

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF SEPTEMBER, NINETEEN HUNDRED NINETY-SEVEN, AT 5:07 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

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A. ROLL CALL

Robert A. Magoon, Jr., Chairman, Jamestown District (Absent)
Jack D. Edwards, Vice Chairman, Berkeley District

David L. Sisk, Roberts District
Perry M. DePue, Powhatan District
Vacant, Stonehouse District
Sanford B. Wanner, County Administrator
Leo P. Rogers, Deputy County Attorney

B. WORK SESSION - Traffic Counts

Mr. Edwards called the meeting to order.

Mr. Sanford B. Wanner, County Administrator, introduced Mr. O. Marvin Sowers, Jr., Planning Director, and staff. Mr. Matthew Maxwell, Senior Planner, presented the information using Virginia Department of Transportation figures. Staff advised that VDOT schedules selected primary roads each year while other primary road volumes are adjusted per an annual growth factor, and schedules secondary road counts every three years.

The Board agreed to the staff recommendation of hiring a consultant to do annual traffic counts for the County's most critical secondary and primary roads beginning in FY 98.

Mr. Edwards recessed the Board for dinner at 6:30 p.m.

Mr. Edwards reconvened the Board at 7:00 p.m.

C. MINUTES - September 9, 1997

Mr. Edwards asked if there were additions or corrections to the minutes.

Mr. DePue made a motion to approve the minutes.

On a roll call, the vote was: AYE: Sisk, DePue, Edwards (3). NAY: (0).

D. HIGHWAY MATTERS

Mr. Quintin Elliott, Resident Engineer, Virginia Department of Transportation (VDOT), explained the traffic at Williamsburg Crossing Route 5/Route 199 intersection would be switched to a new configuration between October 1 -15. He emphasized the difficulty of building around existing traffic.

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Mr. Sanford B. Wanner, County Administrator, asked Mr. Elliott if he could be available to do a television show with charts to explain switching of traffic movement at Route 5/Route 199 intersection. Mr. Elliott responded in the affirmative.

Mr. Wanner requested VDOT provide drawings of the upcoming changes of construction of Route 199 to the County to have available for citizens to view.

Mr. Elliott stated that the Route 199 section between Ironbound Road and Longhill Road was scheduled for completion by June 1999.

Mr. Edwards inquired that the segment completed in October 1998 would not be available for use until the segment scheduled for June 1999 was completed.

Mr. Elliott explained that that segment could not be used until the Monticello Avenue extension project was complete.

Mr. Elliott stated that the Route 199 section between Longhill Road and Route 60 would be advertised July 1999 and he would continue to keep the Board updated on status of changes.

Mr. Edwards asked whether the existing portion of Route 5 in front of Williamsburg Crossing Shopping Center and a portion of Strawberry Plains Road would be removed after relocation of the traffic movement.

Mr. Elliott responded in the affirmative, and stated calls for information regarding Route 199 construction would be answered by VDOT staff.

Mr. DePue asked that tall weeds be removed from on both sides of Longhill Road (Route 612) in the vicinity of Route 199 construction.

Mr. Edwards stated that the drawings of the Route 199 interchanges could be enhanced by the County's Geographic Information System into a handout for citizens.

Mr. DePue asked that the speed limit on Jolly Pond Road in the vicinity of Jolly Pond be reviewed due to concerns about the safety of school buses using the road.

E. CONSENT CALENDAR

Mr. Edwards asked if a Board member wished to discuss the Consent Calendar item.

Mr. Edwards made a motion to approve the Consent Calendar.

On a roll call, the vote was: AYE: Sisk, DePue, Edwards (3). NAY: (0).

1. Extrinsic Structure Agreement for Greensprings Subdivision

RESOLUTION

EXTRINSIC STRUCTURE AGREEMENT FOR GREENSPRINGS SUBDIVISION

WHEREAS, an Agreement is required to address the legal requirements of the Virginia Department of Transportation to accept the maintenance responsibility for a roadway over three structures, specifically golf course cart tunnels in the Greensprings Subdivision; and

WHEREAS, the attached two-party Agreement meets the Virginia Department of Transportation requirements and protects the interest of the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the attached Agreement for the Greensprings Subdivision is approved and the Chairman is authorized to execute the Agreement on behalf of the County.

F. BOARD CONSIDERATIONS

1. Personnel Policies and Procedures Manual Revisions

Ms. Carol M. Luckam, Human Resources Manager, stated that revisions to Section 2.12, Substance Abuse Policy, were made to comply with Federal legislation. She further stated that Section 2.24, Reduction in Force (RIF) had been revised to support the County's mission, vision and values should be County work force be reduced.

Staff recommended approval of the resolution.

Mr. DePue made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, DePue, Edwards (3). NAY: (0).

RESOLUTION

PERSONNEL POLICIES AND PROCEDURES MANUAL REVISIONS

WHEREAS, the current Substance Abuse Policy must be revised to comply with the required Federal legislation; and

WHEREAS, in the unfortunate event that the workforce must be reduced, the County wishes to have a policy in place which provides for the efficient and effective operation of the County while supporting the County's mission, vision, and values.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, adopts the attached revisions to Section 2.12, Substance Abuse, and Section 2.24, Reduction in Force (RIF), of Chapter 2 of the Personnel Policies and Procedures Manual

2. Transfer From Contingency Fund - Communications and Neighborhood Connections

Ms. Luckam stated that a request was being made to transfer \$11,160 from Contingency to fund television equipment improvements to Building C Board Room that will improve the quality of cable rebroadcasts of Board of Supervisors meetings.

Staff recommended approval.

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, DePue, Edwards (3). NAY: (0).

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RESOLUTION

FY 1998 BUDGET ADJUSTMENT

COMMUNICATIONS AND NEIGHBORHOOD CONNECTIONS

WHEREAS, the Board of Supervisors of James City County, Virginia, has previously budgeted for estimated spending for Communications and Neighborhood Connections; and

WHEREAS, current video equipment in the Building C Board Room produces poor quality rebroadcasts and requires inefficient use of staff time; and

WHEREAS, the Board is committed to providing high quality information to citizens while efficiently utilizing staff.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the transfer of the following funds from Operating Contingency to fund improvements to video equipment in the Building C Board Room:

Communications and Neighborhood Connections	<u>\$11,610</u>
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3. **Resolution of Approval for Service Metal Fabricators, Inc., Revenue Bond Issue**

Mr. William C. Porter, Jr., Assistant County Administrator, stated that the Industrial Development Authority (IDA) authorized the issuance of up to \$3,000,000 of Industrial Development Revenue Bonds for Service Metal Fabricators, Inc., to assist in financing of the acquisition, construction, and equipping of these facilities in James City County. Mr. Porter further stated that State and Federal statutes require the governing body of the jurisdiction to support the IDA's actions.

Staff recommended approval of the resolution.

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, DePue, Edwards (3). NAY: (0).

RESOLUTION

ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS FOR

THE BENEFIT OF DYARRCC, INC., AND SERVICE METAL FABRICATORS, INC.

WHEREAS, the Industrial Development Authority of the County of James City, Virginia (the Authority), has considered the joint application of DYARRCC, Inc. (the Corporation), and Service Metal Fabricators, Inc. (the Company), for the issuance of the Authority's industrial development revenue bonds in an amount not to exceed \$3,000,000 (the Bonds) to assist in the acquisition, construction and equipping of an approximately 60,000 square foot metal fabricating and light manufacturing facility (the Project) to be located on a 12-acre site located on Endeavor Drive in the James River Commerce Center in James City County. (The site is located on the west side of Endeavor Drive approximately 1,200 feet from the intersection of Endeavor Drive and Pocahontas Trail. As one turns on Endeavor Drive from Pocahontas Trail and proceeds up Endeavor Drive, the site is located on the right-hand side of the road); and

WHEREAS, the Project will be owned by the Corporation and leased to the Company and the Authority has held a public hearing thereon on September 17, 1997; and

WHEREAS, the Internal Revenue Code of 1986, as amended, provides that the highest elected governmental officials of the governmental units having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located shall approve the issuance of such bonds; and

WHEREAS, the Authority issues its bonds on behalf of the County of James City, Virginia (the County), the Project is to be located in the County and the members of the Board of Supervisors of the County (the Board) constitute the highest elected governmental officials of the County; and

WHEREAS, Section 15.1-1378.1 of the Code of Virginia of 1950, as amended, provides that the Board shall, within 60 calendar days from the public hearing with respect to industrial development revenue bonds, either approve or disapprove the issuance of such bonds; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, subject to terms to be agreed upon, a reasonably detailed summary of the comments expressed at the public hearing with respect to the Bonds and a statement in the form prescribed by Section 15.1-1378.2 of the Code of Virginia of 1950, as amended, have been filed with the Board, together with the Authority's recommendation that the Board approve the issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of James City, Virginia:

1. The recitals made in the first two preambles to this Resolution are hereby adopted as a part of this Resolution.
2. The Board of Supervisors of the County of James City, Virginia, approves the issuance of the Bonds by the Authority to assist in the financing of the Project for the benefit of the Corporation and the Company to the extent required by the Internal Revenue Code of 1986, as amended (the Code), and Section 15.1-1378.1 of the Code of Virginia of 1950, as amended (the Virginia Code).
3. The approval of the issuance of the Bonds, as required by the Code and Section 15.1-1378.1 of the Virginia Code, does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Corporation, the Company or the Project, and, as required by Section 15.1-1380 of the Virginia Code, the Bonds shall provide that neither the County nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefor and neither the faith or credit nor the taxing power of the Commonwealth of Virginia, the County, or the Authority shall be pledged thereto.
4. This Resolution shall take effect immediately upon its adoption.

4. Award of Contract, Building D Renovation

Mr. Bernard M. Farmer, Jr., Capital Projects Administrator, stated that bids for renovation for Building D were received for interior finish renovation of space and replacement of the heating and ventilation equipment, with some upgrades of the electrical equipment. He further stated that the lowest responsive bidder was D. K. Nunnally Company in the amount of \$336,091.

Mr. Sisk asked about the plans for the current courtyard.

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Mr. Farmer responded that that space would be used for a hallway and office space.

Staff recommended approval of the resolution.

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Sisk, DePue, Edwards (3). NAY: (0).

RESOLUTION

AWARD OF CONTRACT, BUILDING D RENOVATION

WHEREAS, bids have been received for construction of renovations to Building D, James City County Government Center; and

WHEREAS, the lowest bid from D. K. Nunnally Company is within the capital budget allocated for this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the necessary contract documents for award of bid to D. K. Nunnally Company, in the amount of \$337,826 (base bid and alternate one).

G. PUBLIC COMMENT

1. Mr. Ray Basley, 4066 S. Riverside, recommended that the Board include an overpass over the railroad tracks on Diascund Road during the next update of the Comprehensive Plan for safety of vehicles when high speed light rail service begins.

Mr. DePue thanked Mr. Basley and advised him to contact the State with the recommendation.

2. Mr. Clyde Hoey, President, Virginia Peninsula Chamber of Commerce, spoke of the business community's strong support of the King William Reservoir.

3. Mr. M. Galbreath, 113 Deerwood Drive, expressed strong support for Mr. R. M. Hazelwood, Jr., to be appointed to the Stonehouse Supervisor seat should it become vacant.

4. Mr. Ed Oyer, 139 Indian Circle, requested status of boundary survey of Country Village Mobile Home Park, and spoke on a variety of water matters.

5. Mr. R. E. Gilley, 227 Gate House Boulevard, also supported the choice of Mr. R. M. Hazelwood, Jr., for the Stonehouse Supervisor seat in the event of a vacancy.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner asked Mr. Leo Rogers, Deputy County Attorney, to respond to Mr. Oyer's question about the survey of Country Village Mobile Home Park.

Mr. Rogers stated that the County would not approve any building permits for new mobile homes until the survey was done.

Mr. Wanner stated that staff would follow-up on status of survey of Country Village Mobile Home Park.

Mr. Wanner announced the State provided a litter control grant of \$6,725, and the County received approval from the U.S. Department of Justice for the shift of a voting location in Berkeley District .

Mr. Wanner announced a James City Service Authority Board of Directors meeting would follow this meeting. He recommended a recess to the next Board of Supervisors meeting.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Edwards read a resignation letter from Supervisor Stewart U. Taylor, Stonehouse District.

Individual Board members expressed deep regret for Mr. Taylor's resignation and praised his attributes of caring, understanding of persons, loyalty to principles and values of free enterprise and individual initiatives, and love of government.

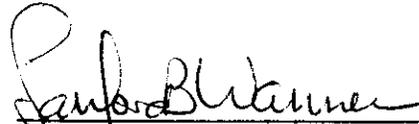
Mr. DePue asked staff to determine if crop disaster resolution was needed because of the extremely dry weather conditions.

Mr. Edwards made a motion to recess until 4:00 p.m., Friday, September 26, 1997, in the James City County Government Center Building C Board Room, for an executive session for discussion of a personnel matter.

On a roll call, the vote was: AYE: Sisk, DePue, Edwards (3). NAY: (0).

Mr. DePue suggested citizens should make the Board aware of their choices and/or persons interested in filling the Stonehouse District vacancy prior to the September 26, 1997, meeting.

The Board recessed at 8:05 p.m.



Sanford B. Wanner
Clerk to the Board

**Standard Inspection and Maintenance Agreement
for an Extrinsic Structure**

Greensprings Subdivision
James City County, Virginia

THIS AGREEMENT FOR INSPECTION AND MAINTENANCE of an extrinsic structure, made this _____ day of _____, 19___, by and between James City County (hereafter County) and the COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION (hereafter Department);

WHEREAS, the County approved plans for a subdivision that is shown on a plat entitled Plat of Right-of-Way for Relocated State Route 614, Being a Subdivision of Property of Greensprings Plantation, Inc., Berkeley District, James City County, Virginia, which is recorded in Plat Book 62, pages 26 to 34, in the Clerk's Office of the Circuit Court;

WHEREAS, in accordance with Section 15.1-478, Code of Virginia, 1950, as amended, recording the described plat transferred to the County, in fee simple, all portions set apart for streets, alleys, and areas for public use; and

WHEREAS said plat shows areas dedicated to public use, including a road, relocated State Route 614 (Centerville Road), that passes over three structures (specifically golf course tunnels) one each located 0.09 miles and 0.75 miles south of the intersection of State Route 614 and 613, and 1.44 miles northwest of the intersection of State Routes 614 and 5; and

WHEREAS, the structure was constructed at the request or consent of the County; and

WHEREAS the primary mission of the structure is deemed by the Department to be non-essential for the operation of the roadway that crosses it and is therefore deemed an extrinsic structure by the Department; and

WHEREAS, uniquely qualified personnel are required to perform periodic inspections of such structures and to identify required maintenance to assure the structural integrity and safety of the structure for the traveling public; and

WHEREAS, the Department routinely performs such inspections on structures of the Secondary System of State Highways; and

WHEREAS, the County desires the Department to assume the responsibilities to inspect and maintain the structure as though it were a part of the secondary system of state highways;

NOW, THEREFORE, THIS AGREEMENT FOR INSPECTION AND MAINTENANCE

WITNESSETH:

In consideration of the acceptance of this Agreement by the parties hereto; and

In consideration of the County's request that the extrinsic structure be inspected and maintained as though it is a part of the roadway and a part of the Secondary System of State Highways; and

In consideration of the Department's acceptance of the roadway as a part of the secondary system of state highways and agreement to inspect and maintain the structure as though it were a part thereof, the parties hereto agree as follows:

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I. **The County agrees:**

- A. To bear all liability for any and all maintenance of the structure, including that of any public safety security systems, such as lighting, which the County agrees to maintain separately, unless otherwise agreed to by the parties. Nothing herein shall preclude the County from obtaining contracts or indemnifications from other persons with respect to the performance of or liability for the maintenance of the structure.
 - 1. The County further agrees that the Department has no maintenance, upkeep and/or repair responsibility or liability due to the presence of the structure, except in cases of physical damage resulting from road maintenance or construction projects administered by the Department.
 - 2. The County further agrees to not seek indemnification or contribution from the Department in regard to any claims or damages arising from improper maintenance of security systems, such as lighting, and those items for which the County is responsible.
- B. To provide the Department permanent copies of the "as-built" structure plans and specifications and such construction inspection records which have been certified to the County by a competent, licensed professional engineer.
- C. To bear the costs associated with the periodic inspection and any and all subsequent maintenance and necessary reconstruction of the extrinsic structure, including the maintenance of any public safety security systems such as lighting.
- D. To reimburse the Department within thirty (30) days of being billed for such services performed by the Department, provided that the Department shall have first submitted to the County, no later than the first day of July each year a proposed schedule of inspections for the ensuing twelve (12) month period, together with an estimate of the cost anticipated for such inspections.
- E. To accept the Department's standard billing format.
- F. That the Department, in its sole discretion, may perform maintenance it deems necessary for the safety of the traveling public.

II. **The Department agrees:**

- A. To perform periodic inspections of the structure with appropriately qualified personnel and to maintain the structural integrity of the structure as though it were a part of the Secondary System of State Highways, in keeping with its normal structure inspection practices and to bear the responsibilities and liabilities associated with the structural integrity of the extrinsic structure.
- B. To endeavor to provide the County, prior to July 1 of each year, an estimate of costs to be billed to the County for the inspection and maintenance of the structure during the fiscal year, however, the County agrees that failure to do so shall not relieve it of responsibility regarding such costs.
- C. To endeavor to provide the County notice of maintenance that is not deemed necessary for the safety of the traveling public before such maintenance is performed.
- D. To make available to the County, if requested, supporting cost documents regarding billings.

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E. That the responsibility to maintain the structure as though it were a part of the secondary system of state highways will become effective on the date the segment of roadway across the structure is accepted for maintenance as path of the Secondary System of State Highways.

III. THE PARTIES HERETO FURTHER ACKNOWLEDGE that the Department, in its sole discretion, may close the road or the extrinsic structure as it deems necessary for the safety of the public or for the proper completion of work, and shall close the extrinsic structure upon the County's request provided said request includes: a) a resolution guaranteeing that the County shall reimburse the Department for the costs incurred in the closing of the structure; and b) a statement to the effect that the County has the authority to close or require closure of the structure without consent from any other party

IV. THE PARTIES HERETO FURTHER ACKNOWLEDGE that this Agreement does not relieve the parties hereto of liability due to negligence or of their rights and obligations pursuant to any applicable federal or state laws or regulations.

WITNESS THE FOLLOWING SIGNATURE AND SEALS:

APPROVED AS TO FORM

BOARD OF SUPERVISORS OF JAMES CITY COUNTY

Lee P. Rogee
County Attorney

By: J. Edwards
(Name and Title) VICE-CHAIRMAN

APPROVED AS TO FORM

Commonwealth of Virginia
Department of Transportation

15 T. LePage 793 KAD
Office of Attorney General

By: David R. Gehr
David R. Gehr, Commissioner

VDOT Fiscal Division

COMMONWEALTH OF VIRGINIA, COUNTY OF James City, TO-WIT:

The foregoing instrument was acknowledged before me this 10 day of October, 1997, by J. Edwards, (Title) Vice Chairman, on behalf of the Board of Supervisors of James City County, Virginia County.

Glenn Ann Spivey
Notary Public

My commission expires: March 31, 2000

COMMONWEALTH OF VIRGINIA, CITY OF RICHMOND TO-WIT:

The foregoing instrument was acknowledged before me this October 30, 1997, by David R. Gehr, Commissioner on behalf of the Commonwealth of Virginia, Department of Transportation.

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Margaret M. Bedford
Notary Public

My commission expires: 6/30/99

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DEVELOPER/COUNTY AGREEMENT FOR THE INSPECTION AND MAINTENANCE
OF AN EXTRINSIC STRUCTURE

THIS DEVELOPER/COUNTY AGREEMENT FOR INSPECTION AND MAINTENANCE of an extrinsic structure, made the 7th day of ~~October~~ ^{February} 1994, by and between LEGACY (GREENSPRINGS) LIMITED PARTNERSHIP, a Virginia limited partnership, its successors and assigns, party of the first part (hereinafter "Developer"); and the COUNTY OF JAMES CITY, VIRGINIA, party of the second part (hereinafter "County").

RECITALS

WHEREAS, Greensprings Plantation, Inc. has submitted and the County has approved plans (the "Plans") entitled "Greensprings Plantation, Realignment of Legacy Drive and State Route 614 for Bush Construction Company, James City County, Virginia, July 29, 1992, Amended Plans" and the roads (the "Roads") shown on such plans have now been constructed;

WHEREAS, by Deed of Bargain and Sale, Easement and Reservation Agreement dated March 25, 1994 and recorded in James City Deed Book 678 at page 175, Greensprings Plantation, Inc. sold certain property described on Exhibit A adjacent to the roads (the "Property") to the Developer for the construction and operation of a golf course;

WHEREAS, Greensprings Plantation, Inc. now desires to transfer to the County, in fee simple, the Roads for public use;

WHEREAS, the Roads pass over three structures (specifically, golf course cart path tunnels), located at approximate roadway stations 86+15, 15+50 and 50+75, that are not deemed by the Commonwealth of Virginia, Department of Transportation (the "Department") as being necessary to serve the motor vehicles using said Roads but which was constructed at the request of Developer and with the consent of the County, and is therefore deemed by the Department as extrinsic structures;

WHEREAS, the County intends to petition the Department to maintain the Roads and the extrinsic structures as a part of the Secondary System of State Highways;

WHEREAS, uniquely qualified personnel are required to perform periodic inspections of such structures and to identify required maintenance to assure the structural integrity and safety of the structures and safety of the traveling public;

WHEREAS, the Department routinely performs such inspections

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on structures of the Secondary System of State Highways;

WHEREAS, the County desires the Department to assume the attendant responsibilities for the structural integrity and maintenance of the structures as a part of the Secondary System of State Highways;

WHEREAS, for the Department to assume responsibilities for the structural integrity and maintenance of the structures as a part of the Secondary System of State Highways the Department requires that the County enter into a County/State Agreement for the Inspection and Maintenance of an Extrinsic Structure, the form of which is attached hereto as Exhibit B (the "County/State Agreement"); and

WHEREAS, the County is not willing to enter into the County/State Agreement unless Developer has entered into this Agreement.

AGREEMENT

In consideration of the acceptance of this Agreement by the parties hereto; and

To induce the County to (i) request that the Roads and the extrinsic structures crossing be maintained as a part of the Secondary System of State Highways and (ii) enter into the County/State Agreement with the Department;

The parties hereto agree:

1. The Developer agrees to bear all liability for any and all maintenance of the extrinsic structures, including the maintenance of any public safety security systems such as lighting. Nothing herein shall preclude the Developer from obtaining contracts or indemnifications from other persons with respect to the performance of or liability for the maintenance of the structure.

2. The Developer agrees to provide the County and the Department permanent copies of the "as built" structure plans and specifications and such construction inspection records which have been certified to the Developer and the County by a competent, licensed professional engineer.

3. The Developer agrees to bear all reasonable costs associated with the periodic inspection and any and all subsequent maintenance of the extrinsic structure including the maintenance of any public safety security systems such as lighting and necessary reconstruction and to reimburse the Department within forty-five (45) days of the County mailing by certified mail, return receipt requested, to Developer bills for

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such services performed by the Department.

4. The parties acknowledge that under the County/State Agreement, the Department in its sole discretion may perform maintenance it deems necessary for the safety of the traveling public. The County shall promptly provide the Developer with copies of all notifications of maintenance received by the County from the Department under the County/State Agreement.

5. The parties acknowledge that under the County/State Agreement, the Department agrees to perform periodic inspections of the structures with appropriately qualified inspection personnel and to maintain the structural integrity of the structure as a part of the Secondary System of State Highways, all in keeping with its normal practices.

6. The parties acknowledge that under the County/State Agreement, the Department agrees to bear the attendant liabilities and responsibilities associated with the structural integrity of the extrinsic structure.

7. The parties acknowledge that under the County/State Agreement, the Department agrees that responsibility to maintain the roadway and the structures crossing the roadway will become effective on the date the Roads are accepted for maintenance as part of the Secondary System of State Highways.

8. With respect to the maintenance and operation responsibilities borne by the Developer as described in paragraph 1 of the Agreement:

a. The Developer agrees that the Department has no maintenance, upkeep and/or repair responsibility or liability except in cases of physical damage resulting from road maintenance projects or road construction projects administered by the Department.

b. The Developer will not seek indemnification or contribution from the County or the Department with respect to any claims or damages arising from improper maintenance of those items for which the Developer is responsible.

9. This Agreement does not relieve the parties hereto of liability due to negligence or of their rights and obligations pursuant to any applicable federal or state laws or regulations.

10. The parties hereto further acknowledge:

The Department in its sole discretion may close the Roads or the extrinsic structures as the Department deems necessary for the safety of the traveling public or for proper completion of work, and shall close the extrinsic structures upon request of

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the County accompanied by (a) a Resolution guaranteeing that the County shall reimburse the Department for all reasonable costs incurred in the closing of the structures, and (b) documentation providing evidence that the County has the authority to close or require closure of the structures without obtaining consents from any other party.

11. This Agreement shall be binding upon the Developer and its successors in title to the Property.

WITNESS the following signature and seals:

LEGACY (GREENSPRINGS) LIMITED PARTNERSHIP

By: [Signature]
Title: PRESIDENT

COUNTY ATTORNEY

[Signature]
Approved

COUNTY OF JAMES CITY

By: [Signature]
Title: Vice Chairman

STATE OF VIRGINIA
CITY/COUNTY OF James City, to-wit:

The foregoing instrument was acknowledged before me this 7th day of February, 1997, by Michael W. Sanders, President, on behalf of Legacy Limited Partnership.

[Signature]
NOTARY PUBLIC

My commission expires: 10-31-97

COMMONWEALTH OF VIRGINIA
COUNTY OF James City, to wit:

The foregoing instrument was acknowledged before me this 24 day of September, 1997, by [Signature], Vice Chairman on behalf of the Board of Supervisors of

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James City County.

Wicki Ann Sprigg
NOTARY PUBLIC



My commission expires:
NOV 31, 2000

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- C. Termination - Employees serving probationary periods may be discharged or demoted at the will of the County Administrator, without cause or hearing. (See Appendix 2-A, Request for Personnel Action, Section E)

Section 2.12 Substance Abuse Policy - (Revised 9/23/97)

A. Purpose

Alcohol and drug use or impairment on the job may pose serious safety and health risks, not only to the user, but also to those who work with, or come in contact with, the user. Therefore, James City County's goal is to maintain a work environment free from the use of alcohol and illegal drugs, and to ensure that employees are in a condition to perform their duties safely and effectively; to that end, James City County (County) has adopted the Substance Abuse Policy (Policy).

B. Objectives

1. To provide a workplace free from the harmful effects of substance abuse.
2. To protect the safety of employees and the public.
3. To comply with U. S. Department of Transportation Requirements for Public Transportation Employees (49 CFA, Parts 653 and 654) and Employees Requiring Commercial Drivers Licenses (49 CFT Part 382).

C. Policy

In compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991, and the rules formulated under these Acts, the County will take positive steps to identify and eliminate any drug and alcohol abuse in the workplace. This will be accomplished while treating employees with respect and dignity.

In order to maintain a safe work environment, it is the County's policy that the unlawful use, manufacture, distribution, or possession of drugs or alcohol on the job is strictly prohibited. Reporting to work under the influence of drugs or alcohol is also prohibited. Violations of the policy will result in discipline up to and including termination of employment, or withdrawal of a conditional offer of employment.

D. Definitions

1. Alcohol - the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weights including methyl or isopropyl alcohol. Alcohol also includes any beverage, mixture, preparation, or medication containing alcohol.
2. Employee - any employee of the County or James City Service Authority, in full-time, part-time, permanent, limited-term, temporary, on-call, or other positions that follow the County personnel policies. This includes contract employees and contractors when they are performing safety-sensitive business.
3. Evidential Breath Testing Device - a type of equipment used for the testing of breath for the presence of alcohol.
4. Illegal Drug - any substance which is not legally obtainable or has been illegally obtained. Illegal drugs include all forms of amphetamines (e.g., racemic amphetamine, dextroamphetamine, methamphetamine), opiates (e.g. heroin, morphine, codeine), and phencyclidine (PCP), including marijuana and crack.
5. Mandated Safety-Sensitive Positions - those positions which:
 - require a Commercial Driver's License;
 - operate revenue service vehicles, whether or not the vehicle is actually in revenue service;
 - operate a vehicle required to be operated by a holder of a Commercial Driver's License (CDL);
 - control the dispatch or movement of a revenue service vehicle; and
 - provide services to a revenue service vehicle or equipment used in revenue service.

All mandated safety-sensitive positions are identified in the County Compensation Plan.

6. Medical Review Officer (MRO) - a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results,

together with his or her medical history and any other relevant biomedical information.

7. Non-mandated Safety-Sensitive Positions - all positions:
- whose work involves hazardous or potentially hazardous functions or requires the use or handling of hazardous or potentially hazardous equipment or materials that could cause injury to an employee or to the public;
 - directly responsible for the care or safety of children (18 years or younger); or,
 - which have duties of such a nature that a lapse in constant attention or alertness may jeopardize the health or safety of other employees or the public.

All non-mandated safety-sensitive positions are identified in the County Compensation Plan. (Appendix 4-A)

8. Positive Test - results obtained from alcohol/drug screening and confirmatory testing, at any unsatisfactory test levels as established by the U.S. Department of Health and Human Services and adopted by the U.S. Department of Transportation, indicating that an employee is unfit for duty.
9. Random Testing - the process of identifying employees for testing based upon numerical data in a chance sequence.
10. Reasonable Suspicion - a specific observation of appearance, behavior, or speech that indicates an employee could be affected by alcohol and/or drugs.
11. Reportable Accident - any accident:
- where the employee is the driver of the vehicle or equipment and is cited by Police for a moving violation;
 - with a fatality;
 - in which there is a personal injury;
 - in which any person receives immediate medical attention away from the scene of the accident;

- where any vehicle or equipment must be towed from the scene; or,
 - where a transit vehicle is involved and must be removed from revenue service.
12. Screening Test - an immunoassay screen to eliminate “negative” urine specimens from further analysis or an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.
13. Substance Abuse Professional (SAP) - A licensed physician (Medical Doctor or Doctor of Osteopathy), licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor certified by National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol or other Drug Abuse, with knowledge of, and clinical experience in the diagnosis and treatment of alcohol and substance abuse disorders.
14. Under the Influence - observable behavior which indicates the employee is affected by a drug and/or alcohol; and/or, having a breath alcohol level or drugs in the body at any unsatisfactory test levels as established by the U.S. Department of Health and Human Services and/or adopted by the U.S. Department of Transportation.

E. Applicability

1. All employees are subject to:
- a) Reasonable Suspicion Testing;
 - b) Testing when initially promoted/demoted or transferred to a mandated or non-mandated safety-sensitive position;
 - c) Return to Duty Follow-up Testing for alcohol.
2. Employees that are in mandated safety-sensitive positions, in addition, are also subject to:
- a) Random Testing
 - b) Post Reportable Accident Testing
3. Applicants for mandated and non-mandated safety-sensitive positions are subject to post offer testing.

- 4. Prior to hiring an applicant for a mandated safety sensitive position, reference checks will be done with the past two employers regarding the outcome of previous substance abuse testing.

F. Responsibilities

- 1. Mandated employees must:
 - a) Not use alcohol for four hours prior to reporting to work;
 - b) Not use alcohol during the eight (8) hours immediately following an accident in a County vehicle if fault has not been determined and the alcohol/drug test has not been administered; and
 - c) Attend all required substance abuse training programs as appropriate.

- 2. Mandated and Non-mandated employees must:
 - a) Not report to work or perform work duties while their ability to perform job duties is impaired due to alcohol or drug use;
 - b) Not possess or use illegal drugs on or off the job;
 - c) Shall not possess or use alcohol during working hours including break and meal periods, while on call, or operating any County vehicle;
 - d) Not directly or through a third party sell or provide illegal drugs and not directly or through a third party sell or provide alcohol to any other employee while either employee is on duty or on stand-by status;
 - e) Submit immediately to requests for alcohol and/or drug testing when requested, in accordance with policy, and complete appropriate paperwork;
 - f) Notify their supervisor before beginning work when taking any medication or drugs, prescription or non-prescription, which by indication on the prescription or packaging, may interfere with the safe and effective performance of duties or operation of County equipment;
 - g) Provide to the Medical Review Officer within twenty-four (24) hours of notification of a positive drug screen, proof of

a current valid prescription, in the employee's name, for any drug or medication identified;

- h) Notify your supervisor of any drug, or alcohol conviction for violation of a criminal law no later than five (5) calendar days after such conviction; and,
- i) Attend all required substance abuse training programs as appropriate.

3. Supervisors shall:

- a) Be aware of signs or symptoms of drug or alcohol use and promptly document and report any such observations to the appropriate department manager or designee;
- b) Not allow an employee to perform safety-sensitive duties, operate a vehicle, or perform any work if that supervisor has reason to suspect that an employee is using, under the influence, or has possession of alcohol or illegal drugs;
- c) Maintain confidentiality of any test results;
- d) Not warn an employee that he or she has been selected for random testing prior to the official notification to report for testing; and
- e) Attend all required substance abuse supervisory training programs.

4. The County shall:

- a) Provide required training to all supervisors on the signs and symptoms of drug or alcohol use;
- b) Provide required training to all employees that explains the requirements of the Federal mandate and the County's policy;
- c) Ensure the vendor selected to administer drug testing is certified by the Department of Health and Human Services;
- d) Ensure the vendor selected to administer alcohol testing uses an approved evidential breath testing (EBT) device operated by a trained Breath Alcohol Technician (BAT); and,

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- e) Notify the applicable contracting federal agency within 10 calendar days of receiving notification of an employee's conviction under a criminal drug law for violations occurring in the workplace.

(See Appendix 2-D, Substance Abuse Procedures)

G. Employee Assistance Program

The County maintains an Employee Assistance Program (EAP) to provide help to employees who are impaired by alcohol or drugs, or other personal or emotional problems. Any employee who has a drug or alcohol-related problem is encouraged to voluntarily seek treatment through the County's EAP, or through a treatment program or facility of his or her own choice, before the problem affects their employment. However, use of the EAP will not be a defense to the imposition of disciplinary action if the employee engages in conduct constituting a violation of either this policy or of the County's Standards of Conduct.

H. Circumstances for Testing

1. Post Offer Testing

The County requires all applicants for safety-sensitive positions be given post-offer drug tests. Applicants who refuse a test will be withdrawn from consideration.

2. Promotion, Demotion, or Transfer to a County-Defined Safety-Sensitive Position

Any employee promoted, demoted, or transferred to safety-sensitive position will be given a drug test.

3. Reasonable Suspicion - All Employees

- a) The County requires an employee to submit to an alcohol *and*/or drug test based on reasonable, specific observations concerning the employee's appearance, behavior, or speech.
- b) Whenever possible, the observation for reasonable suspicion testing shall be made by at least two supervisors who are trained in accordance with this policy. If this is not possible, documentation will be submitted verifying the unavailability of a second supervisor to concur with the need to administer a test.
- c) Written documentation of the observed behavior shall be prepared and signed by the observer before the test is administered.

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4. Random Testing - Mandated Employees

The County shall perform random testing for alcohol on 25 percent and drug testing on 50 percent of employees in mandated positions. Lists for random tests will be drawn separately for employees covered under the U.S. Department of Transportation requirements for Public Transportation Employees (49 CFA, Parts 653 and 654). U.S. Department of Transportation will determine the random testing rate for the County.

5. Post-Accident - Mandated Employees

- a) The County will perform drug and alcohol tests in accordance with Federal mandate for all County employees involved in a reportable accident as defined in Section 2.12D11.
- b) Alcohol tests shall be conducted within two hours (eight hours max) of the reportable accident. Exceptions must be documented.
- c) Drug tests must be performed as soon as possible after a reportable accident but not more than 32 hours after the accident. Exceptions must be documented.

6. Return to Duty - All Employees

In order to return to duty:

- a) After alcohol test results of from .02 to .039, the employee shall undergo a return-to-duty test with a negative result.
- b) Additionally, the employee will be referred to a SAP.
- c) Upon the recommendation of the SAP, during the first year after testing between .02 and .039 on an alcohol test, the employee shall undergo a minimum of six non-DOT random tests. The frequency shall be determined by the SAP. Follow-up testing may extend beyond a year but shall not exceed 60 months.

I. Testing Procedure

- 1. If a drug and/or alcohol test is required under the provisions of this policy, an evidential breath test in the case of alcohol, or a urinalysis will be given to detect the presence of alcohol or illegal drugs.
- 2. An independent laboratory shall provide a site for both the collection of urine samples and the administration of the alcohol breath test under controlled conditions established by the independent lab and approved by James City County. Employees are required to comply

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with the "Chain of Custody" procedure of the laboratory, which may include, but not be limited to, producing a picture I.D. for identification purposes, and any other requirement of the laboratory.

3. All positive and negative test results will be reviewed by the MRO. If the results are confirmed positive, the affected applicant or employee and the Human Resource Manager will be notified in writing.

In the event of a positive, confirmatory test result, which is Gas Chromatography (Mass Spectrometry) (GCMS), employees will discuss with an MRO the positive result. The employee, then has the right to select an independent, certified lab to confirm the positive test results at their own expense. If the independent test proves negative, the initial test will be considered negative and the County shall reimburse the employee the costs for such test.

J. Consequences

1. Job Applicants

Job applicants will be denied employment with the County if their initial positive test results are confirmed. Applicants will be informed in writing if they are rejected on the basis of a confirmed positive drug test.

2. Employee Alcohol Test Results

- a) Employees testing positive for alcohol at a level of .04 or greater shall be terminated from employment.
- b) Employees testing at a level between .02 and .039 will be removed from the job and suspended from duty without pay for 24 hours. Employees who test again on return to duty between .02 and .039, or at any subsequent follow-up testing, will be terminated from employment.

3. Employee Drug Test Results

Employees testing positive for drugs shall be terminated from employment.

4. Other

- a) Refusing to participate in a drug or alcohol test, or refusing to execute a consent form, or to complete appropriate paperwork as required according to the provisions of this Policy, shall be considered a positive test.

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- b) Altering, substituting, or tampering with a screening process, or specimen, or any documentation associated with the screening procedure, shall be considered a positive test.
- c) Failure to produce a sufficient urine sample for a drug test, or sufficient breath sample for an alcohol test without a valid medical explanation, shall be treated as a positive test in accordance with Federal Transportation Administration and Federal Highway Administration regulations.

K. Notice of Testing Policy

The County shall provide written notice of this drug and alcohol testing policy to all employees and job applicants.

Section 2.13 Performance Evaluations

Each employee's job performance shall be reviewed and evaluated every six months on a form provided by the Human Resource Department. The evaluation shall be signed by the employee and become a part of the employee's personnel file.

Section 2.14 Employment Date

- A. Defined - The employment date is the date on which an employee was initially employed in a permanent or limited term position, provided there has been no break in service. The employment date for an employee who begins employment in a temporary position and is subsequently selected for a permanent or limited term position, is the date on which the employee was initially employed as a temporary employee, provided there has been no break in service.
- B. Purpose - The employment date is the effective date to determine length of service with the County for computing seniority, leave accrual, and service recognition.

Supervisors; however, the employee shall submit his or her resignation within seven (7) days of being elected. In the event that he or she fails to resign, he or she shall cease to be a County/James City Service Authority employee. Effective (3-16-92). 07
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Section 2.24 Reduction in Force (RIF) - (Revised 9/23/97)

- A. Policy - Every reasonable effort shall be made to accomplish the elimination of a position without having to lay-off an employee in the event that permanent County positions must be eliminated due to circumstances such as financial shortfalls, curtailment or reduction of services, reorganizing/streamlining operations, privatizing functions, or other situations. The County shall attempt to achieve necessary reductions through attrition or through the placement of employees in other County positions. Assistance shall also be provided to secure employment outside the County, if necessary.
- B. Alternatives to Reduction in Force - The County shall take proactive steps whenever practical to avoid or minimize a reduction in force. Such steps may include the elimination of temporary or on-call hours, a hiring freeze, incentives for retirement, job sharing, use of part-time positions, or other strategies which may reduce expenses or hold open potential vacancies for employees whose positions will be eliminated.
- C. Identifying Job Classes to be Eliminated - In the event that positions must be eliminated, a number of factors shall be considered in identifying which job classes to eliminate. These include the County's vision, mission, and goals; the needs of our customers; skills needed in the organization; and source of funding of the job class. Reasons for selecting job classes to be eliminated shall be documented by the Department Manager and submitted to the Human Resource Manager and the County Administrator. The County Administrator shall make the final determination.
- D. More than One Employee in a Job Class - If there is more than one employee in a job class and it is necessary to reduce the number of employees in that class, the following factors will be considered in determining which employees will be subject to lay-off: Job performance, skills contributed to the job, length of service with the County, and source of funding of the position. Reasons for selecting employees subject to lay-off shall be documented by the Department Manager and submitted to the Human Resource Manager and County Administrator. The County Administrator shall make the final determination.
- E. Notification - Employees in positions targeted to be eliminated will be notified in writing as soon as possible, but no fewer than 60 calendar days prior to the effective date of the elimination of the position.
- F. Placement Within the Organization - The Human Resource Department (HRD) will meet with employees in positions identified to be eliminated to determine their skills, experience, education and training, and interests so that the HRD may identify other positions in the organization for which they may qualify, or for which retraining is feasible. Every reasonable effort shall be

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made to place employees in positions identified to be eliminated in another job within the County at the same, lower, or higher salary range. In such cases, the affected employee's pay will be handled in accordance with the compensation policies for promotion, transfer and voluntary demotion in Chapter 4 of this Manual.

- G. Placement Outside the Organization - Assistance in obtaining employment outside the organization shall be made available to the employee. This includes assistance in preparing resumes, training in interview skills, information on conducting a job search, use of telephones, computers, and typing support. Employees shall be given reasonable time off not charged to leave to interview for other jobs prior to the date the position is eliminated.
- H. Employees Who Are Separated - An employee who is separated from employment through a RIF shall be given preferential consideration for vacancies which occur for which the individual is qualified and makes application. Preferential consideration means that the employee will be eligible for internal, as well as, external employment opportunities, that the HRD will mail Employment Opportunity Bulletins to the employee's home, and that applications from these employees, as long as they meet the minimum qualifications of the job, shall be referred to the hiring department. Preferential consideration shall be given for a period of 12 months from the date of separation. An employee hired under preferential consideration shall be considered reinstated, in accordance with Chapter 2 of this Manual.

Employees who are separated are eligible for payment of leave balances and other benefits in accordance with Chapter 5 of this Manual.

If the separated employee elects to continue County-sponsored group health insurance under COBRA, the County will continue to pay its share of the premium for up to six months, or until the employee is no longer eligible under COBRA, whichever comes first.

Separated employees and their immediate families shall continue to be eligible for services provided by the County's Employee Assistance Program for 12 months from the date of separation.

- I. Employees Who are Not Separated - Employees who retain their jobs through a RIF may also be affected in a number of ways such as by an increased workload and concerns about job security. The HRD will work with departments to take actions to assist employees with the transition.

Section 2.25 Resignations

- A. Policy - It is the policy of the County to make a reasonable effort to retain good employees. However, the County requires notice of resignations to effectively replace employees who are leaving the County employment.
- B. Notice - Employees in exempt positions are required to give the Human Resource Department at least 20 work days notice of an impending

resignation. All employees are required to give the Personnel Department at least ten (10) work days notice of an impending resignation; failure to comply shall result in loss of annual and sick leave payments as outlined in Chapter 5, Section 5.4. 47

(See Appendix 2-D - Exiting Employee Procedures)

Section 2.26 Unemployment Insurance (Unemployment Compensation)

Any separating employee may file for unemployment compensation through the Virginia Employment Commission. Eligibility for such benefits, however, requires that the employee (a) left employment for good cause, (b) was not discharged for misconduct, and (c) did not refuse suitable employment.

The Virginia Employment Commission should be contacted for details.

Rev. 09-12-97