting additional overstory to shade the plants, all as determined by Owner consistent with its past practices at Ford's Colony. The conservation plan shall be approved by the Director of Planning before any land disturbing activity is allowed in the vicinity of the any small whorled pogonias or Virginia least trillium identified on the Additional Property.

5. Open Space. The area shown on the 1993 Master Plan as "Open Space, 20± Acres Reserved for Route 199 and Associated Greenbelts" shall be reserved by Owner as open space for the future location of Route 199 with its associated greenbelts.

WITNESS the following signature.

REALTEC INCORPORATED

By: 

Title: VICE - PRESIDENT

STATE OF VIRGINIA

CITY/COUNTY OF Williamsburg, to-wit:



The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of August, 1993, by Drew R. Mulholland, as Vice President of Realtec Incorporated.

Janice M. Thompson  
NOTARY PUBLIC

My commission expires:

2/28/95.

VIRGINIA: City of Williamsburg and County of James City, to Wit:

In the Clerk's office of the Circuit Court of the City of Williamsburg and County of James City the 30 day of March 19 94. This Proffer was presented with certificate annexed and admitted to record at 1:24 o'clock

Teste: Helene S. Ward, Clerk  
by Alexander  
Deputy Clerk

AGREEMENT

between

THE COMMONWEALTH TRANSPORTATION  
BOARD,

THE COUNTY OF JAMES CITY

and

THE ROUTE 5 TRANSPORTATION  
IMPROVEMENT DISTRICT

Dated as of September 15, 1993

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AGREEMENT

THIS AGREEMENT dated as of \_\_\_\_\_, 1993, by and between the COMMONWEALTH TRANSPORTATION BOARD (the "Board"); the COUNTY OF JAMES CITY, VIRGINIA ("County"); and the ROUTE 5 TRANSPORTATION IMPROVEMENT DISTRICT (the "District");

WITNESSETH:

WHEREAS, the Board has the power to let all contracts for the construction, improvement and maintenance of the roads embracing the system of state highways; and

WHEREAS, the County has the power to levy and collect taxes, and to accept proffers, and enter into contracts for the furtherance of public purposes within the County; and

WHEREAS, the District has been duly created by the County to carry out the powers and duties of a Virginia Transportation Service District pursuant to the District Act, as hereinafter defined; and

WHEREAS, the Board is empowered to enter into contracts with the County and the District for transportation improvements.

WHEREAS, the District is empowered to enter into contracts with the Board and the County to provide financing, acquisition, construction improvements and expansion to transportation facilities in the District, to request the County to levy a special improvements tax and collect special tax revenues in accordance with the District Act, and to have such revenues paid to or at the direction of the District to finance a portion of the cost of Phase I of the Project in the County;

NOW, THEREFORE, for and in consideration of the premises and mutual covenants hereinafter contained, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 101. Definitions. The following words as used in this Agreement shall have the following meanings unless a different meaning clearly appears from the context:

"Agreement" shall mean this Agreement dated as of \_\_\_\_\_, 1993, between the Board, the County and the District, and any and all modifications, alterations, amendments and supplements thereto.

"Board" shall mean the Commonwealth Transportation Board.

"Board Statute" shall mean Virginia Code Sections 33.1-1 et seq. establishing the Board and providing for its powers and duties.

"Chairman" shall mean the Commonwealth Transportation Board Chairman.

"Commonwealth" shall mean the Commonwealth of Virginia.

Section 303. "Cost" or "Cost of the Project" shall mean the cost of the Project as set forth in

"County" shall mean the County of James City, Virginia

"Department" shall mean the Virginia Department of Transportation.

"District" shall mean the Route 5 Transportation Improvement District created by the County pursuant to the District Act.

"District Act" shall mean the Virginia Transportation Service District Act, being Virginia Code Sections 15.1-791.1 et seq., pursuant to which the County established the District.

"District Obligation" shall mean the District's obligation as set forth in Section 401.

"Fiscal Year" shall mean the twelve month period beginning on July 1 of one year and ending on June 30 of the following year or such other fiscal year of twelve months or as may be determined by the County.

"GLA" shall mean Governor's Land Associates a Virginia joint venture between Dominion Lands Williamsburg, Inc., a Virginia corporation and Governor's Land, Inc., a Virginia corporation.

"Project" shall mean the construction of a new four lane roadway in the County on a new alignment beginning at a point approximately one-quarter mile east of the entrance to the Governor's Land project on existing Route 5, a distance of approximately five miles to News Road, where it will connect with planned improvements to State Route 199, consisting of the acquisition and construction of roadways and related improvements, including, without limitation, preliminary engineering and right-of-way acquisition, the preliminary concept plan which is shown in Exhibit B. The Project will be built in phases, "Phase I" will include preliminary engineering, design, environmental studies as needed, securing regulatory permits, acquiring right-of-way for the four lane project, and constructing the first two lanes of the four lane roadway. "Phase II" will consist of constructing the second two lanes of the new roadway.

"Special Improvements Tax" shall mean a special improvements tax levied and collected at least annually on all of the taxable real estate within the District which was unimproved on the date on which the District was created. The maximum rate shall be ten (10¢) cents per \$100 of assessed valuation.

"Special Tax Revenues" shall mean the revenues collected from the levy of the Special Improvements Tax.

"Virginia Code" shall mean the Code of Virginia of 1950, as amended.

Section 102. Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Agreement:

(a) Words importing the singular number shall include the plural number and vice versa.

(b) Unless otherwise indicated, all references herein to particular Articles or Sections are references to Articles or Sections of this Agreement.

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(c) The headings and Table of Contents are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

## ARTICLE II

### REPRESENTATIONS

Section 201. Representations of Board. The Board makes the following representations in connection with its undertakings under this Agreement:

(a) The Board (1) is duly organized under the Board Statute, (2) has the power to enter into this Agreement and the transactions contemplated hereby and to perform its obligations hereunder, and (3) by proper action has duly authorized the execution and delivery of, and performance of its obligations under, this Agreement.

(b) The Board has the power to carry out its obligations under this Agreement and to allocate Revenue Sharing funds pursuant to the Board Statute and appropriation by the Virginia General Assembly.

(c) The execution and delivery of and compliance by the Board with the terms and conditions of this Agreement will not conflict with or constitute or result in a default under or violation of, (1) the Board Statute or any other existing law, rule or regulation applicable to the Board or (2) any indenture, deed of trust, lien, lease, contract, note, order, judgment, decree or other agreement, instrument or restriction of any kind to which the Board or any of its assets is subject, and no event has occurred and is continuing that with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation.

(d) No further approval, consent or withholding of objection on the part of any regulatory body or any federal, state or local official is required as a condition precedent to the execution or delivery of this Agreement by the Board.

Section 202. Representations of County. The County makes the following representations in connection with its undertakings under this Agreement:

(a) The County (1) has the power to enter into this Agreement and the transactions contemplated hereby and to perform its obligations hereunder and (2) by proper action has duly authorized the execution and delivery of, and performance of its obligations under, this Agreement.

(b) The execution and delivery of and compliance by the County with the terms and conditions of this Agreement will not conflict with or constitute or result in a default under or violation of, (1) any existing law, rule or regulation applicable to the County or (2) any indenture, deed of trust, lien, lease, contract, note, order, judgment, decree or other agreement, instrument or restriction of any kind to which the county or any of its assets is subject, and no event has occurred and is continuing that with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation.

(c) No further approval, consent or withholding of objection on the part of any regulatory body or any federal, state or local official is required as a condition precedent to the execution or delivery of this Agreement by the County.

Section 203. Representations of District. The District makes the following representations in connection with its undertakings under this Agreement:

(a) The District (1) is duly organized under the District Act, (2) has the power to enter into this Agreement and the transactions contemplated hereby and to perform its obligations hereunder, and (3) by proper action has duly authorized the execution and delivery of, and performance of its obligations under, this Agreement.

(b) The District has the power to carry out its obligations under this Agreement.

(c) The District has no outstanding indebtedness of any kind whatsoever.

(d) The execution, delivery and compliance by the District with the terms and conditions of this Agreement will not conflict with, or constitute or result in a default under or violation of, (1) the District Act or any other existing law, rule or regulation applicable to the District or (2) any lien, lease, contract, order, judgment, decree or other agreement, instrument or restriction of any kind to which the District or any of its assets is subject, and no event has occurred and is continuing that with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation.

(e) No further approval, consent or withholding of objection on the part of any regulatory body or any federal, state or local official is required as a condition precedent to the execution or delivery of, or performance by the District in accordance with the terms and conditions of this Agreement.

ARTICLE III

UNDERTAKING AND FINANCING PHASE I OF THE PROJECT

Section 301. Agreement to Construct and Complete Phase I of the Project. In accordance with its specifications and on behalf of the Commonwealth, and subject expressly to Section 302 and to full performance by the County under Section 502 of this Agreement, the Board, either directly or through the Department of Transportation, shall;

- (a) Pledge its ongoing assistance to comment and provide guidance to the County and/or the District with regard to the location and design of the Project, and timely review of design plans.
- (b) Provide guidance in obtaining any necessary State, Federal and local permits, including guidance to the County and/or the District on any environmental impact studies that may be required.
- (c) Approve the design plans for right-of-way acquisition and relocation of utilities, and pursuant to Virginia Code § 15.1-791.12., acquire, at the expense of the District and/or the County, any right-of-way for the Project that cannot be obtained by the District through negotiations.
- (d) Upon submittal of all necessary State, Federal and local permits, and evidence of acquisition of all necessary right-of-way, approve construction plans for Phase I of the Project.



- (e) Upon request of the District, advertise for bids, award the contract and construct those portions of Phase I of the Project not to be constructed by the landowners and/or others, and use its best efforts to begin construction of Phase I of the Project within 180 days after all funds, including Revenue Sharing Funds, become available for expenditure.

The District shall have no right to approve or otherwise exercise any control over the design or construction of the Project, but the County and the Board shall consult with the District Advisory Board. The Board shall use its best efforts to construct Phase I of the Project in a timely manner.

After completion of Phase I of the Project, the Board shall take action to include the first two lanes of the ultimate four lane facility in the County's Secondary Highway System for maintenance. Phase I of the project shall be completed pursuant to the Commonwealth Transportation Board Resolution of November 19, 1992, (Exhibit A).

Section 302. Allocation of Revenue Sharing Program funds. The Board recognizes and affirms that the Project is important to the State's transportation system. Therefore, the Board, while recognizing that it is not empowered to make any binding commitment to allocate funds under the Board Statute in future fiscal years, hereby expresses its good faith intent, subject to appropriations by the General Assembly of Virginia, to allocate Revenue Sharing funds upon the request and commitment of the required match from James City County for the construction costs of two lanes of Phase I of the Project not otherwise available to the County through existing proffers, not to exceed \$1 Million for the Phase I construction costs as soon thereafter as the 13,000 vehicle per day Threshold is met on existing Route 5 as set forth in Exhibit C but not before plan years 1998-1999 and 1999-2000, from Revenue Sharing Program funds as more specifically provided in Exhibit A, the terms and conditions of which are incorporated herein by reference.

Section 303. Costs of Phase I of the Project. Cost of Phase I of the Project includes cost of construction, the cost of all lands, properties, rights, easements and franchises acquired which are deemed necessary for such construction, the cost of all machinery and equipment, cost of traffic estimates and of engineering data, engineering and legal expenses, cost of plans, specifications and surveys, estimates of cost and of revenues, other expenses necessary or incident to the financing of Phase I of the Project, the construction of Phase I of the Project, the placing of Phase I of the Project in operation, the acquisition of property and relocation of utilities necessary for such construction and operation and issuance costs, reserve funds, contractor's claims and other financing expenses.

## ARTICLE IV

### DISTRICT OBLIGATIONS

Section 401. District Obligation. (a) The District is required to pay in the following order of priority: (1) to the Board, for reimbursement to the James City County's Secondary Highway Improvement Program for any funds expended pursuant to Section 502 (b); (2) to the Board, an amount equal to all monies allocated and expended by the Board for Phase I of the Project in eight annual installments of \$125,000.00 until paid in full commencing on July 1 of the year after the year in which the Board has fully funded the \$1,000,000 it is to fund pursuant to Section 302 above for the Phase I improvements, with any unpaid balance thereof which exists subsequent to the eighth anniversary of such first payment to bear interest at the rate of eight (8%) percent until paid; (3) after the amount owed to the Board has been paid in full, to the County for monies expended for Cost of Phase I of the Project, in annual installments of \$125,000 until paid in

full; and (4) to the County, an amount equal to all monies advanced pursuant to the GLA Funding Plan outline set out in Exhibit D in accordance with the terms thereof which are incorporated herein by reference, for repayment on behalf of the District to GLA as provided therein and in the Subordinated Note a form of which is attached as Exhibit E.

Amounts due and described in the above paragraph are referred to as the District's Obligation.

(b) Notwithstanding anything herein to the contrary, the portion of the District Obligation due in any Fiscal Year shall not be reduced below an amount equal to the Special Tax Revenues expected to be generated by the levy of the Special Improvements Tax at the maximum permitted rate of \$.10 per \$100 unless Special Tax Revenues in the two Fiscal Years immediately preceding the Fiscal Year in which the reduction occurs have been greater than the annual installment of the District Obligation, at which time the rate may be reduced to a level sufficient to pay the portion of the annual installment of the District Obligation due in the next Fiscal Year. Any such excess Special Tax Revenues shall be deposited in a separate account with the Board and, together with actual interest earnings thereon shall be applied against the District Obligation in the event Special Tax Revenues collected in such future Fiscal Year are insufficient to pay the portion of the District Obligation due in such future Fiscal Year, or (i) applied to the District Obligation in the last Fiscal Year it is outstanding, or when the District Obligation is fully paid, (ii) paid to the Boards of Supervisors to provide for landscaping and/or other cosmetic upgrades to the Project. The rate of the Special Improvements Tax shall not be further reduced unless the Special Tax Revenues generated in the two Fiscal Years immediately preceding the Fiscal year in which the reduction occurs were sufficient to pay the portion of the District Obligation due in such Fiscal Years.

(c) Notwithstanding anything herein to the contrary, the District Obligation is limited to collections of any Special Tax Revenues and the Board's obligations are subject to appropriations made by the General Assembly of Virginia.

(d) The District shall reimburse the Department of Transportation for actual project expenditures for the acquisition of any rights-of-way, easements or utility relocations, within 30 days of receiving an invoice for such expenses.

Section 402. Special Improvements Tax. In order to pay the District Obligation, the District shall request the County by March 1 of each year to levy the Special Improvements Tax and collect Special Tax Revenues for the next Fiscal Year at a rate sufficient to generate Special Tax Revenues to meet the requirements of Section 401, which said rate shall not exceed ten cents (10¢) per \$100 of assessed valuation. The District shall direct the County to pay to the Board, GLA and/or itself all Special Tax Revenues on or before June 30 of each year so long as any District Obligation is outstanding.

Section 403. Records and Invoices. The Board shall maintain adequate records of the outstanding balance of the District Obligation and shall forward to the District an invoice setting forth such balance by February 15 and August 15 of each year. The invoice shall indicate the portion of the District Obligation for the current Fiscal Year and the portion, if any, of the District Obligation which has been carried forward from prior years.

Section 404. Annual Audit. Pursuant to the District Act, the District shall have an annual verification and audit of its financial obligations and revenues. With the consent of the Board, such verification and audit may be prepared by the Auditor of Public Accounts as part of the audit of the County.

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Section 405. Prepayment of District Obligation. The District may prepay from time to time the District Obligation. All the terms of such prepayment are subject to the approval of the District Commission.

Section 406. Failure of District to Request Levy and Collection of Tax. The District shall request the County to levy and collect the Special Improvements Tax pursuant to Section 402. In the event the District fails to levy and collect or the County fails to levy and collect, then such District obligations becoming due in said fiscal year shall be deducted from the County's Secondary Highway Improvement Program Allocation.

## ARTICLE V

### COUNTY OBLIGATIONS

Section 501. Request by District. (a) The District shall request the County to levy the Special Improvements Tax and collect Special Tax Revenues each Fiscal Year in an amount computed in accordance with the requirements of Sections 401 and 402 of this Agreement.

(b) Each Fiscal Year by March 1 the District shall notify the County of the amount of the District Obligation pursuant to Section 401 of this Agreement and the rate of the Special Improvements Tax which it desires to be levied during the following Fiscal Year by the County pursuant to Section 402 of this Agreement.

Section 502. Covenants of County. The County makes the following covenants:

(a) The County shall pay over to the Board all monies received by the County resulting from proffer payments made by landowners with respect to Phase I of the Project and the GLA Funding Plan Outline set out in Exhibit D, within thirty (30) days of receipt of written notice from the Board that monies are available for expenditure for Phase I of the Project pursuant to the Revenue Sharing Program as provided in Section 302 hereinabove.

(b) Should the funding described in Section 502(a) be insufficient to pay the cost to complete the construction of Phase I of the Project, the County agrees to the expenditure of its Secondary Highway Improvement Program for this purpose. In such case the Board would reallocate funds from James City County's Secondary Highway Improvement Program. The reimbursement of such funds shall be the District's first priority as set out in Section 401 (a) hereinabove.

(c) The County shall notify the District by February 15 of each year of the County's estimate of the assessed fair market value of all taxable real estate within the District which was unimproved on the date on which the District was created.

(d) The Secretary or such other officer charged with the responsibility for preparing the District's annual budget shall include in the budget for each Fiscal Year all amounts to be paid by the District under this Agreement for such Fiscal Year. The County shall serve as the fiscal agent to the District to collect the special tax revenues and to use such revenue to pay the District Obligations no later than 45 days after receipt and direction from the District Commission. The County shall not be obligated in any other manner with respect to the District Obligations.

(e) The County recognizes that the Project is important to the transportation system of the County. The County further recognizes that the levy of the Special Improvements Tax and the payment of Special Tax Revenues to or at the direction of the District is in furtherance

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf by their duly authorized officers.

COMMONWEALTH TRANSPORTATION BOARD

By: [Signature]  
Chairman

COUNTY OF JAMES CITY

By: [Signature]  
Its: Chairman, Board of Supervisors

ROUTE 5 TRANSPORTATION IMPROVEMENT DISTRICT

By: [Signature]  
Its: Chairman