

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 2ND DAY OF OCTOBER, NINETEEN HUNDRED EIGHTY-NINE, AT 7:06 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Thomas D. Mahone, Chairman, Jamestown District
Stewart U. Taylor, Vice-Chairman, Stonehouse District

Jack D. Edwards, Berkeley District
Perry M. DePue, Powhatan District
Thomas K. Norment, Jr., Roberts District
David B. Norman, County Administrator
Frank M. Morton, III, County Attorney

B. MINUTES - September 18, 1989

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

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

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

C. PRESENTATION

1. Groundwater - Sanford B. Wanner and Wayland N. Bass

Mr. Sanford B. Wanner, General Manager, James City Service Authority, introduced the Groundwater presentation in response to questions from Board members and the public. Mr. Wayland Bass made a brief presentation on the quantity and quality risks of groundwater dependency.

D. CONSENT CALENDAR

Mr. Mahone asked if any Board member wished to remove any item from the Consent Calendar.

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

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

1. Single-Family Rehabilitation Loan ProgramR E S O L U T I O NAMENDMENT OF THE APPROPRIATION OF FUNDS FOR THE
VHPF SINGLE-FAMILY REHABILITATION LOAN PROGRAM

WHEREAS, the Virginia Department of Housing and Community Development has awarded James City County a reservation of \$250,000 to provide VHPF Single-Family Rehabilitation Loans to low and moderate income County residents; and

WHEREAS, the FY 1990 James City County Budget did not include appropriation of the entire amount of the loan funds reserved and available for expenditure during FY 1990.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia authorizes that the appropriated funds for the Office of Community Development be amended as follows:

Revenues

VHPF Single-Family Rehabilitation Loan Funds \$250,000

Expenditure

VHPF Single-Family Rehabilitation Loans \$250,000

2. SHARE-Homeless Intervention ProgramR E S O L U T I O NAPPROPRIATION OF FUNDS FOR THE
SHARE-HOMELESS INTERVENTION PROGRAM

WHEREAS, the Virginia Department of Housing and Community Development has awarded James City County a grant of \$95,250 under the SHARE-Homeless Intervention Program; and

WHEREAS, this grant was awarded subsequent to adoption of the FY 1990 Budget and is to be administered by the Office of Community Development.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes that the appropriated funds for the Office of Community Development be amended as follows:

Revenue

SHARE-Homeless Intervention Program Grant	\$95,250
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Expenditures

Homeless Intervention Grants and Loans	\$76,200
Homeless Intervention Program Administration	<u>19,050</u>
	\$95,250

3. Emergency Home Repair ProgramR E S O L U T I O N

AMENDMENT OF THE APPROPRIATION OF FUNDS FOR THE
EMERGENCY HOME REPAIR PROGRAM

WHEREAS, the Virginia Department of Housing and Community Development has awarded James City County a grant of \$8,196 under the Emergency Home Repair Grant Program; and

WHEREAS, this grant requires a dollar for dollar match and funds appropriated by the Board of Supervisors for housing repair in the FY 1990 Budget are available to provide the required match.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes that the appropriated funds for the Office of Community Development be amended as follows:

Revenues

State Emergency Housing Grant	\$ 8,196
Housing Grant Matching Funds	<u>8,196</u>
	\$16,392

Expenditure

Emergency Housing Grant Program	\$16,392
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4. Recycling Awareness Month, James City County

R E S O L U T I O NRECYCLING AWARENESS MONTH

WHEREAS, recycling saves resources, energy and land, prevents litter by eliminating materials from the litter streams and prolongs the useful life of many materials; and

WHEREAS, recycling is a community-minded effort to ease the growing problems of solid waste management; and

WHEREAS, nine Hampton Roads jurisdictions are joining forces to sponsor Recycle Saturday on October 21 to promote recycling.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby designate the month of October, 1989 as

RECYCLING AWARENESS MONTH

and encourages citizens of James City County to participate in Recycle Saturday and to continue recycling efforts for this month and for all times thereafter.

E. PUBLIC HEARINGS

1. Case No. Z-12-89. L.A. & G. Corporation

Mr. Marvin Sowers, Director of Planning, stated that Mr. Vernon Geddy, III, had requested a postponement of the case to rezone approximately 39 acres from A-1, General Agricultural to B-1, General Business until the November 6, 1989, meeting.

Mr. Mahone opened the public hearing, and as no one wished to speak, he continued the public hearing until November 6, 1989.

2. Case No. Z-14-89. Ram Bacham Ram and Manorma Ram

Mr. Sowers stated that Mr. John Hickey had requested withdrawal of this rezoning application.

With Board consensus, Mr. Mahone acknowledged the withdrawal.

3. Case No. Z-15-89. Williamsburg Congregation of Jehovah's Witness

Mr. Sowers stated that Alvin P. Anderson, Esq., had applied on behalf of the Williamsburg Congregation of Jehovah's Witness to rezone approximately 1.26 acres, at 5737 Richmond Road, further identified as Parcel No. (1-29) on James City County Real Estate Tax Map No. (33-1) from R-3, General Residential to B-1, General Business.

At its September 12, 1989, meeting, the Planning Commission recommended approval by a vote of 9-1. Staff recommended denial for the following reasons: 1) proposal is inconsistent with Comprehensive Plan; 2) rezoning would set a precedent for future similar rezonings; 3) rezoning is inconsistent with residentially zoned property in the area; and, 4) the intent to combine this property with other properties currently zoned B-1 may result in adverse traffic which cannot be determined without the benefit of a traffic study.

Board discussion included traffic impact, screening, number of entrances from Richmond Road, transitional property and possible consolidation of parcel with larger adjacent parcel.

Mr. Mahone opened the public hearing.

Alvin Anderson, Esq., explained the background of the property and stated that this property was the last outstanding parcel of the original Hewitt track purchased in 1928, the proposed zoning provided greater setbacks than that of R-3 zoning, the Richmond Road study goals included consolidation of smaller with larger parcels, and the Planning Commission approved the case by a vote of 8-1.

The Board concerns were the length of road frontage with number of entrances, improvements necessary to Richmond Road, traffic generated, and proximity of crossover on Richmond Road to that property.

Responses were that the parcel had a road frontage of 440 feet and could have 2 entrances (1 for service), road improvements would be according to the Virginia Department of Transportation standards, and a crossover was .3 of a mile north of the parcel on Route 60.

1. Rev. Ralph G. Brown, 123 Queen Mary Court, minister of the Williamsburg Congregation of Jehovah's Witness, stated the growing church needed a new structure which the developer would build if rezoning was approved.

2. Mr. James L. Baker, 120 Bassett Drive, asked the Board to approve the case because of a parking space problem at the church.

3. John Matthews, member of FCR Group, stated the service entrance shown on the northern part of the parcel design would separate the commercial traffic from private cars, and no proposal for the development of the out parcel had been made.

Mr. Matthews further stated that the 25-foot setback on the north side of the property would have evergreen screening, and the 100-foot setback in frontage section could include parking.

Mr. Mahone closed the public hearing.

Mr. DePue made a motion to defer the case to allow time to address traffic issues.

On a roll call, the vote was: AYE: Norment, Edwards, DePue, Mahone (4). NAY: Taylor (1).

F. BOARD CONSIDERATIONS

1. Case No. Z-7-89. Governor's Land

Mr. Sowers stated that this case, an application from Mr. Robert Emmett on behalf of Governor's Land, Inc., to rezone approximately 1,444 acres from A-1, General Agricultural to R-4, Residential Planned Community, had been deferred at the Board of Supervisors July 10, 1989, meeting.

Mr. Sowers stated that the revised proffers show the number of residential units, totaling 722 with a density of .50 dwelling units per acre, establish the date of January 1, 1992, when road improvement contributions would have to be deposited in an escrow account, and allow the access to the nature/pedestrian trails within the conservation easement to owners of Governor's Land units and all other citizens of James City County.

At its June 13, 1989, meeting, the Planning Commission recommended approval of the case by a vote of 10-1. Staff recommended denial because the proposed plan was not consistent with the Comprehensive Plan in terms of proposed density, and the essentially suburban type development was outside the Primary Service Area.

Discussion ensued regarding vehicle trips per day and availability of groundwater for the project.

Mr. Norment applauded all who diligently worked on the project and spoke in support of it; Mr. Taylor stated his concerns regarding groundwater had been resolved and felt Route 5 needed improvements; Mr. Edwards noted this case was most difficult with good reasons to support and good reasons to oppose, mainly traffic impact of total number of dwelling units, improving Route 5 before necessary, inconsistent with current Comprehensive Plan, and project is outside Primary Service Area; Mr. DePue stated the case was excellent, but expressed the need to slow down growth and traffic on Route 5; and Mr. Mahone stated the issues received excellent responses, and felt that the quality of the development, with local developers, surpassed any other request which might be brought before the Board for approval, and the escrow account guarantees highway funds would be available when needed.

Mr. DePue commented that he disagreed with the earlier groundwater presentation that the County does not have a short-term water problem.

Mr. Norment made a motion to approve Case No. Z-7-89, with proffers.

On a roll call, the vote was: AYE: Norment, Taylor, Mahone (3).
NAY: Edwards, DePue (2).

R E S O L U T I O NCASE NO. Z-7-89. GOVERNOR'S LAND

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-7-89 for rezoning approximately 1,444 acres from A-1, General Agricultural to R-4, Residential Planned Community, or property identified as Parcel (1-16) on James City County Real Estate Tax Map No. (44-2); and

WHEREAS, the Planning Commission following its public hearing on June 13, 1989, recommended approval (by a 10-1 vote) of Case No. Z-7-89 with proffers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves zoning Case No. Z-7-89 as described herein and on the submitted master plan and further accepts the voluntary proffers.

Mr. Mahone declared a break at 9:55 p.m.

Mr. Mahone reconvened the Board into open session at 10:13 p.m.

2. School Board Salaries

Mr. John McDonald, Manager of Financial and Management Services, stated that State legislation, approved March 22, 1989, allowed the Board of Supervisors to increase the annual compensation of School Board members from \$2,000 to \$3,000, with an additional \$1,100 if a County School Board member is chairman of the Joint School Board.

Mr. Norment made a motion to approve the resolution.

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

R E S O L U T I O NSCHOOL BOARD SALARIES

WHEREAS, the Board of Supervisors of James City County has the legislative authority to set the salaries of members of the James City County School Board; and

WHEREAS, Section 22.1-32 of the Code of Virginia authorizes a maximum annual salary of \$3,000; and

WHEREAS, the City of Williamsburg pays its School Board members \$3,000 a year for services on the Joint School Board and County School Board members receive \$2,000.

NOW, THEREFORE, BE IT RESOLVED that the James City County Board of Supervisors of James City County, Virginia, hereby sets the salaries of members of the James City County School Board at \$3,000 per annum in accordance with section 22.1-32 of the Code of Virginia, and in the case a member of the James City school board is Chairman of the Joint School Board, that the member be authorized an additional salary of \$1,100 a year.

BE IT FURTHER RESOLVED that the following budget adjustment be made to allow for the increase in salary and that the increase be effective as of July 1, 1989:

Transfer to School Board Salaries	\$5,000
from the FY 90 Operating Budget	
Contingency account	

3. Little Creek Reservoir Park, Phase 1 - Award of Construction Contract

Mr. Anthony Conyers, Jr., Manager, Community Services, stated that bids were received on September 8, 1989, for the construction of permanent facilities at the Little Creek Reservoir Park, with Virtexco, Inc. of Norfolk submitting the low base contract bid of \$114,451.

A short discussion of monies spent ensued.

Mr. Mahone made a motion to approve the resolution.

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

R E S O L U T I O N

AWARD OF CONSTRUCTION CONTRACT FOR

LITTLE CREEK RESERVOIR PARK, PHASE I

WHEREAS, funds have been allocated for construction of permanent park facilities at the Little Creek Reservoir Park; and

WHEREAS, plans and specifications for construction of permanent facilities at Little Creek Reservoir Park, Phase I have been prepared and advertised for construction; and

WHEREAS, competitive bids for the base contract and five additive alternates were received on September 8, 1989, with Virtexco Corporation of Norfolk, Virginia, submitting the lowest base contract bid of \$114,451.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approves award of the base contract for construction of permanent facilities at Little Creek Reservoir Park, Phase I, to Virtexco Corporation in the amount of \$114,451 and authorizes the County Administrator to execute the construction contract.

4. Cars for Client Program Authorization

Mr. Conyers stated that the Cars for Clients Program would be a joint effort involving Financial Management Services, Community Services and Community Action Agency to place up to six vehicles with little value to the County in the possession of clients who need transportation to work. Mr. Conyers further stated that transportation is a barrier to citizens' self-sufficiency and this program has the potential to greatly reduce expenditures.

The Board discussed the method of transferral of the cars to the individuals, the criteria of the program and individual requirements, and citizens' obligations to the Community Action Agency.

Mr. Norment made a motion to approve a pilot program for one year until the first Board of Supervisors meeting in October 1990.

On a roll call, the vote was: AYE: Norment, Edwards, DePue (3).
NAY: Taylor, Mahone (2).

R E S O L U T I O N

CARS FOR CLIENTS PROGRAM

WHEREAS, many County individuals and families lack transportation to and from work; and

WHEREAS, removing that transportation barrier is in the best interest of the individuals and of the County; and

WHEREAS, the County often has vehicles no longer usable as police cars, yet with some service life remaining; and

WHEREAS, the Cars for Clients Program will provide selected clients with transportation to and from work.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to transfer up to six surplus vehicles per year to the Williamsburg-James City County Community Action Agency for use ultimately by eligible County residents.

BE IT FURTHER RESOLVED that the County Administrator be directed to prepare detailed program guidelines for the conduct of this program which includes an evaluation of the program's success and that the results be reported to the Board of Supervisors in October 1990 for consideration in continuing the program.

G. PUBLIC COMMENT

1. Mr. Ed Riley, 611 Tam-O-Shanter, spoke of additional new information on Lyme disease.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. David Norman, County Administrator, requested an executive session for personnel appointments to a commission.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Mahone noted that the next Board meeting would be October 23, 1989, at 2:00 p.m., with the Service Awards luncheon at 11:30 a.m. at Ford's Colony.

Mr. Mahone asked about the response to Mr. Richard Bloch's request for additional after school programs. Mr. Conyers replied that the elementary schools had indicated an interest in both afternoon and morning programs.

Mr. Mahone mentioned that the County school children's SAT scores increased in 1989.

Mr. Mahone noted the dedications of the Clara Byrd Baker school on October 22 and the D.J. Montague school on October 29.

Mr. Mahone noted an invitation to the Williamsburg Winery on Wednesday, October 4 with Governor Baliles attending, and that the winery had earned a Governor's Cup award for producing an outstanding wine.

Mr. Mahone read a short article from the Virginia Conservancy, a statewide publication, about an exciting new concept in national resource protection by the Department of Conservation and Recreation.

Mr. Edwards made a motion to convene into executive session pursuant to Section 2.1-344 (a)(1) of the Code of Virginia, 1950, as amended to consider a personnel matter, the appointment of individuals to County boards and/or commissions at 10:56 p.m.

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

Mr. Mahone reconvened the Board into open session at 11:05 p.m.

Mr. Edwards made a motion to approve the executive session resolution.

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

R E S O L U T I O N

MEETING DATE: OCTOBER 2, 1989

CERTIFICATION OF EXECUTIVE MEETING

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

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

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

Mr. Edwards made a motion to adjourn.

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

The Board adjourned at 11:08 p.m.



David B. Norman
Clerk to the Board

1122w

GOVERNOR'S LAND PROFFER AGREEMENT

16216
This Proffer Agreement, made as of this 2nd day of October, 1989, by Governor's Land Partners, a Virginia joint venture between Dominion Lands, Inc., a Virginia corporation, and Governor's Land, Inc., a Virginia corporation ("Owner").

RECITAL:

WHEREAS, Owner is the record title owner of certain real property in James City County, Virginia (hereinafter called "the Property") being a 1440-acre, more or less, tract along Route 5 more particularly described as follows:

All that certain tract, piece or parcel of land belonging, lying and being in James City County, Virginia on the south side of State Route 5 also known as John Tyler Highway containing approximately 1444.424 acres, more or less, as shown on that certain plat of survey entitled "BOUNDARY SURVEY OF THE GOVERNOR'S LAND LOCATED IN JAMES CITY COUNTY, VIRGINIA" prepared by Bengtson, DeBell, Elkin & Titus, Ltd., Engineers, Surveyors, Planners, Landscape Architects, dated July 8, 1988, which plat is recorded in the Plat Books in the Clerk's Office of the Circuit Court of James City County, Virginia, said property being subject to a right-of-way containing 3.1127 acres conveyed by instrument recorded in the aforesaid Clerk's Office in Deed Book 210, Page 165.

Subject, however, to all recorded unreleased restrictive covenants, easements and rights of way of record affecting said property.

Together with all rights and privileges, tenements, hereditaments, easements and appurtenances unto the said land belonging or in any-wise appertaining, including riparian rights.

and

WHEREAS, the Owner has applied for rezoning of the Property from the General Agricultural District, A-1, to the Residential Planned Community District, R-4; and

WHEREAS, the County of James City (hereinafter the "County") may be unwilling to rezone the property from the General Agricultural District, A-1, to the Residential Planned Community District, R-4, because the Residential Planned Community District, R-4, zoning regulations may be deemed inadequate for the orderly development of the Property; and

WHEREAS, more flexible and adaptable zoning methods are deemed advisable to permit the use of the Property; and

WHEREAS, the Owner is desirous of offering certain conditions for the protection of the community that are not applicable to land similarly zoned in addition to the regulations provided for in the Residential Planned Community District, R-4.

NOW, THEREFORE, this agreement witnesseth that for and in consideration of the County of James City rezoning the Property from the General Agricultural district, A-1, to the Residential Planned Community District, R-4, and pursuant to Section 15.1-491.1, et seq. of the Code of Virginia, 1950, as amended, and Section 20-15, et seq. of Chapter 20 of the Code of James City County, Virginia, the Owner agrees that in addition to the regulations provided for in the Residential Planned Community District, R-4, it will meet and comply with all of the following conditions to the development of the Property.

CONDITIONS:

1. The number of residential units shall be limited in relation to the areas as designated on the Master Plan as follows:

<u>Project Land Bay Area</u>	<u>R-4 Designation</u>	<u>Maximum Density/Dwelling Types (Dwelling Units per Land Bay Area)</u>
1	A	162 (single-family)
2	A	335 (single-family)
3	B	120 (townhouse/cluster)
4	B	<u>105</u> (townhouse/cluster)
		<u>722</u>

All Project Land Bay Areas identified as "R-4 Designation" "B" shall be limited to townhouse dwelling types or single-family cluster lots as approved by the Planning Commission.

2. The Owner shall designate a 150-foot greenbelt buffer along the Property's Route 5 frontage (exclusive of right-of-way dedicated herein for future improve-

ments of Route 5 to a four-lane divided highway) as defined by the Greenbelt Corridor Policy of James City County. The "Greenbelt" buffers shall be undisturbed and exclusive of any lots, except for approved utilities, drainage improvements, jogging/nature trails, community entrance roads as shown generally on the Master Plan and appropriate historical, environmental, directional, and community identification signage as approved by the Planning commission.

3. As part of the approval of any subdivision plan within Land Bays 2 or 3, the Owner shall provide recreational amenities for the community as located on the Master Plan as follows: one regulation-size 25-meter swimming pool and 2,000 minimum square foot neighborhood recreation center; four regulation-size tennis courts; two tot lots with playground equipment; one regulation "basketball" size multi-use court; and 5 miles of jogging/fitness/nature/pedestrian trails (approximately half of which shall be hard surface and half of which shall be a soft "natural" surface).

4. As part of the approval of any subdivision plan within Land Bay 4 and/or 1, the Owner shall provide recreational amenities for the community as located on the Master Plan as follows: one regulation 25-meter swimming pool and 2,000 minimum square foot neighborhood recreation center; four regulation-size tennis courts; one tot lot with playground equipment; 5 miles of jogging/fitness/nature/pedestrian trails (approximately half of which shall be hard surface and half of which shall be a soft "natural" surface).

5. All such recreational amenities per paragraphs 3 and 4 shall be guaranteed by a surety as part of the public improvements covered by the appropriate subdivision agreement and completed within one (1) year of recordation of said subdivision.

6. The Phase I archaeological study shall be completed for the entire Property and Phase II studies shall be performed on all sites which shall be subject to development and which have been identified by the James River Institute for Archae-

ology as warranting Phase II study. All archaeological sites identified by the James River Institute for Archaeology and determined by the James City County Historical Commission to be essential to preserve on the Property shall be appropriately protected from any development and an historical marker identifying the significance of the site shall be located at any such site.

7. The Owner shall dedicate as open space to an appropriate, non-profit land stewardship entity approved by the Board of Supervisors a "conservation easement" of approximately 194± acres as shown generally on the Master Plan subject only to any drainage improvement and/or utility easement (as shown generally on the Master Water, Sanitary Sewer, and Storm-water Management plans prepared by AES, a professional corporation, dated June 6, 1989 and submitted with these proffers) and/or nature, pedestrian, and/or golf trails and bridges as approved by the James City County Planning Commission. A 20-foot wide buffer strip of natural vegetation shall be maintained along both sides of any drainage ditches within this area. Where the drainage improvement or utility easements pass through forested areas of this open space, there shall be no clear cutting or commercial harvesting of timber within the easements. Select understory, maintenance, and visual path clearance may take place along the James River frontages; select, but necessary hand clearing may be implemented along the wetland frontage (i) in conjunction with the establishment of the golf course fairways and/or (ii) for understory, maintenance, or visual path purposes as approved by the Planning Commission. There shall be no use of pesticides, herbicides, fertilizers, or other agricultural chemicals within the conservation easement except as approved by the County Administrator.

The ability to access the nature/pedestrian trails within the "conservation easement" shall apply equally to owners of Governor's Land units and all other citizens of James City County.

The boundaries of the "conservation easement" shall be identified by metes and bounds upon submittal of the subdivision or site plan for each property abutting the said "conservation easement" and said boundaries shall conform generally to the areas on the Master Plan shown as "Conservation Easement" (generally, south of the conceptual golf holes shown on said "Master Plan").

8. That all lots within any subdivision adjoining areas identified as "wetlands" per Paragraph 18 herein shall be outside of said "wetland" area and shall have a 100-foot buffer strip adjoining said wetland area. This buffer strip shall be maintained as is, e.g., forest or natural vegetation with no buildings, structures, impervious surfaces, plowing, application of agricultural chemicals or pesticides, or disturbance of the substrate except for approved utilities and drainage improvements (as shown generally on the Master Water, Sanitary Sewer, and Stormwater Management plans prepared by AES, a professional corporation, dated June 6, 1989 and submitted with these proffers), roads, jogging or nature trails, and appropriate historical, environmental, and/or directional signage as approved by the Planning Commission. Select understory, maintenance, and visual path clearance may take place along the James and Chickahominy Rivers frontages; select, but necessary hand clearing may be implemented along the wetland frontage (i) in conjunction with the establishment of the golf course fairways and/or (ii) for understory, maintenance, or visual path purposes as approved by the Planning Commission.

9. Shoreline erosion abatement measures as approved by the Planning Commission shall be provided along James River frontage, phased in conjunction with development along said frontage.

10. Prior to any subdivision plat or site plan approval for any development area within the Land Bays defined above, owner shall submit to Planning Commission for its approval a plan for each respective development area delineating general limits of clearing and grading and general building envelopes.

11. That the golf course fairways shall maintain a buffer strip adjoining areas identified as "wetlands" per Paragraph 18 herein of no less than 50 feet. This buffer strip shall be maintained as is, e.g., forest or natural vegetation with no buildings, structures, impervious surfaces or disturbance of the substrate except for approved utilities and drainage improvements (as shown generally on the Master Water, Sanitary Sewer, and Stormwater Management plans prepared by AES, a professional corporation, dated June 6, 1989 submitted with these proffers), roads, jogging, nature, or golf trails or bridges, and appropriate historical, environmental, and/or directional signage as approved by the Planning Commission. Select understory, maintenance, and visual path clearance may take place along the James River frontage; select, but necessary hand clearing may be implemented along the wetland frontage (i) in conjunction with the establishment of the golf course fairways and/or (ii) for understory, maintenance, or visual path purposes as approved by the Planning Commission. The golf course defined herein shall adhere to an Integrated Pest Management (IPM) plan fertilizer and pesticide method as approved by the Planning Commission. Any wells used for golf course irrigation shall not draw from the Chickahominy Piney Point aquifer and data on any such well pumping shall be provided James City County. The James City Service Authority shall be given quarterly reports of the amount of pumping (peak gallons per minute/total gallons) during each preceeding quarter and projected usage for the next following quarter.

12. Prior to any approval of a subdivision or site plan of the Property or any Land Bay therein, the Owner, at its expense, shall cause to be prepared a comprehensive drainage study of the subject Land Bay, and implementation schedule of drainage improvements for review and approval by the County Director of Code Compliance.

13. Upon approval of the drainage study and implementation schedule, the Owner shall be obligated to incorporate the recommendations of the study in the said subdivision or site plan in accordance with the said implementation schedule.

14. Within 120 days after final approval of the Master Plan, the Owner shall convey to James City County, without cost, fee simple title to a 10-acre site as a public use site, with fee-simple access rights to a public road within the Property. Such site shall be at a location as identified generally on the proposed Master Plan.

15. That the number of entrances and driveways to the project off of Route 5 shall be limited to two: one being identified as "community entrance" as shown on the Master Plan; and one being for a temporary construction entrance if approved by the Planning Commission.

16. That all property owners at Governor's Land shall be required to join the homeowners association. The homeowners association shall be a legal non-profit corporation. An annual budget for maintenance of all common open space, recreation areas, sidewalks, parking, private streets, if any, and other privately-owned but common facilities serving the project shall be required and shall be included in the restrictive covenants along with lien powers to assess each property owner for any non-payment. The restrictive covenants provisions for the maintenance budget shall provide that the owner shall be responsible for any budget deficiency during the development term.

17. In conjunction with the approval of any subdivision plan within any Land Bay, all areas designated on the Master Plan within said Land Bay as "Major Open Space" shall be identified by metes and bounds and shall conform generally to the proportionate acreage breakdowns between "Major Open Space" and the balance of acreage in each Land Bay as shown on the Master Plan. Major Open Space areas shall be undisturbed and exclusive of any lots, except for golf fairways, utilities, drainage

improvements, roads as shown generally on the Master Plan, jogging, nature, or golf trails or bridges, and signage approved by the Planning Commission.

18. Any use herein of the term "wetland" shall be defined as an area identified as a "wetland" under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act (Corps of Engineers Multi-Parameter as stated in Technical Report Y-87-1 entitled "Corps of Engineers Wetlands Delineation Manual" published January, 1987) and pursuant to Section 62.1-13.5 of the Code of Virginia. A qualified environmental engineer retained by Owner and approved by the County Administrator or his designee shall prepare a wetland delineation map for approval by the County Administrator or his Designee.

19. A) The Owner agrees that, until a plan (including an appropriate funding plan) for the improvement of Route 5 to a four-lane divided highway, or such other equivalent or lower design category approved by VDOT and James City County, in James City County from Route 199 to the Governor's Land entrance off of Route 5 has been approved by VDOT and James City County, Owner shall be limited to final subdivision and/or site plan of no more than a total of 250 units (single-family, townhouses, and/or clusters) or preliminary subdivision and/or site plan approval of no more than a total of 400 units (single-family, townhouses, and/or clusters) of the project's total 722 units defined in Paragraph 2 herein. In the event VDOT and James City County determine that no improvement of Route 5 in James City County from Route 199 to the Governor's Land entrance off of Route 5 is necessary, the Owner shall not be limited in the subdivision and/or site plan of the project's total 722 units defined in Paragraph 2 herein.

In addition, upon preliminary subdivision approval of the first subdivision and/or site plan for the Property, Owner agrees to dedicate sufficient right-of-way from its property along its Route 5 frontage for improving Route 5 to a four-lane divided highway as determined necessary by VDOT. Said first subdivision and/or site

plan for the Property shall include provision for construction of right and left turn lanes on Route 5 into the entrance to the Property.

The "funding plan" referred to herein, while not precluding the possibility, does not anticipate any funding from either James City County or VDOT.

B) Unless otherwise agreed, Owner, in accordance with Code of Virginia, Section 15.1-466E, agrees to enter into a development agreement with James City County prior to approval of any subdivision and/or site plan within any Land Bay to contribute \$2,125,000 (herein "contributions") for the improvement of Route 5 in James City County (herein the "Improvements"). Said Improvements shall include, but shall not be limited to, the following:

- i) Turn lanes at the community entrance to the Property;
- ii) Signalization at the community entrance to the Property when required by VDOT;
- iii) Improvements of Route 5 along the Property's frontage to a four-lane divided highway, or such other equivalent or lower design category approved by VDOT and James City County including, but not limited to, and subject to approval by VDOT and James City County, a Class 1 Bikeway to be provided along the Property frontage exclusive of the greenbelt buffer described in Paragraph 2 herein; and
- iv) Other Route 5 off-site improvements including, but not limited to, necessary utility relocations, and acquisition of necessary Route 5 right-of-way for the Improvements described herein.

The form of said development agreement shall be in substantially the same form as that attached hereto as Exhibit A. The said contributions shall begin upon commencement of and as payment for the preliminary engineering design work for the improvement of Route 5 as approved by James City County and VDOT. Except as otherwise set forth herein, the balance of said contributions shall be due in full, unless otherwise agreed, subject to (i) VDOT and James City County's determination that

the Improvements are necessary and upon VDOT's and James City County's approval of a plan for funding and construction of the Improvements and issuance of the first permit for the construction of the Improvements; and (ii) upon final approval of any subdivision and/or site plan which approval causes the number of approved units (single-family, townhouse, and/or cluster) to exceed 400. In any event, upon final approval of any subdivision and/or site plan which approval causes the number of approved units to exceed 250 or on or before January 1, 1992, whichever shall first occur, the balance of said contributions not then expended shall be placed in an escrow, interest-bearing account to which James City County or its designee shall be a necessary party. The said escrowed balance shall be used for the purposes set forth in this paragraph.

In any event, upon final approval of any subdivision and/or site plan which approval causes the number of approved units (single-family, townhouse, and/or cluster) to exceed 400, Owner shall have completed or contracted to complete (i) donation of right-of-way and the construction of Route 5 to a four-lane divided highway, or such equivalent or lower design category approved by VDOT and James City County, across the Route 5 frontage of the Property; (ii) construction of left and right turn lanes on westbound Route 5 at the community entrance to the Property; and (iii) signalization of the Route 5 community entrance to the Property and any other traffic control measures required by VDOT on the portion of Route 5 that would be improved along the Property's frontage per (i) above in this paragraph.

It is understood and agreed that it is the intention of the Owner and James City County to design the Improvements of Route 5 in such a way as to respect the historic character of Route 5 and to minimize the impact on existing development while addressing valid safety concerns. Governor's Land Partners shall participate in and cooperate with any legislative study of the future of the Route 5 corridor. Among other common goals for the design of Improvements for Route 5, the Owner and

James City County agree to strive for: (1) lower speed limits; (2) minimization of through truck traffic; and (3) design standards, including landscaping design standards, which are the minimal necessary, yet appropriate for the historic character and safety needs of Route 5. It is also understood and agreed that while design plans and a funding plan for Improvements, including acquisition of necessary right-of-way, will commence within a reasonable time after the approval of the Governor's Land rezoning, that the timing of construction of said Improvements shall be as approved by James City County and VDOT.

C) Further, unless otherwise agreed, Owner, in accordance with Code of Virginia, Section 15.1-466E, agrees, subject to A) and B) herein as part of the funding plan for the Improvements to underwrite, guarantee, or otherwise provide sufficient funding over and above those funds contributed in B) above and those funds contributed in the Greensprings project Proffer Paragraph 26 B), a copy of which is attached hereto as Exhibit B., to complete the Improvements as necessary subject to provision having been made in a legally binding agreement (herein the "Agreement") specifying, without limitation, a mutually acceptable method of reimbursing Owner (and/or releasing Owner from any underwriting or guarantee described herein), or at least providing Owner the prospect of reimbursement, for any funds provided by Owner over and above those contributed by Owner per B) above. Provided, however, that no reimbursement shall be made of any assessment, tax, or levy including, but not limited to any special assessments paid by Owner as specified in the Governor's Land recorded restrictive covenants, paid by Owner for the Route 5 Improvements described herein. The sources of said reimbursements and/or release from any underwriting or guarantee described herein may include, but is not limited to: (i) contributions from other developers; and/or (ii) reimbursements via a transportation and/or sanitary and/or other special taxing district for the remaining undeveloped land in the Route 5 corridor; and/or (iii) special assessments from the pur-

chasers of units (single-family, townhouses, and/or clusters) within the Greensprings and Governor's Land projects as specified in each project's respective recorded restrictive covenants; and/or (iv) reimbursement in accordance with Code of Virginia, Section 15.1-466E(c); and/or (v) any other source specified in the Agreement.

D) In the event James City County and VDOT determine that no Improvements shall be made to Route 5 between Five Forks and Route 199 and that improvements to Ironbound Road north of Five Forks to proposed Route 199 are necessary in lieu of any Improvements to Route 5 between Five Forks and Route 199, Owner agrees that its proffers as set forth herein for improvements between Five Forks and Route 199 shall apply to the said improvements to Ironbound Road north of Five Forks to proposed Route 199.

Governor's Land Partners, a Virginia joint venture between Dominion Lands, Inc., a Virginia corporation and Governor's Land, Inc., a Virginia corporation

By: Robert Emmett III
President, Governor's Land, Inc.,
General Partner

STATE OF VIRGINIA

CITY/COUNTY OF WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged before me this 21st day of OCTOBER, 1989, by ROBERT EMMETT III, PRESIDENT of Governor's Land Partners.

A. Elizabeth Cheney
Notary Public

My commission expires: July 7, 1990

COUNTY OF JAMES CITY

GOVERNOR'S LAND SUBDIVISION AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 19____, by and between GOVERNOR'S LAND PARTNERS, a Virginia general partnership, party of the first part, hereinafter referred to as "Owner", and the COUNTY OF JAMES CITY, VIRGINIA, a political subdivision, party of the second part, hereinafter referred to as "County".

WHEREAS, the party of the first part is the owner of a certain tract of land located in the County of James City, Virginia known generally as the Governor's Land project; and

WHEREAS, the first section of said parcel of land is being subdivided by the Owner into the subdivision known and designated as Governor's Land, Section I, and the Owner has caused a plat of said subdivision dated _____, 19____, to be prepared by _____, Certified Land Surveyors, or Civil Engineers, which said plat the Owner desires to admit to record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia; and

WHEREAS, the Owner agrees to construct and locate all physical improvements in said subdivision, as required by the Subdivision Ordinance of the County of James City, Virginia, or shown on the development plans approved by the Agent of the Subdivision Ordinance, hereinafter referred to as "Agent"; and

WHEREAS, the Owner has posted sufficient bond, letter of credit or certified check, pursuant to existing ordinances, approved as to form by the County Attorney, and with surety satisfactory to the County in the amount of _____ guaranteeing the installation of the aforementioned improvements before _____; and

WHEREAS, as part of the rezoning process of the said "Governor's Land" project, the Owner caused a "Governor's Land Proffer Agreement" dated _____, 1989, to be submitted as part of the rezoning of the Governor's Land property to a Residential Planned Community District, R-4 in which Governor's Land Proffer Agreement, the subject Governor's Land Subdivision Agreement is referred to in paragraph 26 B(i) as Exhibit A; and

WHEREAS, the approval of the rezoning of the Governor's Land tract to a Residential Planned Community District, R-4, was subject to the said Governor's Land Proffer Agreement in which the Owner agreed with the County, in accordance with Code of Virginia Section 15.1-466E, to contribute \$2,125,000 (herein "Contributions") for the improvements of Route 5 prior to approval of any subdivision and/or site plan for any land bay within the said Governor's Land project.

WHEREAS, the County of James City has agreed that it will permit the recordation of the plat of said subdivision upon the execution of this agreement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the approval of the said subdivision of the Governor's Land tract into a Residential

Planned Community District, R-4, and the covenants and agreements herein contained, the parties hereto agree as follows:

1. The Owner does covenant and agree that it will, without cost to the County of James City, before _____, construct to the approval of the County all physical improvements as required by the Subdivision Ordinance of the County, or shown on the development plans approved by the Agent. If, in the sole judgment of the County, circumstances beyond the control of the Owner prevent the Owner from completing the improvements in the time set forth herein, then the County may at its sole discretion grant an extension of time for completion of said improvements and in such instance the County shall require an amended bond, letter of credit, or certified check, approved as to form by the County Attorney, and with surety satisfactory to the County in an amount to guarantee the installation of the aforementioned improvements.

2. It is mutually understood and agreed that in the event the Owner fails to properly complete the physical improvements provided hereinabove, the County may complete, or cause to have completed, the same and render a bill therefor to the Owner who shall be liable to the County for all proper costs so incurred by the County or the County may draw the amount necessary from the surety to complete or cause to have completed the same.

3. It is mutually understood and agreed that this agreement does not relieve the Owner of any responsibilities or requirements placed upon them by the various ordinances of the County applicable to such subdivision and development of the property, and the subdivision and development of the property will be done in strict accordance with such ordinances.

4. It is mutually understood and agreed that if the Owner shall faithfully execute each and all requirements of the said Subdivision Ordinance and the provisions of this agreement, and shall indemnify, protect and save harmless the County of James City from all loss, damage, expense or cost by reason of any claim, suit or action instituted against the County of James City or its agents or employees thereof, on account of, or in consequence of any breach on the part of the Owner, then the aforementioned bond, letter of credit, or certified check, shall be released by the County to the Owner.

5. The Owner does hereby agree to indemnify, protect and save harmless the County from and against all losses and physical damages to property, and bodily injury or death to any person or persons, which may arise out of or be caused by the construction, maintenance, presence or use of the streets, utilities and public easements required by, and shown on, the development plans and the subdivision plat until such time as the said streets, utilities and public easements shall be accepted as a part of the County's system. To insure such indemnification, the County may require and the Owner shall provide upon request a Certificate of Public Liability Insurance in an amount approved by the County Attorney as sufficient, including a governmental endorsement thereto, naming the County as an insured, issued by an insurance company licensed to do business in the Commonwealth of Virginia.

6. It is mutually understood and agreed, that the approval on final plat or plats of this subdivision, or section thereof, shall not be deemed to be an acceptance by the County of any street, alley, public space, sewer or other physical improvements shown on the plat or plats for maintenance, repair or operations thereof, and that

the Owner shall be fully responsible therefor and assume all of the risks and liabilities therefor.

7. Said improvements shall include, but shall not be limited to, the following:

- i) Turn lanes at the community entrance to the property;
- ii) Signalization at the community entrance to the Property when required by VDOT;
- iii) Improvements of Route 5 along the Property's frontage to a four-lane divided highway, or such other equivalent or lower design category approved by VDOT and James City County including, but not limited to, and subject to approval by VDOT and James City County, a Class 1 Bikeway to be provided along the Property frontage exclusive of the greenbelt buffer described in Paragraph 2 herein; and
- iv) Other Route 5 off-site improvements including, but not limited to, necessary utility relocations, and acquisition of necessary Route 5 right-of-way for the Improvements described herein.

The said contributions shall begin upon commencement of and as payment for the preliminary engineering design work for the improvement of Route 5 as approved by James City County and VDOT. Except as otherwise set forth herein, the balance of said contributions shall be due in full, unless otherwise agreed, subject to (i) VDOT's and James City County's determination that the Improvements are necessary and upon VDOT's and James City County's approval of a plan for funding and construction of the Improvements and issuance of a permit for the construction of the Improvements; and (ii) upon final approval of any subdivision and/or site plan which approval causes the number of approved units (single-family, townhouse, and/or cluster) to exceed 400. In any event, upon final approval of any subdivision and/or site plan which approval causes the number of approved units to exceed 250 or on or before January 1, 1992, whichever shall first occur, the balance of said contributions not then expended shall be placed in an escrow, interest-bearing account to which James City County or its designee shall be a necessary party. The said escrowed balance shall be used for the purposes set forth in this paragraph.

In any event, upon final approval of any subdivision and/or site plan which approval causes the number of approved units (single-family, townhouse, and/or cluster) to exceed 400, Owner shall have completed or contracted to complete (i) donation of right-of-way and the construction of Route 5 to a four-lane divided highway, or such equivalent or lower design category approved by VDOT and James City County, across the Route 5 frontage of the Property; (ii) construction of left and right turn lanes on westbound Route 5 at the community entrance to the Property; and (iii) signalization of the Route 5 community entrance to the Property and any other traffic control measures required by VDOT on the portion of Route 5 that would be improved along the Property's frontage per (i) above in this paragraph.

Further, unless otherwise agreed, Owner, in accordance with Code of Virginia, Section 15.1-466E, agrees, subject to A) and B) herein as part of the funding plan for the Improvements to underwrite, guarantee, or otherwise provide sufficient funding over and above those funds contributed in B) above and those funds contributed in the Greensprings project Proffer Paragraph 26 B), a copy of which is attached hereto as Exhibit B., to complete the Improvements as necessary subject to provision having been made in a legally binding agreement (herein the "Agreement") specifying,

without limitation, a mutually acceptable method of reimbursing Owner (and/or releasing Owner from any underwriting or guarantee described herein), or at least providing Owner the prospect of reimbursement, for any funds provided by Owner over and above those contributed by Owner per B) above. Provided however that no reimbursement shall be made of any assessment, tax, or levy including, but not limited to any special assessments paid by Owner as specified in the Governor's Land recorded restrictive covenants, paid by Owner for the Route 5 Improvements described herein. The sources of said reimbursements and/or release from any underwriting or guarantee described herein may include, but is not limited to: (i) contributions from other developers; and/or (ii) reimbursements via a transportation and/or sanitary and/or other special taxing district for the remaining undeveloped land in the Route 5 corridor; and/or (iii) special assessments from the purchasers of units (single-family, townhouses, and/or clusters) within the Greensprings and Governor's Land projects as specified in each project's respective recorded restrictive covenants; and/or (iv) reimbursement in accordance with Code of Virginia, Section 15.1-466E(c); and/or (v) any other source specified in the Agreement.

In the event James City County and VDOT determine that no Improvements shall be made to Route 5 between Five Forks and Route 199 and that improvements to Ironbound Road north of Five Forks to proposed Route 199 are necessary in lieu of any Improvements to Route 5 between Five Forks and Route 199, Owner agrees that its proffers as set forth herein for improvements between Five Forks and Route 199 shall apply to the said improvements to Ironbound Road north of Five Forks to proposed Route 199.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures and seals this _____ day of _____, 19____.

COUNTY OF JAMES CITY, VIRGINIA

By: _____

ATTEST:

GOVERNOR'S LAND PARTNERS

By: _____
Vice President

ATTEST:

Approved as to form:

County Attorney

GREENSPRINGS PROFFER AGREEMENT

2/07
This Proffer Agreement, made as of this 6th day of February, 1989, by Greensprings Plantation, Inc., a Virginia corporation ("Owner").

RECITAL:

WHEREAS, Greensprings Plantation, Inc. is the record title owner of certain real property in James City County, Virginia (hereinafter called "the Property") being a 1402-acre, more or less, tract along Route 5 more particularly described in Exhibit A attached hereto; and

WHEREAS, the Owner has applied for rezoning of the Property from the Limited and General Agricultural Districts, A-2/A-1, to the Residential Planned Community District, R-4; and

WHEREAS, the County of James City (hereinafter the "County") may be unwilling to rezone the property from the Limited and General Agricultural Districts, A-2/A-1, to the Residential Planned Community District, R-4, because the Residential Planned Community District, R-4, zoning regulations may be deemed inadequate for the orderly development of the Property, because competing and incompatible uses may conflict; and

WHEREAS, more flexible and adaptable zoning methods are deemed advisable to permit the use of the Property; and

WHEREAS, the Owner is desirous of offering certain conditions for the protection of the Community that are not applicable to land similarly zoned in addition to the regulations provided for in the Residential Planned Community District, R-4.

NOW, THEREFORE, this agreement witnesseth that for and in consideration of the County of James City rezoning the Property from the Limited and General Agricultural Districts, A-2/A-1, to the Residential Planned Community District, R-4, and pursuant to Section 15.1-491.1, et seq. of the Code of Virginia, 1950, as amended, and Section 20-15, et seq. of Chapter 20 of the Code of James City County, Virginia, the

Owner agrees that in addition to the regulations provided for in the Residential Planned Community District, R-4, it will meet and comply with all of the following conditions to the development of the Property.

CONDITIONS:

1. Subdivision and/or site plans for the project shall be submitted such that all of Phase I has received subdivision and/or site plan approval prior to any submissions for approval of subdivisions and/or site plans for Phase II. (Within Phase I, Land Bay 6A shall have received subdivision and/or site plan approval prior to any submission for subdivision and/or site plan approval of Land Bays 5A or 5B.) Likewise, all of Phase II shall have received subdivision and/or site plan approval prior to any submissions for approval of subdivisions and/or site plans for Phase III. Phases I, II, and III shall incorporate, respectively, the Land Bays as shown on the Master Plan.

2. The number of residential units shall be limited in relation to the areas as designated on the master plan as follows:

<u>Project Land Bay Area</u>	<u>R-4 Designation</u>	<u>Maximum Density/Dwelling Types (Dwelling Units per Land Bay Area)</u>
1	A	198 (single-family)
2	A	417 (single-family)
3	B	248 (townhouse)
4	A	161 (single-family)
5A	A	274 (single-family)
5B	A	287 (single-family)
6A	B	165 (townhouse)

All Project Land Bay Areas identified as "R-4 Designation" "B" shall be limited to townhouse dwelling types or single-family cluster lots as approved by the Planning Commission.

3. The Owner shall designate a 150-foot greenbelt buffer along the Property's Route 5 frontage (exclusive of right-of-way dedicated herein for future improvements of Route 5 to a four-lane divided highway) as defined by the Greenbelt Corri-

dor Policy of James City County. The "Greenbelt" buffers shall be undisturbed and exclusive of any lots, except for approved utilities, drainage improvements, jogging/nature trails, community entrance roads as shown generally on the Master Plan (limited to one entrance each for relocated Route 614 and one entrance to Land Bay 3), and signage as approved by the Planning Commission.

4. As part of the approval of any subdivision plan within Land Bay 5A or 5B, the Owner shall provide recreational amenities for the community as located on the Master Plan as follows: one regulation-size 25-meter swimming pool and 2,000 minimum square foot community center/bathhouse; four regulation-size tennis courts; two tot lots with playground equipment; one regulation "basketball" size multi-use court; one putting green; and 2.7 miles of jogging/fitness/nature/pedestrian trails (approximately half of which shall be hard surface and half of which shall be a soft "natural" surface).

5. As part of the approval of any subdivision plan within Land Bay 4 or 1, whichever shall first be submitted, the Owner shall provide recreational amenities for the community as located on the Master Plan as follows: one regulation 25-meter swimming pool and 2,000 minimum square foot community center/bathhouse; four regulation-sized tennis courts; one tot lot with playground equipment; one regulation "basketball" size multi-use court; two miles of jogging/fitness/nature/pedestrian trails (approximately half of which shall be hard surface and half of which shall be a soft "natural" surface).

6. As part of the approval of any subdivision plan within Land Bay 1, the Owner shall provide recreational amenities for the community as located on the Master Plan as follows: two regulation-sized tennis courts; two tot lots with playground equipment; one regulation-size softball/soccer field area; and two miles of jogging/fitness/nature/pedestrian trails (approximately half of which shall be hard surface and half of which shall be a soft "natural" surface).

7. All such recreational amenities per paragraphs 4, 5, and 6 shall be guaranteed by surety as part of the public improvements covered by the appropriate subdivision agreement and completed within one (1) year of recordation of the said subdivision.

8. On that portion of the Property identified on the Master Plan as Land Bay 6B being approximately 41 acres, more or less, the Neighborhood Commercial Center shall be no more than 50,000 square feet of Gross Floor Area. No building within the Neighborhood Commercial Center shall be in excess of 35 feet from grade unless approved by the Planning Commission.

9. As part of the approval of any subdivision or site plan for Land Bay 6B, the Owner shall dedicate to James City County a public use site of two acres within Land Bay 6B with access to public roads. The specific location of said two-acre public use site is to be determined in conjunction with the Board of Supervisors.

10. The Neighborhood Commercial Center shall be designed to minimize traffic demand on Route 5 by providing for the day-to-day needs of the greater western Route 5 community. Within the Neighborhood Commercial Center, structures to be erected or land to be used, shall be for a mixture of the following uses only: retail food stores, bakeries, and fish markets; dry cleaners and laundries; wearing apparel, furniture, shoe, tailor, candy, ice cream, florist, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards, sporting goods, drugs, plants and garden supplies, hardware and paint, home appliances sales and service, arts and crafts, antiques, gift and photography stores; photographer, artist, and sculptor studios; business, professional, and governmental offices (contractor's offices which allow contracting equipment on site shall not be allowed); barber shops and beauty shops; banks and other financial institutions; doctor, dentist, and other medical clin-

ics and offices; restaurants, tea rooms, and taverns. No single enterprise shall exceed a leased space of 8500 square feet.

11. All archaeological sites identified by the James River Institute of Archaeology and determined by the James City County Historical Commission to be essential to preserve on the Property shall be appropriately protected from any development and an historical marker identifying the significance of the site shall be located at any such site.

12. The Owner shall dedicate an easement to James City County or its assignee of a nature/conservation park for protection of the "wetlands" (as defined in Paragraph 24 herein) east of the Greensprings National Historic Site subject only to the proposed relocation of Route 614, any drainage improvement and/or utility easements and/or nature or pedestrian trails as approved by the James City County Planning Commission. A 20-foot wide buffer strip of natural vegetation shall be maintained along both sides of any drainage ditches within this area. Where the drainage improvement or utility easements pass through forested areas of this park, there shall be no clear cutting or commercial harvesting of timber within the easements. There shall be no use of pesticides, herbicides, fertilizers, or other agricultural chemicals within the park except as approved by the County Administrator.

The boundaries of the park shall be identified by metes and bounds following final determination of the location of "Relocated Route 614", and shall conform generally to the areas on the Master Plan east of the Greensprings National Historic Site shown as "Major Open Space—Approximate 100 year Flood Plain".

13. That all subdivisions including areas identified as "wetlands" per Paragraph 28 herein shall have a 100-foot buffer strip adjoining said wetland area. This buffer strip shall be maintained as is, e.g., forest or natural vegetation with no buildings, structures, lots, impervious surfaces, plowing, application of agricultural chemicals or pesticides, or disturbance of the substrate except for approved utilities,

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drainage improvements, roads, jogging or nature trails, and signage as approved by the Planning Commission.

14. Prior to any subdivision or site plan of the Property or any Land Bay therein, the Owner, at its expense, shall cause to be prepared a comprehensive drainage study of the subject Land Bay, and implementation schedule of drainage improvements for review and approval by the County Director of Code Compliance.

15. Upon approval of the drainage study and implementation schedule, the Owner shall be obligated to incorporate the recommendations of the study in the said subdivision or site plan in accordance with the said implementation schedule.

16. As part of the approval of any subdivision plan for Land Bays 5B, 2, and 3 respectively, the Owner shall provide an as is 50-foot buffer (undisturbed and exclusive of any lots except for all utilities and drainage improvements approved by the Planning Commission) between any lots and the National Historic Site subject only to appropriate drainage and utility improvements/easements as approved by the Planning Commission around the 190-acre \pm Greensprings National Historic Site.

17. Within 120 days after final approval of the Master Plan, the Owner shall convey to James City County, without cost, fee simple title to a 20-acre site as a public use site, with access rights thereto. Such site shall be at a location as identified on the proposed Master Plan.

18. As part of the approval of any subdivision plan within Land Bays 5A or 5B, the Owner shall contract to complete the James City Service Authority water line system loop from the Ford's Colony area to Route 5.

19. As part of the approval of the first subdivision plan submitted, regardless of which Land Bay, the Owner shall contract to complete the James City Service Authority water line system from St. George's Hundred to Greensprings Road.

20. The Owner shall designate a 150-foot greenbelt buffer along the existing and proposed relocation of Route 614 frontage (exclusive of a dedicated 120-foot

right-of-way to include possible future improvements to Route 614) as defined by the Greenbelt Corridor Policy of James City County within which 150-foot greenbelt the land shall be undisturbed and exclusive of any lots except for appropriate provisions for all approved utilities, drainage improvements, entrance roads to Land Bays as shown generally on the Master Plan, jogging and/or nature trails, and project signage as approved by the Planning Commission. No signage other than project signage and that requested by VDOT and/or James City County shall be allowed.

21. That the number of entrances and driveways to the project off of Route 5 and off of existing and the proposed relocated Route 614 shall be limited to those identified as "community entrances" as shown on the Master Plan.

22. That all property owners at Greensprings shall be required to join the homeowners association. The homeowners association shall be a legal non-profit corporation. An annual budget for maintenance of all common open space, recreation areas, sidewalks, parking, private streets, if any, and other privately owned but common facilities serving the project will be required and will be included in the restrictive covenants along with lien powers to assess each property owner for any non-payment. The restrictive covenants provisions for the maintenance budget will provide that the owner will be responsible for any budget deficiency during the development term.

23. In conjunction with the approval of any subdivision plan within any Land Bay, all areas designated on the Master Plan within said Land Bay as "Major Open Space" shall be identified by metes and bounds and shall conform generally to the proportionate acreage breakdowns between "Major Open Space" and the balance of acreage in each Land Bay as shown on the Master Plan. Major Open Space areas shall be undisturbed and exclusive of any lots, except for utilities, drainage improvements, roads as shown generally on the Master Plan, jogging/nature trails, and signage approved by the Planning Commission.

24. Any use herein of the term "wetland" shall be defined as an area identified as a "wetland" under Section 404 of the Clean Water Act (Corps of Engineers Multi-Paramenter as stated in Technical Report Y-87-1 entitled "Corps of Engineers Wetlands Delineation Manual" published January, 1987) by a qualified environmental engineer retained by owner and approved by the County Administrator.

25. The Owner shall provide roadway and intersection improvements in accordance with the schedule set forth below. Each of such improvements shall commence and appropriate surety for completion of said improvements approved by the County Attorney provided when the number of residential lots approved for subdivision by James City County for family dwelling units within the Greensprings development equal the number of units set forth in the column entitled "Units/Lots/Timing" opposite the particular improvement proffered by Owner unless otherwise set forth. Each individual dwelling unit within a townhouse structure shall be considered a separate approved lot for the purposes of this schedule.

Road/Intersection Improvements Schedule

Proffered Improvement

Units/Lots/Timing

1. Construction of relocated Route 614 from Route 5 to the intersection of relocated Route 614 and old Route 614 as shown on Page 2 (Phasing Plan) of the Master Plan Package. Construction of relocated Route 614 from Route 5 through the end of Land Bays 6A and 6B shall be four lanes. The remainder of relocated Route 614 shall be two lanes, however a total of 120-foot right-of-way shall be provided to allow for future improvements. At the intersection of relocated Route 614 and Route 5, a left-turn lane from westbound Route 5 and a right-turn lane from relocated Route 614 shall be constructed. Also, a right turn lane on Route 5 westbound into relocated Route 614 shall be constructed.

Upon approval of subdivision and/or site plan for Land Bays 6A or 6B.

2. Construction of separate left and right turn lanes on all approaches to the intersection of relocated Route 614 with Land Bays 6A and 6B.

Upon approval of subdivision and/or site plan for Land Bays 6A or 6B

3. At the intersection of relocated Route 614 and the entrances to Land Bays 5A and 5B, construction of separate right and left turn lanes on northbound approach of relocated Route 614. Also, construction of separate left turn lanes and of separate right turn lanes at the entrances to Land Bays 5A and 5B southbound. 165
4. Construction of or payment for construction of a traffic signal at the intersection of relocated Route 614 and Route 5. 325
5. Construction of a separate right turn lane from southbound relocated Route 614 to old Route 614 and of a left-turn lane from northbound relocated Route 614 to old Route 614 at the intersection of old Route 614 and relocated Route 614. 439
6. Construction of separate left and right turn lanes at the intersections of Route 5 and Greensprings Road and Old Route 614 and construction of a separate right turn lane at the intersection of Route 5 and John Rolfe Lane. 575
7. Construction or payment for construction of a traffic signal at the intersection of relocated Route 614 with Land Bays 6A and 6B. 727
8. Construction of a separate left turn lane on northbound relocated Route 614 and a separate right turn lane on southbound relocated Route 614 at the intersection of relocated Route 614 and Land Bay 2. The entrance to Land Bay 2 will have two outbound lanes, one for left turns and one for right turns. 727
9. Construction of a dual left turn on relocated Route 614 at Route 5. 767
10. Construction of separate left and right turn lanes on the entrances to Land Bays 1 and 4. 1,143
11. Construction of a separate right turn lane on westbound Route 5 into Land Bay 3 at the intersection of Route 5 and Land Bay 3. Upon approval of subdivision or site plan for Land Bay 3.
12. Construction of relocated Route 614 from the intersection of relocated Route 614 and old Route 614 to the northernmost site of the Greensprings property site. 727

26. A) The Owner agrees that, until a plan for the improvement of Route 5 to a four-lane divided highway in James City County from Route 199 to John Rolfe Lane has been approved by VDOT and appropriate funding for said plan is available and approved by VDOT, Owner shall be limited to: (1) constructing the proposed

Neighborhood Commercial Center; and (2) subdividing no more than a total of 766 units (single-family, townhouses, and/or clusters) of the project's 1750 total units defined in Paragraph 2 herein.

In addition, upon approval of any subdivision and/or site plan for either Land Bay 6A or 6B, Owner agrees to dedicate sufficient right-of-way from its property along its Route 5 frontage for improving Route 5 to a four-lane divided highway as determined necessary by VDOT.

B) Upon approval and appropriate funding of a plan for the improvement of Route 5 to a four-lane divided highway in James City County from Route 199 to John Rolfe Lane by VDOT, Owner agrees to provide all roadway improvements for improving Route 5 to a four-lane divided highway along the Route 5 frontage of the Owner's Greensprings property. The said improvements shall begin after issuance of 766 residential building permits and shall allow Owner to develop the balance of the project's 1750 total units defined in Paragraph 2 herein.

(i) Further, unless otherwise agreed, Owner, in accordance with Code of Virginia Section 15.1-466E, agrees to enter into a development agreement with James City County prior to approval of any subdivision and/or site plan for any Land Bay to contribute \$984,000 (herein "contributions") for the off-site improvement of Route 5 to a four-lane divided highway in James City County. The form of said development agreement shall be in substantially the same form as that attached hereto as Exhibit B. The said contributions shall commence upon the issuance of each Certificate of Occupancy for each residential unit over 766 units at \$1,000 per unit up to the total 1750 project units. The said contributions are subject only to agreement between the Owner and James City County as to the management and investment of the funds collected by any such agreement to contribute. Owner agrees that James City County or its designee will be a necessary party to any such management and investment agreement.

Greensprings Plantation, Inc.

By: Robert Emmett III

Vice President

STATE OF VIRGINIA

CITY/COUNTY OF JAMES CITY to-wit:

The foregoing instrument was acknowledged before me this 6TH day of FEBRUARY, 1989, by ROBERT EMMETT III, Vice President of Greensprings Plantation, Inc., on behalf of the corporation.

William P. Anderson
Notary PublicMy commission expires 12/5/92

PARCEL I

All those certain tracts, pieces, or parcels of land situate, lying and being in James City County, Virginia, and shown as Parcel "B", containing 916.77 acres, and Parcel "D", containing 572.50 acres, all as shown on that certain plat entitled, "Plat Showing a Portion of Green Springs," dated July 24, 1965, made by S. U. Camp, III, & Associates, Certified Land Surveyor, Courtland, Virginia, a copy of which said plat is recorded in the Clerk's Office of the City of Williamsburg and County of James City in Plat Book 24, pages 28A and 28B.

LESS AND EXCEPT property conveyed by deed recorded June 3, 1986 in James City County Deed Book 304, Page 31, to Jorge Luna and Leticia Luna, husband and wife;

LESS AND EXCEPT property conveyed by deed recorded June 3, 1986 in James City County Deed Book 304, Page 37, to Herman Zamora and Josefina Zamora, husband and wife;

LESS AND EXCEPT property subject to a certain Option On Real Estate recorded July 24, 1986 in James City County Deed Book 309, Page 646, to Jorge Luna and Leticia Luna, and Herman Zamora and Josefina Zamora, or their assigns;

LESS AND EXCEPT property conveyed by deed recorded April 14, 1986 in James City County Deed Book 299, Page 534, to the Commonwealth of Virginia;

LESS AND EXCEPT property conveyed by deed recorded January 11, 1978 in James City County Deed Book 181, Page 533, to the United States of America;

LESS AND EXCEPT certain property under contract to be conveyed to John M. Smith and Sonda J. Smith, husband and wife, which property is more particularly described as being "Parcel 4", 20.35 Ac.±, on a certain plat entitled, "A SUBDIVISION OF PART OF THE GREEN SPRINGS TRACT", James City County, Virginia," dated November, 1986, and made by Lynn D. Evans, Certified Land Surveyor, a copy of which plat is to be recorded in the Clerk's Office of the City of Williamsburg and County of James City;

LESS AND EXCEPT any and all property in the said "Parcel B" east of Powhatan Creek;

COUNTY OF JAMES CITY

GREENSPRINGS SUBDIVISION AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 19____, by and between GREENSPRINGS PLANTATION, INC., a Virginia corporation, party of the first part, hereinafter referred to as "Owner", and the COUNTY OF JAMES CITY, VIRGINIA, a political subdivision, party of the second part, hereinafter referred to as "County".

WHEREAS, the party of the first part is the owner of a certain tract of land located in the County of James City, Virginia known generally as the Greensprings project; and

WHEREAS, the first section of said parcel of land is being subdivided by the Owner into the subdivision known and designated as Greensprings, Section 1, and the Owner has caused a plat of said subdivision dated _____, 19____, to be prepared by _____, Certified Land Surveyors, or Civil Engineers, which said plat the Owner desires to admit to record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia; and

WHEREAS, the Owner agrees to construct and locate all physical improvements in said subdivision, as required by the Subdivision Ordinance of the County of James City, Virginia, or shown on the development plans approved by the Agent of the Subdivision Ordinance, hereinafter referred to as "Agent"; and

WHEREAS, the Owner has posted sufficient bond, letter of credit or certified check, pursuant to existing ordinances, approved as to form by the County Attorney, and with surety satisfactory to the County in the amount of _____, guaranteeing the installation of the aforementioned improvements before _____; and

WHEREAS, as part of the rezoning process of the said "Greensprings" project, the Owner caused a "Greensprings Proffer Agreement" dated _____, 1989, to be submitted as part of the rezoning of the Greensprings property to a Residential Planned Community District, R-4 in which Greensprings Proffer Agreement, the subject Greensprings Subdivision Agreement is referred to in paragraph 26 B(i) as Exhibit A; and

WHEREAS, the approval of the rezoning of the Greensprings tract to a Residential Planned Community District, R-4, was subject to the said Greensprings Proffer Agreement in which the Owner agreed with the County, in accordance with Code of Virginia Section 15.1-466E, to contribute \$984,000 (herein "Contributions") for the off-site improvement of Route 5 prior to approval of any subdivision and/or site plan for any land bay within the said Greensprings project. Said Contributions shall commence upon the issuance of each Certificate of Occupancy for each residential unit within the Greensprings tract over 766 units at \$1,000 per each unit's Certificate of Occupancy up to the total 1,750 project units. The said Contributions are subject to agreement between the Owner and James City County as to the management and investment of the funds collected by the said agreement to contribute. Owner agrees that James City County or its designee will be a necessary party to any such management and investment agreement.

WHEREAS, the County of James City has agreed that it will permit the recordation of the plat of said subdivision upon the execution of this agreement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the premises and the approval of the said rezoning of the Greensprings tract into a Residential Planned Community District, R-4, and the approval of said subdivision and the covenants and agreements herein contained, the parties hereto agree as follows:

1. The Owner does covenant and agree that it will, without cost to the County of James City, before _____, construct to the approval of the County all physical improvements as required by the Subdivision Ordinance of the County, or shown on the development plans approved by the Agent. If, in the sole judgment of the County, circumstances beyond the control of the Owner prevent the Owner from completing the improvements in the time set forth herein, then the County may at its sole discretion grant an extension of time for completion of said improvements and in such instance the County shall require an amended bond, letter of credit, or certified check, approved as to form by the County Attorney, and with surety satisfactory to the County in an amount to guarantee the installation of the aforementioned improvements.

2. It is mutually understood and agreed that in the event the Owner fails to properly complete the physical improvements provided hereinabove, the County may complete, or cause to have completed, the same and render a bill therefor to the Owner who shall be liable to the County for all proper costs so incurred by the County or the County may draw the amount necessary from the surety to complete or cause to have completed the same.

3. It is mutually understood and agreed that this agreement does not relieve the Owner of any responsibilities or requirements placed upon them by the various ordinances of the County applicable to such subdivision and development of the property, and the subdivision and development of the property will be done in strict accordance with such ordinances.

4. It is mutually understood and agreed that if the Owner shall faithfully execute each and all requirements of the said Subdivision Ordinance and the provisions of this agreement, and shall indemnify, protect and save harmless the County of James City from all loss, damage, expense or cost by reason of any claim, suite or action instituted against the County of James City or its agents or employees thereof, on account of, or in consequence of any breach on the part of the Owner, then the aforementioned bond, letter of credit, or certified check, shall be released by the County to the Owner.

5. The Owner does hereby agree to indemnify, protect and save harmless the County from and against all losses and physical damages to property, and bodily injury or death to any person or persons, which may arise out of or be caused by the construction, maintenance, presence or use of the streets, utilities and public easements required by, and shown on, the development plans and the subdivision plat until such time as the said streets, utilities and public easements shall be accepted as a part of the County's system. To insure such indemnification, the County may require and the Owner shall provide upon request a Certificate of Public Liability Insurance in an amount approved by the County Attorney as sufficient, including a governmental endorsement thereto, naming the County as an insured, issued by an insurance company licensed to do business in the Commonwealth of Virginia.

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