

015228

AMENDED AND RESTATED  
PROFFERS

These AMENDED AND RESTATED PROFFERS are made as of this 24 day of October, 1995 by DONALD N. PATTEN, as Successor Trustee of Hankins Land Trusts No. 1 and No. 2, GEORGE HANKINS, JR., ANN HANKINS, HOWARD HANKINS, KELLY HANKINS, MARY HENLY THOMPSON and LEROY THOMPSON (together with their successors and assigns, the "Owners").

RECITALS:

A. Owners are the owners of a tract of land containing approximately 491.8 acres located in James City County, Virginia (the "County") more particularly shown and set out on the Development Plan (the "Plan") dated March 1, 1991, prepared by AES, a professional corporation, and submitted to the County herewith (the "Property").

B. The Property is now zoned M-1, with proffers, R-5, with proffers, and A-1, with proffers. The existing Proffers are dated October 28, 1991 and are recorded in James City Deed Book 548 at page 586 (the "Existing Proffers"). Owners have applied for a rezoning of approximately 10 acres of the Property shown on the plat attached hereto from R-5, with proffers, to R-8, with proffers, for a golf course clubhouse and maintenance facility.

C. In connection with the applied for rezoning, Owners desire to amend in certain respects and restate the Existing Proffers.

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NOW, THEREFORE, in consideration of the approval by the Board of Supervisors of James City County of the requested rezoning described above, and pursuant to Section 15.1-491.2:1 of the Code of Virginia, as amended, Owners agree that they shall meet and comply with all of the following conditions in the development of the Property. If the requested rezoning is not granted by the County, these Proffers shall thereupon be null and void and the Existing Proffers shall remain in full force and effect.

CONDITIONS

1. Traffic Studies. Owners have submitted to the County and the Virginia Department of Transportation ("VDOT") a Traffic Impact Study dated March 1, 1991 (based on projected traffic generation from the development of the Property) for their review and approval. Before the earlier to occur of (i) the County issuing building permits for more than 1,000,000 square feet of floor area within the Property or (ii) the expiration of five years from the date a certificate of occupancy is issued by the County for more than an aggregate of 50,000 square feet of floor area on the Property excluding the golf course clubhouse and maintenance facility, Owners shall submit to the County and VDOT for their review and approval an updated Traffic Impact Study of the development of the Property by an independent traffic consultant, which shall be based on actual traffic counts from the Property. The Study shall indicate the traffic improvements needed to accommodate continued development of the

Property and indicate at what point in the continued development (based on number of square feet of floor area) such improvements are required. Continued development of the Property shall then be limited to the level (based on the number of square feet of floor area) which can be accommodated by the surrounding road system until the recommended improvements have been constructed.

2. Entrances. There shall be no more than five permanent entrances into the Property, of which no more than three shall be full access entrances (i.e. entrances permitting turning movements in each direction in and out of the entrance). The main entrance into the Property shall be located opposite Cedar Point Road as shown on the Plan. The other two full access entrances shall be in the general locations shown on the Plan, one on Fenton Mill Road and one on Moss Side Lane, with such minor changes in their location as may be approved by the Development Review Committee. The remaining two permitted entrances shall be limited access entrances (i.e. permitting only right turns into and out of the entrance) and shall be along Croaker Road, and shall be subject to all required approvals. There shall be no more than one temporary entrance into the Property to serve the golf course and related facilities. At the time internal streets are constructed (i.e., ready for vehicular traffic) on the property, the temporary entrance shall be abandoned and new entrance constructed to one of the internal streets. Owner shall construct, at no cost to the County or VDOT, any turn lanes or other road improvements to either a

permanent or temporary entrance to the golf course development, if such improvements are deemed necessary by the County or VDOT at the time of any site plan approval for the golf course.

3. Road Improvements. (a) The following road improvements shall be completed or construction thereof shall have commenced and guarantees in accordance with § 15.1-491.3 of the Virginia Code and the County Zoning Ordinance ("guarantees") for their completion and shall have been posted with the County before the County issues Certificates of Occupancy for more than 10,000 square feet of floor area within the Property excluding the golf course clubhouse and maintenance facility:

(i) Croaker Road shall be improved, at no cost to the County or VDOT, to four lanes from the end of the existing four lane section adjacent to the Property to immediately beyond the main entrance to the Property where it shall taper to two lanes. Necessary turn lanes with tapers and storage areas as required by VDOT based upon the approved Traffic Impact Study shall be constructed on Croaker Road and James City Parkway at the main entrance into the Property.

(ii) A traffic signal shall be installed, at no cost to the County or VDOT, at the intersection of Croaker Road and the main entrance into the Property.

(iii) Fenton Mill Road from Croaker Road to James City Parkway shall be closed, the existing pavement removed

and seedlings planted thereon with the approval of VDOT.

(iv) The crossover in the median of Croaker Road at its intersection with Fenton Mill Road shall be closed and the existing turn lanes shall be removed.

(v) James City Parkway shall be constructed from the main entrance on Croaker Road to the location of the sewer pump station as shown on the Overall Water and Sewer Plan submitted to the County as a part of the Plan. James City Parkway from the main entrance shown on the Plan to its intersection with Corporate Campus Drive shall have a median at least 30 feet in width. Necessary turn lanes with tapers and storage areas as required by VDOT based on the approved Traffic Impact Study shall be constructed.

(vi) Chateau Boulevard shall be constructed except for the segment thereof shown as "Possible Future Connection" on the Plan.

(vii) The new intersection of Fenton Mill Road and James City Parkway on the south side of the Property shall be constructed. Necessary turn lanes with tapers and storage areas as required by VDOT based on the approved Traffic Impact Study shall be constructed.

(b) Before the County shall issue any building permits for construction of buildings within the northern area designated M-1 Light Industrial on the Plan, (i) Moss Side Lane shall be improved, at no cost to the County or VDOT, to a 22 foot road from Croaker Road to its intersection with Corporate Campus

Drive, or construction of the improvement shall have commenced and guarantees for its completion posted with the County, and (ii) all of Corporate Campus Drive shall have been constructed or its construction shall have commenced and guarantees for its completion shall have been posted with the County. The location of Corporate Campus Drive may be changed from that shown on the Plan, with the consent of the Director of Planning, to accommodate the requirements of potential users.

(c) A traffic signal shall be installed, at no cost to the County or VDOT, at the intersection of James City Parkway and Chateau Boulevard when determined to be warranted by VDOT or at an earlier time in the discretion of the Owner with the approval of VDOT.

(d) The segment of Chateau Boulevard designated on the Plan as "Possible Future Link" shall be constructed at the request of the County based on the type and intensity of development on the southeastern area designated M-1 Light Industrial on the Plan.

(e) The road improvements proffered above shall be designed and constructed in accordance with VDOT standards and specifications, shall have the right-of-way width required by VDOT standards based on the type of road (i.e. with or without curb and gutter) and the needed capacity of the road and shall be dedicated to the County upon their completion.

(f) Roads within the portion of the Property to be rezoned R-5, with proffers, and R-8, with proffers, and the entrance road from Chateau Boulevard or James City Parkway into this area may

be private. Any such private roads shall be designed and constructed in accordance with the County's standards and guidelines for private roads. Certifications in form and substance acceptable to the County Engineer that the construction of such private roads meets these standards and guidelines shall be provided to the County.

4. Uses. (a) Within the approximately 70 acres designated on the Plan as Light Industrial (Retail) M-1, the following use restrictions shall apply:

(i) The Chateau Winery building shall contain no more than 135,000 square feet of floor area of which no more than 70,000 square feet shall be used for retail uses.

(ii) There shall be no more than one hotel/convention center of up to 300 rooms, subject to Condition 10 hereof, with accessory retail and restaurant uses;

(iii) No more than 120,000 square feet of floor area within all buildings (excluding retail uses in the Chateau Winery building and hotel/convention center referred to above) constructed in this portion of the Property shall be used for retail purposes until Owner has submitted the updated Traffic Impact Study described in Condition 1 hereof. If the approved Study indicates traffic from additional retail space can be accommodated, an additional 30,000 square feet of floor

area in this portion of the Property can be used for retail purposes. As used herein, the phrase "floor area used for retail purposes" shall have the same meaning as the term "retail floor area" as used in Section 20-13 of the Zoning Ordinance.

(iv) There shall be no "strip shopping centers" (as defined below). For purposes of this Condition, "strip shopping center" shall mean a group of at least three physically connected and architecturally unified retail establishments which are planned, developed, owned and managed as a single operating unit, which include an anchor tenant or tenants and other smaller retail establishments, which generally face the same direction, usually toward a public road, and for which on-site parking is provided in direct relationship to the characteristics of the establishments contained within the center.

While Owner owns or has the contractual right to purchase any of the Property, Owner shall submit reports to the County on a semi-annual basis beginning six months from the date the first certificate of occupancy is issued for development on the Property setting forth the number of square feet of retail floor area within each building on the Property.

(b) Within the approximately 184.5 acres designated on the Plan as Light Industrial M-1, no more than 20% of the floor area of any building constructed within this portion of the Property



shall be used for retail uses. Only retail uses accessory to the main use of the building shall be permitted.

(c) The approximately 14.0 acres designated A-1 Vineyards on the Plan shall be used only for agricultural and passive recreational uses (including pedestrian trails and picnic areas) and water impoundments.

(d) The approximately 213.3 acres designated on the Plan as R-5 Time Share w/18 Hole Golf Course and R-8 Golf Clubhouse and Maintenance Facility shall be developed as (i) one eighteen hole golf course, with related driving range, putting green, clubhouse, maintenance and cart storage facilities and (ii) a "time-share project" as defined in the Virginia Real Estate Time-Share Act, Va. Code § 55-360 et seq. (the "Act") containing no more than 500 "time-share units" (as defined in the Act), subject to Condition 10 hereof, with related recreational amenities, sales and maintenance facilities. There shall be no conventionally owned residential development on the Property. The golf course shall be open to play by members of the general public.

5. Water and Sewer. (a) Except as provided in condition 5 (b) below, all development upon the Property shall be connected to public water and sewer systems approved by the County.

(b) A sales/information/administration/management facility of up to 10,000 square feet of floor area and the golf course clubhouse and maintenance facility may be constructed and temporarily connected to a private well and septic system. The

facility shall connect to approved public water and sewer systems when available at the Property.

(c) Before the County issues Certificates of Occupancy for more than 10,000 square feet of floor area within the Property, the following water and sewer improvements shall be constructed or their construction shall have commenced and guarantees shall have been posted for their completion:

(i) Extension of off-site sewer and water lines to the Property.

(ii) The 450,000 gallon water storage facility and related facilities including an all weather road providing access to the facilities in the general location shown on the Overall Water and Sewer Plan.

(iii) The sewer pump station in the general location shown on the Overall Water and Sewer Plan.

(iv) Water lines and gravity sewer lines along James City Parkway from its intersection with Fenton Mill Road to the sewer pump station and along Chateau Boulevard (including the segment designated as "Possible Future Link").

(v) A water line along James City Parkway from its intersection with Chateau Boulevard to its intersection with Croaker Road, with a stub connection at Corporate Campus Drive.

(vi) A sewer line along James City Parkway from its intersection with Chateau Boulevard to its intersection with Corporate Campus Drive.

(d) Before the County shall issue any building permits for the construction of buildings within the northern area designated as M-1 Light Industrial on the Plan, water and sewer lines shall have been constructed along the length of Corporate Campus Drive or their construction shall have commenced and guarantees for their completion shall have been posted with the County.

(e) Owner shall submit to the County Engineer for review and approval schematic internal sewer plans for all sewer lines other than those proffered above before submission of detailed construction plans.

6. Time-Share Estate Owners Association. A time-share estate owners association shall be formed in accordance with the Act and shall have all powers and responsibilities as provided in the Act. The articles of incorporation and bylaws of the association shall be submitted to and reviewed by the County Attorney. As portions of the R-5 Property (exclusive of the time-share units themselves) are conveyed to the owners association in accordance with the Act, the association shall assume responsibility for all costs associated with the maintenance of the time-share project, including maintenance of private roads and common areas. In portions of the R-5 property not developed as a time-share project and the portion of the R-5 property developed as the time-share project until conveyed to

the owners association, Owner shall be responsible for maintenance of any private roads and common areas.

7. Perimeter Buffer. There shall be a buffer area around the perimeter of the Property in the locations, with the width and of the type specified on the Plan. Where the perimeter of the Property abuts Croaker Road, Moss Side Lane and Riverview Road, the buffer shall be measured from the proposed road-right-way as shown on the Plan. Owner has submitted to the County for its review and approval a typical landscaping plan for the buffer area adjacent to Croaker Road. Landscaping within the buffer area adjacent to Croaker Road shall be generally in accordance with the approved typical landscaping plan and shall be subject to the approval of the Development Review Committee in the site plan approval process. Breaks or intrusions in the buffer area for entrances, roads, utilities, walkways, fences, signs and other similar facilities shall be permitted with the prior approval of the Development Review Committee or the Planning Commission.

8. Archaeological. A Phase I Archaeological Study of the Property by the William and Mary Archaeological Project Center has been prepared and submitted to the County. The portion of the Property designated as "Site #1 - Prehistoric Base Camp (6500 B.C. - 1400 A.D.)" shall be preserved as recommended. A Phase II study shall be conducted for "Site #2 through Site #6". The Phase II study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to and

approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National Register or Historic Places and/or those sites that require a Phase III study, If, in the Phase II study, a site is determined eligible for nomination to the National Register or Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. The Phase II and Phase III studies shall meet the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon.

9. Well Site. Owner shall convey to the James City Service Authority upon the request of the Service Authority and without cost a parcel of 1.0 acre with access thereto for use as a well site in the location shown on the Overall Water and Sewer Plan or, if the Service Authority determines that the operation of a well on the site shown on the Overall Water and Sewer Plan is

unacceptable due to water quality or quantity, in another location on the Property acceptable to the Service Authority and Owners.

10. Phasing. (a) Anything to the contrary herein notwithstanding, the hotel referred to in Condition 4 (a) (ii) shall have no more than 150 rooms until the County has issued building permits and footings have been constructed and inspected for more than 500,000 square feet of light industrial uses (not including retail uses) on the Property, at which time the additional 150 rooms may be constructed.

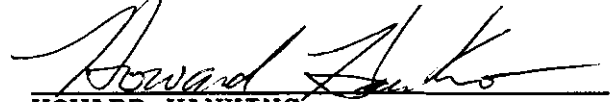
(b) Anything to the contrary herein notwithstanding, the time-share project referred to in Condition 4 (c) shall initially contain no more than 100 time-share units. Thereafter for each 100,000 square feet of light industrial uses (not including retail uses) on the Property for which building permits have been issued and footings constructed and inspected, an additional 50 time-share units may be constructed up to the proffered limit of 500 units.

WITNESS the following signatures.

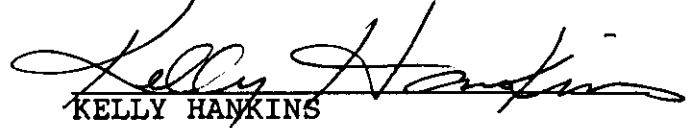
DONALD M. PATTEN, Trustee  
By: *Donald M. Patten*  
Title: *Successor Trustee*

*George Hankins Jr.*  
GEORGE HANKINS, JR.  
*George Hankins*

ANN HANKINS



HOWARD HANKINS



KELLY HANKINS



MARY HENRY THOMPSON



LEROY THOMPSON

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Newport News, to-wit:

The foregoing instrument was acknowledged before me this  
24 day of October, 1995 by \_\_\_\_\_,  
DONALD N. PATTEN, Trustee.

Judy D. Knobling  
NOTARY PUBLIC

My commission expires:  
Feb 29, 1996.

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Newport News, to-wit:

The foregoing instrument was acknowledged before me this  
24 day of October, 1995 by GEORGE HANKINS, JR.

Judy D. Knobling  
NOTARY PUBLIC

My commission expires:  
Feb. 29, 1996.

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Newport News, to-wit:

The foregoing instrument was acknowledged before me this  
24 day of October, 1995 by ANN HANKINS.

Judy D. Knobling  
NOTARY PUBLIC

My commission expires:  
Feb 29, 1996.



STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Newport News, to-wit:

The foregoing instrument was acknowledged before me this  
24 day of October, 1995 by HOWARD HANKINS.

Judy D. Knobling  
NOTARY PUBLIC

My commission expires:

Feb 29, 1996.

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Newport News, to-wit:

The foregoing instrument was acknowledged before me this  
24 day of October, 1995 by KELLY HANKINS.

Judy D. Knobling  
NOTARY PUBLIC

My commission expires:

Feb. 29, 1996.

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Newport News, to-wit:

The foregoing instrument was acknowledged before me this  
24 day of October, 1995 by MARY HENLY THOMPSON.

Judy D. Knobling  
NOTARY PUBLIC

My commission expires:

Feb. 29, 1996.

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Newport News, to-wit:

The foregoing instrument was acknowledged before me this  
24 day of October, 1995 by LEROY THOMPSON.

Judy D. Knobling  
NOTARY PUBLIC

My commission expires:

Feb. 29, 1996.

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

I, \_\_\_\_\_ of the Circuit Court of the  
County of James City, do hereby certify that

ms, 1995. This amended  
instrument was filed with certificate annexed and  
recorded at 3:58 o'clock

at \_\_\_\_\_

by Hilene S. Ward, Clerk  
Deputy Clerk

COMMONWEALTH OF VIRGINIA



OFFICIAL RECEIPT  
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT  
DEED RECEIPT

DATE: 11/08/95 TIME: 15:50:01 ACCOUNT: B30CLR950015228 RECEIPT: 95000025910  
CASHIER: CHB REG: WB04 TYPE: OTHER PAYMENT: FULL PAYMENT  
INSTRUMENT : 950015228 BOOK: 0 PAGE: 0 RECORDED: 11/08/95 AT 15:50  
GRANTOR NAME : PATTEN, DONALD N; TR EX: N LOCALITY: CD  
GRANTEE NAME : JAMES CITY COUNTY EX: N PERCENT: 100X  
AND ADDRESS :  
RECEIVED OF : JCCO DATE OF DEED: 10/24/95

CHECK : \$27.00  
DESCRIPTION 1: AMENDED PROFFERS HANKINS LAND TRUSTS 1 & 2

2:  
CONSIDERATION: .00 ASSUME/VAL: .00 MAP:  
CODE DESCRIPTION PAID CODE DESCRIPTION PAID  
301 DEEDS 26.00 145 VSLF 1.00

TENDERED : 27.00  
AMOUNT PAID: 27.00  
CHANGE AMT : .00

CLERK OF COURT: HELENE S. WARD