

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF

GENERAL OBLIGATION PUBLIC IMPROVEMENT REFUNDING BONDS,

SERIES 2003, OF THE COUNTY OF JAMES CITY, VIRGINIA, AND PROVIDING

FOR THE FORM, DETAILS, AND PAYMENT THEREOF

WHEREAS, the issuance of general obligation bonds by the County of James City, Virginia (the "County"), in the maximum principal amount of \$52,100,000 was approved by the qualified voters of the County in three referenda at a special election held on March 1, 1994, to finance a school construction program, library improvements, and park and recreation improvements (together, the "Improvements"). On August 3, 1994, the County issued its \$9,500,000 General Obligation Public Improvement Bonds, Series of 1994 (the "1994 Bonds") to finance a portion of the costs of the Improvements. On December 5, 1995, the County issued its \$35,000,000 General Obligation Public Improvement Bonds, Series 1995 (the "1995 Bonds") to finance a portion of the costs of the Improvements; and

WHEREAS, to take advantage of lower interest rates, the County issued its \$4,280,000 General Obligation Public Improvement Refunding Bond, Series 2002, on November 20, 2002, to refund the 1994 Bonds maturing on and after December 15, 2007, and then issued its \$3,180,200 General Obligation Public Improvement Refunding Bond, Series 2002B, on December 17, 2002, to refund the 1995 Bonds maturing on December 15, 2015; and

WHEREAS, the County's Board of Supervisors (the "Board") determines that it may now be in the best interests of the County to take advantage of lower interest rates now prevalent in the capital markets and to issue and sell general obligation public improvement refunding bonds to refinance some or all of the 1994 Bonds maturing on December 15, 2005, and 2006, and some or all of the 1995 Bonds maturing on December 15, 2006, through 2014. The Board determines that it would be advantageous to the County to sell such refunding bonds in a negotiated sale to a group of underwriters with Morgan Keegan & Company, Inc., serving as senior manager and SunTrust Capital Markets, Inc., serving as co-manager (the "Underwriters").

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

Section 1. **Authorization, Issuance and Sale.** There is hereby authorized to be issued and sold, pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), general obligation public improvement refunding bonds of the County in the principal amount not to exceed \$23,500,000 to refund some or all of the 1994 Bonds maturing on December 15, 2005, and 2006 (the "1994 Refunded Bonds"), to refund some

or all of the 1995 Bonds maturing on December 15, 2006, through 2014 (the "1995 Refunded Bonds") and to pay the costs incurred in connection with issuing such refunding bonds. The Board hereby elects to issue such refunding bonds under the provisions of the Act.

Section 2. Bond Details. Such refunding bonds shall be designated "General Obligation Public Improvement Refunding Bonds, Series 2003" (the "Bonds"), shall be dated June 15, 2003, shall be issued no later than December 31, 2003, shall be in registered form, in denominations of \$5,000 and multiples thereof, and shall be numbered R-1 upward. Subject to Section 4, the Bonds shall mature in installments, or have mandatory sinking fund installments, on each December 15 ending no later than the year 2014. Interest on the Bonds shall be payable on December 15, 2003, and semiannually thereafter on each June 15 and December 15 (each, an "Interest Payment Date"), and shall be calculated on the basis of a year of 360 days with twelve 30-day months. The Board authorizes the issuance and sale of the Bonds to the Underwriters on terms as shall be satisfactory to the County Administrator or the Chairman of the Board; *provided*, that the Bonds: (a) shall have a true or "Canadian" interest cost not to exceed 4.50% per year, taking into account any original issue discount or premium; (b) shall be sold to the Underwriters at a price not less than 99% of the original aggregate principal amount thereof; and (c) shall have a weighted average maturity of no more than nine (9) years.

Principal and premium, if any, on the Bonds shall be payable to the registered owners upon surrender of the Bonds as they become due at the designated corporate trust office of the Registrar, as defined in Section 8 below. Interest shall be payable by check or draft mailed to the registered owners at their addresses as they appear on the registration books kept by the Registrar as of the close of business on the first day of the month of each Interest Payment Date. In case the date of maturity or redemption of the principal of any Bond or an Interest Payment Date shall be a date on which banking institutions are authorized or obligated by law to close at the place where the designated corporate trust office of the Registrar is located, then payment of principal and interest need not be made on such date, but may be made on the next succeeding date, which is not such a date at the place where the designated corporate trust office of the Registrar is located, and if made on such next succeeding date, no additional interest shall accrue for the period after such date of maturity or redemption or Interest Payment Date. Principal, premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America.

Each Bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated, unless such Bond is: (a) authenticated before December 15, 2003, in which case it will bear interest from June 15, 2003, or (b) authenticated upon an Interest Payment Date or after the record date with respect thereto, in which case it will bear interest from such

Interest Payment Date (unless payment of interest thereon is in default, in which case interest on such Bond shall be payable from the date to which interest has been paid).

Section 3. Book-Entry System. Initially, one Bond certificate for each maturity of the Bonds shall be issued to and registered in the name of The Depository Trust Company, New York, New York ("DTC"), or its nominee. The County has entered into or will enter into a Blanket Issuer Letter of Representations relating to a book-entry system to be maintained by DTC with respect to certain securities issued by the County, including the Bonds. As used herein, the term "Securities Depository" shall mean DTC or any other securities depository for the Bonds appointed pursuant to this Section 3.

In the event that: (a) the Securities Depository determines not to continue to act as the securities depository for the Bonds by giving notice to the Registrar or the County; or (b) the County in its sole discretion determines: (i) to select a new Securities Depository, or (ii) that beneficial owners of Bonds shall be able to obtain certificated Bonds, then the County Administrator shall, at the direction of the County, attempt to locate another qualified securities depository to serve as Securities Depository or arrange for the authentication and delivery of certificated Bonds to the beneficial owners or to the Securities Depository's participants on behalf of beneficial owners, substantially in the form provided for in Exhibit A. In delivering certificated Bonds, the County Administrator shall be entitled to rely on the records of the Securities Depository as to the beneficial owners or the records of the Securities Depository's participants acting on behalf of beneficial owners. Such certificated Bonds will then be registrable, transferable, and exchangeable as set forth in Section 8.

So long as there is a Securities Depository for the Bonds: (1) it or its nominee shall be the registered owner of the Bonds; (2) notwithstanding anything to the contrary in this Resolution, determinations of persons entitled to payment of principal, premium, if any, and interest, transfers of ownership and exchanges, and receipt of notices shall be the responsibility of the Securities Depository and shall be effected pursuant to rules and procedures established by such Securities Depository; (3) the Registrar and the County shall not be responsible or liable for maintaining, supervising, or reviewing the records maintained by the Securities Depository, its participants or persons acting through such participants; (4) references in this Resolution to registered owners of the Bonds shall mean such Securities Depository or its nominee and shall not mean the beneficial owners of the Bonds; and (5) in the event of any inconsistency between the provisions of this Resolution and the provisions of the above-referenced Letter of Representations, such provisions of the Letter of Representations, except to the extent set forth in this paragraph and the next preceding paragraph, shall control.

Section 4. Redemption Provisions.

- (a) Optional Redemption. Subject to the provisions of subsection (e) below, the Bonds maturing on or before December 15, 2012, are not subject to optional redemption prior to their respective stated dates of maturity. The Bonds maturing on or after December 15, 2013, shall be subject to redemption prior to their stated dates of maturity at the option of the County, on and after December 15, 2012, in whole or in part (in any integral multiple of \$5,000) at any time, upon payment of the following redemption prices (expressed as a percentage of the principal amount of the Bonds to be redeemed) plus interest accrued and unpaid to the redemption date as set forth below:

<u>Redemption Period (Inclusive)</u>	<u>Redemption Price</u>
December 15, 2012, through December 14, 2013	101%
December 15, 2013, and thereafter	100%

- (b) Mandatory Sinking Fund Redemption. Any term bonds specified in the Bond Purchase Agreement, as defined in Section 5 below, may be subject to mandatory sinking fund redemption as determined by the County Administrator or the Chairman of the Board. If there are any term bonds, on or before the 70th day next preceding any mandatory sinking fund redemption date, the County may apply as a credit against the County's mandatory sinking fund redemption obligation for any Bonds maturing on such date, Bonds that previously have been optionally redeemed or purchased and canceled or surrendered for cancellation by the County and not previously applied as a credit against any mandatory sinking fund redemption obligation for such Bonds. Each such Bond so purchased, delivered or previously redeemed shall be credited at 100% of the principal amount thereof against the principal amount of the Bonds required to be redeemed on such mandatory sinking fund redemption date. Any principal amount of Bonds so purchased, delivered or previously redeemed in excess of the principal amount required to be redeemed on such mandatory sinking fund redemption date shall similarly reduce the principal amount of the Bonds to be redeemed on future mandatory sinking fund redemption dates, as selected by the County Administrator.
- (c) Bonds Selected for Redemption. If less than all of the Bonds are called for optional redemption, the maturities of the Bonds to be redeemed shall be selected by the County Administrator in such manner as he may determine to be in the best interest of the County. If less than all the Bonds of any maturity are called for redemption, the Bonds to be redeemed shall be selected by DTC or any successor Securities Depository pursuant to its rules and procedures or, if the book-entry system is discontinued, shall be selected by the Registrar

by lot in such manner as the Registrar in its discretion may determine. In either case, (a) the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some integral multiple thereof and (b) in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by \$5,000. If a portion of a Bond is called for redemption, a new Bond in principal amount equal to the unredeemed portion thereof will be issued to the registered owner upon the surrender thereof.

- (d) Notice of Redemption. The County shall cause notice of the call for redemption identifying the Bonds or portions thereof to be redeemed to be sent by facsimile transmission, registered or certified mail, or overnight express delivery, not less than thirty (30) nor more than sixty (60) days prior to the redemption date to the Securities Depository as the registered owner of the Bonds or, if the book-entry system is discontinued, by registered or certified mail to the registered owners of the Bonds to be redeemed.

- (e) Determination of Final Redemption Provisions. The Board authorizes the County Administrator or the Chairman of the Board, in collaboration with Davenport & Company LLC, as the County's financial advisor (the "Financial Advisor") and the Underwriters; 1) to determine whether any of the Bonds will be subject to optional redemption and, if they will be subject to optional redemption, on which dates and at which redemption prices such Bonds may be optionally redeemed; and 2) to determine whether the issuance of any term bonds would be beneficial to the County. Such final terms shall be set forth in the Bond Purchase Agreement.

Section 5. Sale of the Bonds; Execution and Authentication. The Bonds shall be sold by the County to the Underwriters pursuant to the terms and conditions to be set forth in the Bond Purchase Agreement to be dated the date of the sale of the Bonds (the "Bond Purchase Agreement") between the County and the Underwriters. The substantially final form of the Bond Purchase Agreement has been made available to the Board prior to the adoption of this Resolution. The Bond Purchase Agreement is hereby approved in substantially the form made available to the Board. There may, however, be changes, insertions, completions or omissions to the form of the Bond Purchase Agreement to reflect the final terms of the Bonds or other commercially reasonable provisions. All of such changes, insertions, completions, or omissions will be in accordance with the parameters set forth in this Resolution and shall be approved by the County Administrator or the Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Bond Purchase Agreement. The Board hereby authorizes the County Administrator or the Chairman of the Board to execute and deliver the Bond Purchase Agreement on behalf of the County.

The Bonds shall be signed by the manual or facsimile signature of the Chairman or Vice Chairman of the Board and the Board's seal shall be affixed thereto or a facsimile thereof printed thereon and attested to by the manual or facsimile signature of the Clerk or Deputy Clerk of the Board, *provided*, that no Bond shall be valid until it has been authenticated by the manual signature of an authorized representative of the Registrar and the date of authentication noted thereon. Upon execution and authentication, the Bonds shall be delivered to or on behalf of the Underwriters in accordance with the terms of the Bond Purchase Agreement.

Section 6. **Bond Form.** The Bonds shall be in substantially the form set forth in Exhibit A attached hereto, with such changes, insertions, completions, or omissions to reflect the final terms of the Bonds.

Section 7. **Pledge of Full Faith and Credit.** The full faith and credit of the County are irrevocably pledged for the payment of principal of, premium, if any, and interest on the Bonds. Unless other funds are lawfully available and appropriated for timely payment of the Bonds, the County shall levy and collect an annual *ad valorem* tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the County sufficient to pay the principal of, premium, if any, and interest on the Bonds, as the same become due.

Section 8. **Registration, Transfer and Owners of Bonds.** SunTrust Bank, Richmond, Virginia, is appointed paying agent and registrar for the Bonds (the "Registrar"). The Registrar shall maintain registration books for the registration of the Bonds. Upon surrender of any Bonds at the designated corporate trust office of the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the County shall execute, and the Registrar shall authenticate and deliver in exchange, a new Bond or Bonds having an equal aggregate principal amount, in authorized denominations, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner or his duly authorized attorney or legal representative. Any such exchange shall be at the expense of the County, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that interest payments shall be made to the person shown as owner on the registration books on the first day of the month of each Interest Payment Date.

Section 9. Refunding; Escrow Agreement. The Board hereby authorizes the optional redemption of some or all of the 1994 Refunded Bonds on December 15, 2004 (the "1994 Redemption Date"), at a redemption price equal to 102% of the principal amount of the 1994 Refunded Bonds to be refunded plus accrued interest to the Redemption Date. The Board hereby authorizes the optional redemption of some or all of the 1995 Refunded Bonds on December 15, 2005 (the "1995 Redemption Date") at a redemption price equal to 102% of the principal amount of the 1995 Refunded Bonds to be refunded plus accrued interest to the Redemption Date. The County Administrator is authorized to work with the Financial Advisor and the Underwriters to determine which 1994 Refunded Bonds and 1995 Refunded Bonds will be redeemed. They may base such decisions on such factors as they shall determine to be in the best interest of the County, but the Bonds shall not be issued unless the combined net present value savings to the County from the issuance of the Bonds and the refunding of the 1994 Refunded Bonds and the 1995 Refunded Bonds will be at least 2.50%. To facilitate the defeasance of the 1994 Refunded Bonds and the 1995 Refunded Bonds and the payment of the principal of, premium and interest on the 1994 Refunded Bonds and the 1995 Refunded Bonds from the date of issuance of the Bonds through the 1994 Redemption Date and the 1995 Redemption Date, respectively, the Board hereby authorizes the use of the Escrow Agreement dated the date of the issuance of the Bonds (the "Escrow Agreement") between the County and SunTrust Bank, as escrow agent (the "Escrow Agent"). The substantially final form of the Escrow Agreement has been made available to the Board prior to the adoption of this Resolution. The Escrow Agreement is hereby approved in substantially the form made available to the Board. There may, however, be changes, insertions, completions, or omissions to the form of the Escrow Agreement to reflect the final terms of the Bonds or other commercially reasonable provisions. All of such changes, insertions, completions, or omissions will be approved by the County Administrator or the Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Escrow Agreement. The Board hereby authorizes the County Administrator or the Chairman of the Board to execute and deliver the Escrow Agreement on behalf of the County.

Section 10. Official Statement. The form of the Preliminary Official Statement of the County, tentatively to be dated June 11, 2003 (the "Preliminary Official Statement"), has been made available to the Board prior to the adoption of this Resolution. The use and distribution by the Underwriters of the Preliminary Official Statement, in substantially the form made available to the Board, including the use and distribution of an Appendix to the Preliminary Official Statement describing the County, are hereby authorized and approved. The Preliminary Official Statement, including such Appendix, may be completed and "deemed final" by the County Administrator or the Chairman of the Board as of its date, within the meaning of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), except for the

omission from the Preliminary Official Statement of such pricing and other information permitted to be omitted pursuant to the Rule. The delivery of the Preliminary Official Statement to the Underwriters shall be conclusive evidence that it has been deemed final as of its date by the County Administrator or the Chairman of the Board, except for the omission of such pricing and other information.

The County Administrator or the Chairman of the Board shall make such completions, omissions, insertions, and changes in the Preliminary Official Statement not inconsistent with this Resolution as are necessary or desirable to complete it as a final Official Statement (the "Official Statement"). The use and distribution by the Underwriters of the Official Statement are hereby authorized and approved. The County Administrator or the Chairman of the Board shall arrange for the delivery to the Underwriters of a reasonable number of copies of the Official Statement, within seven (7) business days after the Bonds have been sold, for delivery to each potential investor requesting a copy of the Official Statement and to each person to whom the Underwriters initially sell Bonds.

The County Administrator or the Chairman of the Board is authorized, on behalf of the County, to deem the Official Statement to be final as of its date within the meaning of the Rule. The County Administrator or the Chairman of the Board is authorized and directed to execute the Official Statement, which execution shall be conclusive evidence that the Official Statement has been deemed final.

Section 11. Continuing Disclosure. A substantially final form of the Continuing Disclosure Agreement to be given by the County (the "Continuing Disclosure Agreement"), evidencing conformity with certain provisions of the Rule, has been made available to the Board prior to the adoption of this Resolution. The Continuing Disclosure Agreement is hereby approved in substantially the form made available to the Board. There may, however, be changes, insertions, completions, or omissions to the form of the Continuing Disclosure Agreement to reflect the final terms of the Bonds, the completion of the Official Statement or other commercially reasonable provisions. All of such changes, insertions, completions or omissions will be approved by the County Administrator or the Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Continuing Disclosure Agreement. The Board hereby authorizes the County Administrator or the Chairman of the Board to execute and deliver the Continuing Disclosure Agreement on behalf of the County.

The County hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Resolution, failure of the County to comply with the Continuing Disclosure Agreement shall not be considered a default under this Resolution or the Bonds; *provided*, that any holder of the

Bonds, including owners of beneficial interests in the Bonds, may take such actions as may be necessary and appropriate, including seeking a mandamus or specific performance by court order, to cause the County to comply with its obligations under this Section 11 and the Continuing Disclosure Agreement.

Section 12. Arbitrage Covenants.

- (a) No Composite Issue. The County represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same issue of obligations as the Bonds within the meaning of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code").
- (b) No Arbitrage Bonds. The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, or otherwise cause interest on the Bonds to be includable in the gross income for Federal income tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law which may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bonds from being includable in the gross income for Federal income tax purposes of the registered owners thereof under existing law. The County shall pay any such required rebate from its legally available funds.

Section 13. Non-Arbitrage Certificate and Elections. Such officers of the County as may be requested, are authorized and directed to execute an appropriate certificate setting forth the expected use and investment of the proceeds of the Bonds in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code, and any elections such officers deem desirable regarding rebate of earnings to the United States, for purposes of complying with Section 148 of the Code. Such certificate and elections shall be in such form as may be requested by bond counsel for the County. The County shall comply with any covenants set forth in such certificate regarding the use and investment of the proceeds of the Bonds.

Section 14. Limitation on Private Use; No Federal Guaranty. The County covenants that it shall not permit the proceeds of the Bonds to be used in any manner that would result in: (a) ten percent (10%) or more of such proceeds being used in a trade or business carried on by any person other than a state or local governmental unit, as provided in Section 141; b) of the Code; (b) five percent (5%) or more of such proceeds being used with respect to any output

facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code; or (c) five percent (5%) or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a state or local governmental unit, as provided in Section 141(c) of the Code; *provided*, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for Federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenants.

The County represents and agrees that the Bonds are not and will not be "federally guaranteed," as such term is used in Section 149(b) of the Code. No portion of the payment of principal of, or interest on the Bonds is, or will be guaranteed, directly or indirectly, in whole or in part by the United States or an agency or instrumentality thereof.

Section 15. Discharge upon Payment of Bonds. The Bonds may be defeased, as permitted by the Act. Any defeasance of the Bonds, as permitted by the Act, shall not release the County or the Registrar from its obligations hereunder to register and transfer the Bonds or release the County from its obligations to pay the principal of, premium, if any, and interest on the Bonds as contemplated herein until the date the Bonds are paid in full, unless otherwise provided in the Act. In addition, such defeasance shall not terminate the obligations of the County under Sections 12 and 14 until the date the Bonds are paid in full.

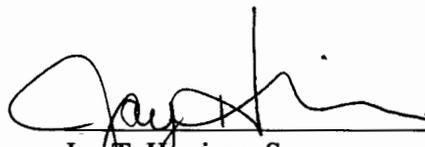
Section 16. Other Actions. All other actions of the members of the Board, officers, staff, and agents of the County in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds and the refunding of the 1994 Refunded Bonds and the 1995 Refunded Bonds are approved and confirmed. The officers and staff of the County are authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038-G and a Blanket Issuer Letter of Representations to the Securities Depository, and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bonds.

Section 17. Limitation of Liability of Officials of the County. No covenant, condition, agreement, or obligation contained herein shall be deemed to be a covenant, condition, agreement, or obligation of a member of the Board, officer, employee, or agent of the County in his or her individual capacity, and no officer of the County executing any Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No member of the Board, officer, employee, or agent of the County shall incur any personal liability with respect to any other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.

Section 18. Contract with Registered Owner. The provisions of this Resolution shall constitute a contract between the County and the registered owner of the Bonds for so long as the Bonds are outstanding. Notwithstanding the foregoing, this Resolution may be amended by the County in any manner that does not, in the opinion of the County, materially adversely affect the registered owner of the Bonds.

Section 19. Repeal of Conflicting Resolutions. All resolutions or parts of resolutions in conflict herewith are repealed.

Section 20. Effective Date. This Resolution shall take effect immediately upon its adoption. The Clerk and any Deputy Clerk of the Board are hereby authorized and directed to see to the immediate filing of a certified copy of this Resolution with the Circuit Court of the County of James City, Virginia.



Jay T. Harrison, Sr.
Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
MCGLENNON	AYE
BROWN	AYE
GOODSON	AYE
KENNEDY	AYE
HARRISON	AYE

ATTEST:



Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of June, 2003.

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