

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF JUNE, NINETEEN HUNDRED NINETY-SIX, AT 5:06 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA. 137

A. ROLL CALL

David L. Sisk, Chairman, Roberts District
Robert A. Magoon, Jr., Vice Chairman, Jamestown District

Jack D. Edwards, Berkeley District
Perry M. DePue, Powhatan District
Stewart U. Taylor, Stonehouse District
Sanford B. Wanner, Acting County Administrator
Frank M. Morton, III, County Attorney

B. WORK SESSION

1. Drainage

Mr. Sisk welcomed Mr. John T. P. Horne, Manager of Development Management and Mr. Wayland Bass, County Engineer, for a work session for Smokehouse Lane drainage problems. Mr. Bass summarized the recommendations of the engineering study prepared by Smith Demer Norman and presented estimated costs for those recommendations.

The Board and staff discussed potential solutions, costs and policy impacts.

The Board took no action on the matter. The Board requested that a letter be sent to the affected homeowners regarding the Board's review of the situation.

2. FY 98 Goals

Ms. Rona Vrooman, Training and Quality Performance Coordinator, presented the proposed FY 1998 County goals and identified issues.

Mr. Sisk recessed the Board at 6:10 p.m. for dinner.

Mr. Sisk reconvened the Board into open session at 7:03 p.m.

C. PRESENTATION

1. Employee and Volunteer Outstanding Service Awards

Mr. Sisk presented Outstanding Service awards to Jean Canady, Transit; Veda McMullen and Richard Lee, Communications; Fred Bartlett, Don Locker, Chuck Silvers and Bill Ware, James City Service Authority; Renee Dallman, Caroline Rhodes and Susan Wolfe, Resource Parents Program; Verla Panayotis, Recreation volunteer; David Gosselin, Recreation volunteer; and Youth Activity Council.

D. MINUTES - May 28, 1996 - Regular Meeting

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

Mr. Taylor made a motion to approve the minutes.

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

E. CONSENT CALENDAR

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

Mr. DePue requested addition of a resolution of appreciation for Mrs. Hattie Jennings Sasser.

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

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

1. Trash and Grass Lien, Centerville Salvage and Auto Parts, Inc.

RESOLUTION

CODE VIOLATION LIEN

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

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

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

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

ACCOUNT: Centerville Salvage and Auto Parts, Inc.
C/O James T. Wood, President
P.O. Box 319
Williamsburg, VA 23187

DESCRIPTION: 6132 Centerville Road

TAX MAP NO.: (31-1 01-0-0024)
James City County, Virginia

AMOUNT DUE: \$2,336

2. Dedication of Streets in Great Woods, Section 2

RESOLUTION

DEDICATION OF STREETS IN GREAT WOODS, SECTION 2

WHEREAS, the streets described on the attached Additions Form SR-5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

3. Resolution of Appreciation - Mrs. Hattie Jennings Sasser

RESOLUTION OF APPRECIATION

TO

MRS. HATTIE JENNINGS SASSER

WHEREAS, Mrs. Hattie Jennings Sasser has contributed long hours and years of dedicated service to the citizens of James City County-Williamsburg; and

WHEREAS, her leadership in promoting the annual Memorial Program in Honor of Dr. Martin Luther King, Jr., her involvement with the Black Heritage Program which brings recognition to the unique cultural contributions of the black race, and other community services, should be recognized; and

WHEREAS, it is the desire of the James City County Board of Supervisors to extend recognition and thanks for this type of dedicated service.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby expresses appreciation to Mrs. Hattie Jennings Sasser for her lasting contributions to the citizens of James City County-Williamsburg, and thanks her for the outstanding example of public service she has provided.

F. PUBLIC HEARINGS

1. Case No. Z-3-96. CAL Company, LLC (Skiffe's Creek Townhomes (Continued from May 14, 1996)

Mr. Matthew W. Maxwell, Senior Planner, stated that Mr. James S. Peters of AES had applied on behalf of CAL Company, LLC, to rezone approximately 4.3 acres from B-1, General Business, to R-5, Multifamily Residential, to construct approximately 30 townhomes, located at 8998 Pocahontas Trail, further identified as Parcel No. (1-15) on James City County Real Estate Tax Map No. (59-2).

Staff determined that the proposal was consistent with development and zoning to the north and west and with the Comprehensive Plan.

In concurrence with staff, the Planning Commission unanimously recommended approval of the application.

Mr. Sisk opened the public hearing.

1. Mr. Joseph Abdelnour, representative for the applicant, briefly detailed the rezoning and requested Board approval.

2. Mr. Vincent Campana, Jr., stated that the project was a fine project for affordable housing.

3. Mr. Bert Parks, President, Skiffe's Creek Terrace Homeowners Association, stated the Association supported the rezoning.

Mr. Sisk closed the public hearing.

Mr. Sisk made a motion to approve the rezoning case.

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

RESOLUTION

CASE NO. Z-3-96. CAL COMPANY, LLC (SKIFFE'S CREEK TOWNHOMES)

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-3-96 for rezoning approximately 4.3 acres from B-1, General Business, to R-5, Multifamily Residential, to allow the construction of approximately 30 townhomes at 8998 Pocahontas Trail in front of the existing Skiffe's Creek Terrace townhome community. The property is further identified as Parcel No. (1-15) on James City County Real Estate Tax Map No. (59-2); and

WHEREAS, the Planning Commission of James City County, unanimously recommended approval of Case No. Z-3-96.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-3-96, and accepts the voluntary proffers.

2. Case NO. Z-4-96. Nice Properties Company

Mr. Gary A. Pleskac, Planner, stated that Mr. Daniel B. Nice had applied to rezone approximately 68.2 acres from A-1, General Agricultural, to R-1, Limited Residential, located off Rochambeau Road adjacent to Mirror Lake Estates, further identified as Parcel No. (1-12) on James City County Real Estate Tax Map No. (13-3).

Staff determined that the proposal was consistent with the Comprehensive Plan.

In concurrence with staff, the Planning Commission unanimously recommended approval of the application.

Mr. Sisk opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Taylor made a motion to approve the rezoning case.

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

RESOLUTION

CASE NO. Z-4-96. NICE PROPERTIES COMPANY

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-13 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-4-96 for rezoning approximately 68.2 acres from A-1, General Agricultural, to R-1, Limited Residential, identified as Parcel No. (1-12) on James City County Real Estate Tax Map No. (13-3); and

WHEREAS, on May 6, 1996, the Planning Commission of James City County unanimously recommended approval of Case No. Z-4-96.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Zoning Case No. Z-4-96 as described herein.

3. Case No. SUP-15-96. Piggott Two-Family Dwelling

Mr. Pleskac stated that the James City County Office of Housing and Community Development had applied for a special use permit to construct two-family dwelling, zoned R-2, General Residential, located at 6217 Mooretown Road, and further identified as Parcel No. (1-30) on James City County Real Estate Tax Map No. (32-2).

Staff determined that the proposal was consistent with the Comprehensive Plan and surrounding development and zoning.

In concurrence with staff, the Planning Commission by a 6-0 vote recommended approval with conditions listed in the resolution.

Mr. Sisk opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. DePue made a motion to approve the special use permit.

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

RESOLUTION

CASE NO. SUP-15-96. PIGGOTT TWO-FAMILY DWELLING

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

WHEREAS, the Planning Commission of James City County, following its public hearing on June 3, 1996, recommended approval of Case No. SUP-15-96 by a vote of 6-0 to permit the construction of a two-family dwelling in the R-2 zoning district at 6217 Mooretown Road, further identified as Parcel No. (1-30) on James City County Real Estate Tax Map No. (32-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-15-96 as described herein with the following conditions:

1. If construction has not commenced on the project within twelve (12) months from the issuance of the special use permit, the permit shall become void. During this twelve-month period, permits pertaining to construction shall be secured, connections to water and sewer shall be made, clearing and grading of the site shall be completed, and footings and/or foundations shall be installed.
2. The duplex shall be served by a single, common-access driveway from Clark Lane. The access driveway shall be composed of an all weather surface of rock, stone, or gravel, with a minimum depth of three inches and a minimum width of ten feet.

4. Case No. SUP-16-96. Mail Distribution Center

Mr. Maxwell stated that Mr. Ed Hovey had applied for a special use permit to operate a bulk mail distribution center, located at 3116 Ironbound Road, zoned R-8, Rural Residential, and further identified as Parcel No. (1-56) on James City County Real Estate Tax Map No. (47-1).

Staff determined that the proposed use was compatible with surrounding zoning and development and consistent with the Comprehensive Plan.

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

Mr. Sisk opened the public hearing.

1. Mr. Frank Chipman, 3 Guest House Court, asked about availability of parking at the site.

Mr. Sisk closed the public hearing.

Staff explained expansion of gravel parking lot to accommodate additional parking spaces.

Mr. Edwards made a motion to approve the special use permit.

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

RESOLUTION

CASE NO SUP-16-96. "MORE THAN MAIL" - BULK MAIL DISTRIBUTION CENTER

- WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and
- WHEREAS, the applicant has requested a special use permit to permit a bulk mail distribution center at 3116 Ironbound Road, further identified as Parcel No. (1-56) on James City County Real Estate Tax Map No. (47-1); and
- WHEREAS, the Planning Commission, following its public hearing on June 3, 1996, unanimously recommended approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-16-96 as described herein with the following conditions:

1. Prior to the installation of any outdoor lighting, a lighting plan indicating type and design of lighting fixtures, illumination patterns and intensity shall be submitted and approved by the Director of Planning.
2. An enhanced ten-foot wide landscaping planting bed containing evergreen shrubs and/or trees which screens the parking area from the adjacent residential neighborhood shall be provided.
3. The hours of operation for the loading and receiving area shall be from 8:00 a.m. to 5:00 p.m., Monday through Saturday. No receiving or shipment of materials shall be permitted on Sunday.
4. The receiving, shipment, and loading of materials shall be allowed only from the service door located on the northwest side of the building. The service door located on the southeast side shall not be used for the receiving, shipment, and loading of materials.
5. Ordinance Amendment, Chapter 11, Motor Vehicles and Traffic, Driving Under Influence

Mr. Leo P. Rogers, Deputy County Attorney, stated that the ordinance amendment incorporated by reference amendments made by the General Assembly to Driving While Intoxicated and traffic laws which become effective July 1, 1996.

Staff recommended approval of the ordinance amendment.

Mr. Sisk opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Edwards made a motion to approve the ordinance amendment.

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

6. Ordinance Amendment, Chapter 4, Building Regulations, Increase of Permit, Review and Inspection Fees

Mr. Bernard M. Farmer, Jr., Director of Code Compliance, stated that the proposed changes would increase all minimum building, plumbing, mechanical, gas and electrical fees to a \$25 minimum; increase the basic building permit fee from six to nine cents per square foot, and deletion of sliding scale for larger structures; increase of the reinspection fee from \$15 to \$25; and, inclusion of a waiver provision for fees under certain conditions when work is being performed on behalf of Housing and Community Development.

Staff recommended approval of the ordinance amendment.

Mr. Sisk opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Sisk made a motion to approve the ordinance amendment with exception of Section 4.8 (3) electrical permits fees.

Board and staff discussed changing the electrical permits fees from \$10 to \$25, with staff stating that the ordinance would be readvertised for the July 9, 1996, Board of Supervisors' meeting.

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

7. Ordinance Amendment, Chapter 5A, Erosion and Sedimentation Control, Comply with State and Code Changes and Increase Civil Penalties and Fees

Mr. Darryl E. Cook, Development Engineer, stated the proposed ordinance changes removed the cap on administrative fees and by State law allowed fees sufficient to cover administrative costs. He further stated that the proposed ordinance would allow a maximum fine of \$1,000, as a civil penalty, for starting work without a Land Disturbing Permit.

Mr. Sisk opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. DePue made a motion to approve the ordinance amendment.

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

8. Authorization to Transfer Real Property off Curry Drive, Mooretown Road Project

Mr. Richard B. Hanson, Housing and Community Development Administrator, stated that Mrs. Marion E. Taylor had agreed to exchange a .245± acre triangular portion of her property for a .176± section of County owned property.

Staff recommended approval of the resolution.

Mr. Sisk opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. DePue made a motion to approve the resolution.

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

RESOLUTION

CONVEYANCE OF PROPERTY OFF CURRY DRIVE

WHEREAS, the County owns certain real property off Curry Drive to be used as part of the Mooretown Road Redevelopment project; and

WHEREAS, the Board of Supervisors of James City County, following a public hearing, is of the opinion that it is in the public interest to exchange certain property along Curry Drive with Marion E. Taylor, an adjoining property owner, in order to make each property more developable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute any deeds and other documents to convey 0.176± acres off Curry Drive to Marion E. Taylor.

9. Proposed Budget Amendment for Year Ending June 30, 1997

Mr. John E. McDonald, Manager of Financial and Management Services, stated that the proposed amendment to the FY 1997 budget would increase the debt service fund by \$638,562 to allow the first annual payment on the Warhill property. He explained the transfers from the capital fund.

Staff recommended approval of the resolution.

Mr. Sisk opened the public hearing.

1. Mr. Ed Oyer, 139 Indian Circle, expressed opposition to the purchase of the Warhill property and apprehensive of an increase in real estate taxes.

2. Mr. Mel Jones, 406 Dogleg Drive, expressed support for the purchase of the property to maintain green space in the County.

3. Mr. Mark Sexton, 8 Prestwick, offered congratulations for the decision to purchase property as a benefit to all County residents.

4. Mr. Joseph Mastaler, 120 Peter Lyall, spoke in favor of the purchase and asked that the Parks and Recreation Advisory Commission be consulted prior to land use decisions.

5. Mr. Jim Dorsey, 105 Glenwood Drive, applauded the purchase of the property and asked that decisions not be made without consideration given to the effects on the Parks and Recreation Master Plan.

Mr. Sisk closed the public hearing.

After a lengthy discussion of the funding including a suggestion that the \$300,000 for green space purchases be used, Mr. Sanford B. Wanner, Acting County Administrator, recommended that authorization be given to use the \$118,372.84 Capital Contingency fund to begin the funding of monthly payments, and staff would bring back other proposals.

Mr. DePue made a motion to authorize use of the Capital Contingency fund.

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

RESOLUTION**FY 97 BUDGET AMENDMENT - DEBT SERVICE FUND**

WHEREAS, the Board of Supervisors of James City County has, after public hearing, considered a proposal to amend the FY 97 budget to accommodate an installment purchase of property known as the Warhill Tract; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following budget transfer and appropriation:

Transfer from Capital Projects:

Capital Contingency	<u>\$118,372.84</u>
Total Transfer from Capital Projects	<u>\$118,372.84</u>
Total Transfer to Debt Service	<u>\$118,372.84</u>

G. BOARD CONSIDERATIONS**1. Mutual Aid for Emergencies and Disasters**

Mr. Richard M. Miller, Fire Chief, stated that the proposed agreement was modeled after the Virginia Emergency Management Assistance Compact, Virginia Code Section 44-146.28.1. and provided mutual aid and assistance between 20 Federal, State and local entities in the Hampton Roads area.

Staff recommended approval of the resolution.

Mr. Edwards made a motion to approve the resolution.

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

RESOLUTION**ALL HAZARDS MUTUAL ASSISTANCE AGREEMENT**

WHEREAS, Virginia law encourages federal, state, and local governments to cooperate in providing mutual assistance for managing or providing operation support in any emergency or disaster; and

WHEREAS, cooperation between federal, state, and local governments will enhance preparedness and assist in handling emergencies or disasters; and

WHEREAS, it is beneficial to James City County to participate in a mutual aid agreement with the jurisdictions comprising the Hampton Roads Emergency Management Committee.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized to execute all necessary agreements with the Hampton Roads Emergency Management Committee or any participating jurisdiction to provide mutual aid, management, and operational support in any emergency or disaster.

Mr. Wanner announced that Mr. Miller would give a brief presentation regarding the Emergency Medical Services fees.

Board and staff discussed whether other localities charge fees, was the service covered by insurance, and how billing of charges would be accomplished.

Mr. DePue requested that Public Comment be brought forward at this time for the citizens addressing school redistricting.

H. PUBLIC COMMENT

1. Mr. Alan B. Clark, 103 Windsor Way, asked the Board to request the School Board to reopen decision of school redistricting in regard to attendance zones to achieve parity.

2. Ms. Janet Mottinger, 108 Montrose, asked for Board support of the request to reopen decision for equal balance of high schools.

G. BOARD CONSIDERATIONS (Continued)

2. Warhill Purchase

Mr. Sisk recognized Mr. Edwards to convene the James City Service Authority Board of Directors at 9:40 p.m.

Mr. Frank M. Morton, III, County Attorney, explained the significant provisions of the Real Estate Installment Sales Contract, Appropriation Note and the Resolution authorizing issuance of the Appropriation Note.

Mr. John T. P. Horne showed various details of the property on a map.

Board and staff discussed acreage, roadways, cost of property per acre and sewer taps.

Staff recommended approval of the resolution authorizing the Chairman to execute the Sales Agreement and the Note.

Mr. Sisk made a motion to approve the resolution.

Individual Board members expressed overwhelming support of the County residents for the purchase. Mr. Taylor stated many of his constituents had voiced opposition.

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

H. PUBLIC COMMENT (Continued)

1. Mr. Paul M. Reier, 2308 Harness Court, Toano, stated that charging a fee for emergency medical services would cancel donations that provide funds for replacement of equipment.

2. Ms. Linda Baker, 107 Formby, thanked the Board for purchasing the Warhill property and protecting the natural resources.

3. Mr. Frank Chipman, 3 Guest House Court, asked about Board position on tax abatement for the elderly.
4. Colonel James Schmidt, 3800 Treyburn Drive, spoke in favor of the emergency medical services fees.
5. Mr. Ed Oyer, 139 Indian Circle, spoke about more taxes for schools not improving education of children.

I. REPORTS OF THE COUNTY ADMINISTRATOR - None

J. BOARD REQUESTS AND DIRECTIVES

Board discussion of the high school districting ensued, and Mr. DePue stated he would compose a letter to the School Board requesting reconsideration of high school districting.

Mr. Taylor asked staff to contact Virginia Department of Transportation to study a turn lane on Richmond Road to Oakland Drive.

Mr. Taylor asked the status of the dirt street, Cedar Lane, and stated that gravel would be appreciated by the residents.


Mr. Sisk asked the status of construction of fence between Season's Trace and Lafayette High School.

Mr. Edwards complimented Development Management for high quality work in review of plans and Mr. DePue mentioned the death of a longtime County citizen, Mrs. Gladys Jones.

Mr. Sisk made a motion to recess until 11:00 a.m., Monday, June 17, 1996, for a meeting at Human Services Building, 5249 Olde Towne Road, on media relations.

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

The Board recessed at 10:40 p.m.


Sanford B. Wanner
Clerk to the Board

010569

PROFFER

This Proffer, made this 31st day of May, 1996, by CAL COMPANY, L.L.C., a Virginia Limited Liability Company, hereinafter referred to as "Owner," to the County of James City, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as "County."

WHEREAS, Owner holds title to certain real property in the County ("the Property"), described as follows:

ALL that certain lot, piece or parcel of land, lying and being in James City County, Virginia, shown as "PARCEL 'A' AND PARCEL 'B' SKIFFES CREEK BUSINESS CENTER, OWNED BY: NATIONSBANK OF VIRGINIA, N.A., ROBERTS DISTRICT, JAMES CITY COUNTY, VIRGINIA," dated 12/20/93, made by AES, Consulting Engineers, a copy of which is recorded in James City County Plat Book 63, page 22, and to which reference is made for a more particular description of the property herein conveyed.

Together with the right to use, in common with others, the private right of way designated as "Skiff's Creek Boulevard" as shown on the aforesaid plat.

Subject to all conditions, easements, covenants and restrictions of record or apparent on the ground.

WHEREAS, the Owner has applied to the County for rezoning of that portion of the Property designated as Parcel "B" which contains 4.34 Acres (from B-1) ("the Existing Zone") to R-5 ("the Proposed Zoning"); and

WHEREAS, the County may be unwilling to rezone Parcel B of the Property because the Proposed Zoning regulations may be deemed inadequate for the orderly development of the Property to be rezoned, 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 to be rezoned; and



WHEREAS, the Owner is desirous of offering certain proffers for the protection of the community that are not applicable to land similarly zoned, in addition to the regulations provided for in the Proposed Zoning regulations.

WITNESSETH: That for and in consideration of the County rezoning Parcel "B" of the Property from the Existing Zoning to the Proposed Zoning, and pursuant to Section 15.1-491.1 through 15.1-491.6 of the Code of Virginia and Section 20-16 et seq. of the Zoning Ordinance of the County, the Owner agrees that in addition to the regulations provided in the Proposed Zoning, it shall meet and comply with all of the following proffers for the development of Parcel "B" of the Property:

Proffers

1. No more than 31 dwelling units shall be constructed on the Property to be rezoned.
2. A tot lot of at least 14,400 square feet in size shall be provided that includes, at a minimum, the following equipment: one swing set, one see-saw and one sandbox. Substitutions of comparable equipment may be permitted with the approval of the Director of Planning. This tot lot shall be shown on the site plan for the Property and shall be installed prior to a Building Permit being issued for the 24th dwelling unit on the property.
3. An enhanced landscape plan shall be provided for the Pocahontas Trail frontage of Parcel "B" of the Property, which shall have 50% more vegetation than is required by the Zoning Ordinance and which shall be subject to approval by the Director of Planning.
4. The berm along the northern border of Parcel "B" of the Property shall be preserved to the extent that proper drainage and other utilities can be accommodated and additional

landscaping shall be planted along its top. A landscaping plan for the berm shall be submitted for approval by the Director of Planning.

5. Owner shall pay \$6,750.00 to the County for the installation of a sidewalk along Pocahontas Trail, between the site's western border and the Skiffes Creek entrance road within 90 days of approval of rezoning by the County.

6. Parcel "A" of the Property, containing 1.4266 Acres, will remain zoned B-1. If it is legally required to submit a subdivision plat dividing Parcel "A" from Parcel "B" of the Property, Owner will submit a subdivision plat prior to site plan approval.

7. The sanitary sewer shall be designed to provide future connection to the vacant B-1 property (Parcel "A") on the west side of the entrance road.

8. The design, construction materials, detailing and colors of development of the units shall be compatible with the existing Skiffes Creek townhouse development and shall be approved by the Director of Planning.

9. Parcel "B" of the Property shall not be accessed directly off of Pocahontas Trail and the entrance to Parcel "B" shall be no less than 140 feet from the Pocahontas Trail right of way.

10. A perpetual Road Maintenance Agreement approved by the County Attorney and signed by the Owner and Skiffe's Creek Terrace Homeowners Association shall be recorded after the time a site plan has been approved by the County for the development of Parcel B, but prior to the time any site work has begun and/or a building permit is issued by the County, whichever shall first occur.

WITNESS the following signatures and seals:

JOSEPH A. ABDELNOUR, P.C.
114 PROFESSIONAL DRIVE
ANN ARBOR, MI 48106
P: 313-963-1144
F: 313-963-1145
PHONE (804) 229-5510
FAX (804) 229-8075

CAL COMPANY, L.L.C.

By

Joseph A. Abdelnour, Manager

STATE OF VIRGINIA

CITY OF WILLIAMSBURG, to-wit:

On this 29th day of June, 1996, the foregoing Proffer Agreement was acknowledged before me by Joseph A. Abdelnour, Manager of CAL Company, L.L.C., a Virginia Limited Liability Company, on behalf of said Company.

NOTARY PUBLIC

My commission expires:

6-30-96

IN SENATE, City of Williamsburg and
James City, to-wit:

Records Office of the Circuit Court
City of Williamsburg and County of James

29 day of June, 1996

was presented with certificate of Proffer
admitted to record at 9:28 o'clock

Tested: Helene S. Ward, Clerk

by Helene S. Ward
Clerk

JUN 11 1996

ORDINANCE NO. 66A-38

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 11, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 11-7, ADOPTION OF STATE LAW; AND ARTICLE II, DRIVING AUTOMOBILES, ETC., WHILE INTOXICATED OR UNDER THE INFLUENCE OF ANY DRUG, SECTION 11-28, ADOPTION OF STATE LAW, GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that effective July 1, 1996, Chapter 11, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 11-7, Adoption of state law; and Section 11-28, Adoption of state law, generally.

Chapter 11. Motor Vehicles and Traffic

Article I. In General

Section 11-7. Adoption of state law.

Pursuant to the authority of section 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in title 46.2 of the Code of Virginia, as amended, and in force on July 1, ~~1995~~ 1996, except those provisions and requirements the violation of which constitutes a felony, and those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter

Ordinance to Amend and Reordain
Chapter 11. Motor Vehicles and Traffic
Page 2

as fully as though set forth at length herein, and it shall be unlawful for any person, within the county to violate or fail, neglect or refuse to comply with any provision of title 46.2 of the Code of Virginia which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2 of the Code of Virginia.

State law reference - General authority of county to prohibit operation of vehicles while under the influence of alcohol or drugs, Code of Va., § 15.1-132; authority to adopt state law on the subject, Code of Va., § 46.2-1313.

ARTICLE II. Driving Automobiles, etc., While Intoxicated
or Under the Influence of Any Drug

Section 11-28. Adoption of state law, generally.

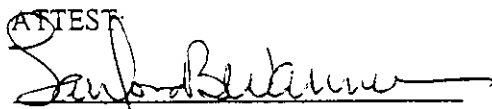
Article 9 (Section 16.1-278 et seq.) of chapter 11 of title 16.1 and article 2 (section 18.2-266 et seq.) of chapter 7 of title 18.2, Code of Virginia, as amended and in force July 1, 1995 ~~1996~~, is hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any section of the Code of Virginia as adopted by this section.

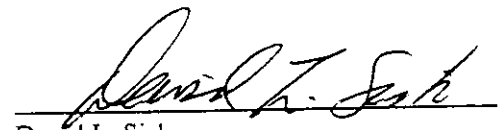
Ordinance to Amend and Reordain
Chapter 11. Motor Vehicles and Traffic
Page 3

State law reference - General authority of county to prohibit operation of vehicles while under the influence of alcohol or drugs, Code of Va., § 15.1-132; authority to adopt state law on the subject, Code of Va. § 46.2-1313.

The effective date of this Ordinance shall be July 1, 1996.

ATTEST


Sanford B. Wanner
Clerk to the Board


David L. Sisk
Chairman, Board of Supervisors

SUPERVISOR	VOTE
TAYLOR	AYE
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of June, 1996.

2043-3U.ord

JUN 11 1996

ORDINANCE NO. 81A-8

BOARD OF SUPERVISOR
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4, BUILDING REGULATIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, VIRGINIA UNIFORM STATEWIDE BUILDING CODE, DIVISION 2, PERMIT AND INSPECTION FEES, SECTION 4-8, GENERALLY; SECTION 4-9, REFUNDS; AND SECTION 4-10, EXEMPTIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 4, Building Regulations, is hereby amended and reordained by amending Section 4-8, Generally; Section 4-9, Refunds; and Section 4-10, Exemptions.

Chapter 4. Building Regulations

Article I. Virginia Uniform Statewide Building Code

Division 2. Permit and Inspection Fees

Sec. 4-8. Generally.

Permit and inspection fees are hereby established in accordance with the provisions of the Virginia Uniform Statewide Building Code, as follows:

(1) *Building Permits:*

- (a) The minimum fee for any building permit shall be ~~ten dollars (\$10.00)~~ \$25.00.

- (b) For the construction of any building or addition thereto where the floor area is increased, and for the installation or erection of any industrialized building unit, the fee shall be based on the floor area to be constructed as computed from exterior building dimensions at each floor. Any residential building, any unenclosed carport, porch or stoop, when built in conjunction with and at the same time as the dwelling, shall be excluded from the square footage computation. The fee shall be as follows: *\$0.09 per square foot.*

<i>Total Square Footage:</i>	<i>Fee</i>
0-40,000 square feet, per square foot.....	\$ 0.06
40,001 or more square feet, plus \$0.05 per	
square foot in excess of 40,000 square feet	2,400.00

- (c) For the construction of a garage, barn, pole shed or similar structure, when not constructed at the time of and under the permit of the main dwelling, the fee shall be ~~five cents (\$0.05)~~ *\$0.08* per square foot of the exterior dimensions of the building.
- (d) For the alteration or repair of any building or structure, or for the construction or erection of piers, bulkheads, exterior walls or fences, towers, swimming pools or other structures or things, the fee shall be at the rate of one (1) percent of the current value of all service, labor and materials.

- (e) For the demolition or razing of any building or structure having a floor area greater than two hundred (200) square feet the fee shall be ~~ten dollars (\$10.00)~~ \$25.00. No fee shall be charged for a permit to raze a building with a floor area of two hundred (200) square feet or less.
- (f) For the erection, placement or removal of a building or structure, in part or in whole from one (1) location to another, or into or out of the county or to a new location within the same lot or parcel of land, the fee shall be at the rate of ~~five cents (\$0.05)~~ \$0.08 per square foot of the gross floor area.
- (g) For construction not covered by any of the above, the permit fee shall be assessed and collected at the rate of one (1) percent of the retail value or current market value of the work being done; provided, that the minimum permit fee shall be ~~ten dollars (\$10.00)~~ \$25.00.

A BUILDING PERMIT FEE SHALL BE DOUBLE FOR ANY CONSTRUCTION THAT HAS COMMENCED BEFORE A PERMIT IS OBTAINED

(2) *Plumbing Permits:*

- (a) The minimum fee for any plumbing permit shall be ~~ten dollars (\$10.00)~~ \$25.00.
- (b) For the installation of each plumbing fixture or appliance, the fee shall be ~~four dollars (\$4.00)~~.

Ordinance to Amend and Reordain
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Page 4

- (c) For the installation of the water distribution system in each building, the fee shall be ~~four dollars (\$4.00)~~.
- (d) For the connection of any building drain to a public or private sanitary sewage disposal system, the fee shall be ~~four dollars (\$4.00)~~.
- (e) For each sewer (sanitary or storm), manhole (sanitary or storm), roof drain or other similar device, the fee shall be ~~four dollars (\$4.00)~~.

(3) *Electrical Permits:*

- (a) The minimum fee for any electrical permit shall be ~~ten dollars (\$10.00)~~ \$25.00.
- (b) For the installation of each electrical service system in new construction, the fee shall be determined from the rated size of the service panels in amperes as follows:

	<i>Single Phase</i>	<i>Three Phase</i>
0-60 amps	\$20.00 <u>\$25.00</u>	\$25.00
61-100 amps	25.00	30.00
101-150 amps	30.00	35.00
151-200 amps	35.00	40.00
Over 200 amps, plus		
\$10.00 for each additional		

Ordinance to Amend and Reordain
Chapter 4. Building Regulations
Page 5

50 amps or fraction thereof

over 200 amps

35.00

40.00

- (c) For the installation of a temporary service, or the reconnection of a mobile home, the fee shall be ~~ten dollars (\$10.00)~~ \$25.00.

- (d) For increasing the size of the electrical service to any building structure, or mobile home, the fee shall be ~~twenty dollars (\$20.00)~~ \$25.00 for service up to and including ~~two hundred (200)~~ amperes; or ~~twenty dollars (\$20.00)~~ \$25.00 plus ~~ten dollars (\$10.00)~~ for each ~~fifty (50)~~ amperes or fraction thereof over ~~two hundred (200)~~ amperes. For relocation of any existing service for which the size is not increased, the fee shall be ~~ten dollars (\$10.00)~~ \$25.00. No additional fee shall be charged for outlets when the size of the service is increased.

- (e) For the addition to any existing electrical installation, the fee shall be based on the number of outlets to be installed at the following rates:

1-100 outlets ~~\$10.00~~ 25.00

Over 100 outlets, plus \$0.10 for each outlet over 100 ~~10.00~~ 25.00

(4) *Mechanical and Gas Permits:*

- (a) The minimum fee for any mechanical or gas permit shall be ~~ten dollars (\$10.00)~~ \$25.00.

Ordinance to Amend and Reordain
Chapter 4. Building Regulations
Page 6

(b) Basic permit fee:

1. First \$1,000.00 value ~~20.00~~ 25.00
2. Over \$1,000.00 value, plus \$5.00 per \$1,000.00 or fraction thereof ~~20.00~~ 25.00

(c) For the replacement, repair or alteration of mechanical systems or equipment in existing buildings, structures or additions thereto:

1. First \$1,000.00 value ~~10.00~~ 25.00
2. Over \$1,000.00 value, plus \$5.00 per \$1,000.00 or fraction thereof ~~10.00~~ 25.00

EXCEPTIONS: Domestic cooking equipment and space heaters in dwelling units are exempt from mechanical permit fees. Inspections of this equipment are required.

(d) Fuel piping permit fee: $0.005 \times \$1,000.00$ of valuation or fraction thereof. Note: Fee applies when permit is issued for fuel piping work only.

(e) L.P.G. (i.e. butane, propane, etc.) tanks and associated piping permit fee (total water capacity in gallons):

- | | |
|--|------------------------|
| 0-500 | 15.00 25.00 |
| 501-2,000 | 20.00 30.00 |
| Over 2,000, plus \$1.00 per 10,000 gallons | 20.00 30.00 |

(f) Tanks and associated piping for flammable liquids permit fee (capacity in gallons):

- | | |
|---------------------|-------|
| 0-10,000 | 15.00 |
| 10,001-20,000 | 20.00 |
| 20,001-50,000 | 25.00 |

Over 50,000, plus \$5.00 per 25,000 gallons or fraction thereof 25.00

(g) For the removal of storage tanks, the minimum fee shall be ~~ten dollars (\$10.00)~~ \$25.00.

(h) For fire suppression systems, the permit fee shall be (includes standpipes):

1. New construction: Same as basic fee in subsection ((b)(1)) above.
2. All others: Same as basic fee in subsection ((b)(1)) above.

(i) Elevators, dumbwaiters, moving stairways, moving walks, man lifts or special hoisting and conveying equipment permit fee:

1. New construction: Same as basic fee in subsection (b)(1) above.
2. All others: Same as basic fee in subsection (b)(1) above.

(j) Permit reissuance fee: Permits becoming invalid, as specified by the Code, may be reissued up to a period of ~~five (5)~~ years and charged a fee of ~~ten dollars (\$10.00)~~ for each six-month period.

(5) *Elevator Inspections:*

(a) The fee for a semiannual elevator inspection shall be ~~thirty-five dollars (\$35.00)~~.

(b) Reinspection: When an inspector is required to make a reinspection of an elevator for the convenience of the owner of the elevator or because the elevator fails to pass the inspection,

Ordinance to Amend and Reordain
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Page 8

there shall be a ~~twenty-five dollar (\$25.00)~~ reinspection fee. Such reinspection fee shall be paid at the office of building inspections prior to the reinspection.

(6) *Plan Review Fee:*

(a) The fee for the review of building plans shall be ~~ten dollars (\$10.00)~~ for each ~~one thousand~~ (1,000) square feet of floor space, or part thereof, reviewed. Such review fee shall be paid at the office of building inspections prior to the plan review or at the discretion of the building official, at the time of permit issuance.

(b) Revised plans: There shall be no fee for the review of revised building plans unless such plans are substantially different than the original plans and necessitate the issuance of additional review comments. Such revised plans shall be subject to an additional fee equal to the fee provided for in subsection (a) above.

(7) *Certificate of Occupancy Inspection:*

(a) The fee for an inspection for a certificate of occupancy shall be ~~twenty dollars (\$20.00)~~
\$25.00.

(b) No certificate of occupancy shall be issued until all inspection fees have been paid.

(8) *Mobile Home Installation Fee:*

(a) The fee for the inspection of the installation of a mobile home shall be ~~forty dollars~~
(~~\$40.00~~).

(b) The fee for the inspection of the mobile home installation shall supersede any fee otherwise
required for the inspection for an electrical or plumbing permit for that mobile home.

(9) *Reinspection:* When any building, electrical, mechanical or plumbing inspector is required to
make a reinspection of work or a mobile home for the convenience of the contractor,
subcontractor or mobile home owner because of incomplete, inadequate or improper work or
installation, or because the inspector could not obtain reasonable access to the work or mobile
home to be inspected, there shall be a ~~fifteen dollar (\$15.00)~~ \$25.00 reinspection fee for each
reinspection, except as otherwise provided herein. Such reinspection fee shall be paid at the
office of building inspections prior to the reinspection.

Sec. 4-9. Refunds.

No fee paid for any permit covered under Section 4-8 of this Code shall be refunded unless the permit
application is denied and a permit is not issued or the permit is issued in error. If a permit is revoked, abandoned
or the project for which the permit is obtained is discontinued, a portion of the permit fee may be refunded after
deducting ~~ten dollars (\$10.00)~~ \$25.00 for administrative costs plus ~~fifteen dollars (\$15.00)~~ for each normal

Ordinance to Amend and Reordain
Chapter 4. Building Regulations
Page 10

inspection that has been made. No permit fee, the value of which is ~~ten dollars (\$10.00)~~ \$25.00 or less, shall be refunded.

Sec. 4-10. Exemptions.

Where the owner of any premises is the United States of America, the commonwealth, the county or instrumentalities thereof, the payment of any permit fee established in Section 4-8 is hereby waived. *When the Housing and Community Development Administrator certifies that the work for which application has been made is funded through his office or a related program and requests that fees be waived, then the request shall be granted.*

Secs. 4-11, 4-12. Reserved.

ATTEST:



Sanford B. Wanner
Clerk to the Board



David L. Sisk, Chairman
Board of Supervisors

SUPERVISOR	VOTE
TAYLOR	NAY
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of June, 1996.

JUL: 9 1996

ORDINANCE NO. 81A-9

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4, BUILDING REGULATIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, VIRGINIA UNIFORM STATEWIDE BUILDING CODE, DIVISION 2, PERMIT AND INSPECTION FEES, SECTION 4-8, GENERALLY; SECTION 4-9, REFUNDS; AND SECTION 4-10, EXEMPTIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 4, Building Regulations, is hereby amended and reordained by amending Section 4-8, Generally; Section 4-9, Refunds; and Section 4-10, Exemptions.

Chapter 4. Building Regulations

Article I. Virginia Uniform Statewide Building Code

Division 2. Permit and Inspection Fees

Sec. 4-8. Generally.

Permit and inspection fees are hereby established in accordance with the provisions of the Virginia Uniform Statewide Building Code, as follows:

(1) *Building Permits:*

- (a) The minimum fee for any building permit shall be ~~ten dollars (\$10.00)~~ \$25.00.

Ordinance to Amend and Reordain
Chapter 4. Building Regulations
Page 2

- (b) For the construction of any building or addition thereto where the floor area is increased, and for the installation or erection of any industrialized building unit, the fee shall be based on the floor area to be constructed as computed from exterior building dimensions at each floor. Any residential building, any unenclosed carport, porch or stoop, when built in conjunction with and at the same time as the dwelling, shall be excluded from the square footage computation. The fee shall be as follows: ~~\$0.09 per square foot.~~

<i>Total Square Footage.</i>	<i>Fee</i>
0-40,000 square feet, per square foot.....	\$ 0.06
40,001 or more square feet, plus \$0.05 per	
square foot in excess of 40,000 square feet	2,400.00

- (c) For the construction of a garage, barn, pole shed or similar structure, when not constructed at the time of and under the permit of the main dwelling, the fee shall be ~~five cents (\$0.05)~~ ~~\$0.08~~ per square foot of the exterior dimensions of the building.
- (d) For the alteration or repair of any building or structure, or for the construction or erection of piers, bulkheads, exterior walls or fences, towers, swimming pools or other structures or things, the fee shall be at the rate of one (1) percent of the current value of all service, labor and materials.

- (e) For the demolition or razing of any building or structure having a floor area greater than ~~two hundred (200)~~ square feet the fee shall be ~~ten dollars (\$10.00)~~ **\$25.00**. No fee shall be charged for a permit to raze a building with a floor area of ~~two hundred (200)~~ square feet or less.
- (f) For the erection, placement or removal of a building or structure, in part or in whole from one ~~(1)~~ location to another, or into or out of the county or to a new location within the same lot or parcel of land, the fee shall be at the rate of ~~five cents (\$0.05)~~ **\$0.08** per square foot of the gross floor area.
- (g) For construction not covered by any of the above, the permit fee shall be assessed and collected at the rate of one ~~(1)~~ percent of the retail value or current market value of the work being done; provided, that the minimum permit fee shall be ~~ten dollars (\$10.00)~~ **\$25.00**.

A BUILDING PERMIT FEE SHALL BE DOUBLE FOR ANY CONSTRUCTION THAT
HAS COMMENCED BEFORE A PERMIT IS OBTAINED

(2) *Plumbing Permits:*

- (a) The minimum fee for any plumbing permit shall be ~~ten dollars (\$10.00)~~ **\$25.00**.
- (b) For the installation of each plumbing fixture or appliance, the fee shall be ~~four dollars (\$4.00)~~.

Ordinance to Amend and Reordain
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Page 4

- (c) For the installation of the water distribution system in each building, the fee shall be ~~four dollars (\$4.00)~~.
- (d) For the connection of any building drain to a public or private sanitary sewage disposal system, the fee shall be ~~four dollars (\$4.00)~~.
- (e) For each sewer (sanitary or storm), manhole (sanitary or storm), roof drain or other similar device, the fee shall be ~~four dollars (\$4.00)~~.

(3) *Electrical Permits:*

- (a) The minimum fee for any electrical permit shall be ~~ten dollars (\$10.00)~~ **\$25.00**.
- (b) For the installation of each electrical service system in new construction, the fee shall be determined from the rated size of the service panels in amperes as follows:

	<i>Single Phase</i>	<i>Three Phase</i>
0-60 amps	\$20.00 \$25.00	\$25.00
61-100 amps	25.00	30.00
101-150 amps	30.00	35.00
151-200 amps	35.00	40.00
Over 200 amps, plus		
\$10.00 for each additional		

Ordinance to Amend and Reordain
Chapter 4. Building Regulations
Page 5

50 amps or fraction thereof

over 200 amps

35.00

40.00

(c) For the installation of a temporary service, or the reconnection of a mobile home, the fee shall be ~~ten dollars (\$10.00)~~ **\$25.00**.

(d) For increasing the size of the electrical service to any building structure, or mobile home, the fee shall be ~~twenty dollars (\$20.00)~~ **\$25.00** for service up to and including ~~two hundred (200)~~ amperes; or ~~twenty dollars (\$20.00)~~ **\$25.00** plus ~~ten dollars (\$10.00)~~ for each ~~fifty (50)~~ amperes or fraction thereof over ~~two hundred (200)~~ amperes. For relocation of any existing service for which the size is not increased, the fee shall be ~~ten dollars (\$10.00)~~ **\$25.00**. No additional fee shall be charged for outlets when the size of the service is increased.

(e) For the addition to any existing electrical installation, the fee shall be based on the number of outlets to be installed at the following rates:

1-100 outlets ~~\$10.00~~ **25.00**

Over 100 outlets, plus \$0.10 for each outlet over 100 ~~10.00~~ **25.00**

(4) *Mechanical and Gas Permits:*

(a) The minimum fee for any mechanical or gas permit shall be ~~ten dollars (\$10.00)~~ **\$25.00**.

Ordinance to Amend and Reordain
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Page 6

(b) Basic permit fee:

1. First \$1,000.00 value ~~20.00~~ 25.00
2. Over \$1,000.00 value, plus \$5.00 per \$1,000.00 or fraction thereof ~~20.00~~ 25.00

(c) For the replacement, repair or alteration of mechanical systems or equipment in existing buildings, structures or additions thereto:

1. First \$1,000.00 value ~~10.00~~ 25.00
2. Over \$1,000.00 value, plus \$5.00 per \$1,000.00 or fraction thereof ~~10.00~~ 25.00

EXCEPTIONS: Domestic cooking equipment and space heaters in dwelling units are exempt from mechanical permit fees. Inspections of this equipment are required.

(d) Fuel piping permit fee: $0.005 \times \$1,000.00$ of valuation or fraction thereof. Note: Fee applies when permit is issued for fuel piping work only.

(e) L.P.G. (i.e. butane, propane, etc.) tanks and associated piping permit fee (total water capacity in gallons):

- | | |
|--|------------------------|
| 0-500 | 15.00 25.00 |
| 501-2,000 | 20.00 30.00 |
| Over 2,000, plus \$1.00 per 10,000 gallons | 20.00 30.00 |

(f) Tanks and associated piping for flammable liquids permit fee (capacity in gallons):

- | | |
|---------------------|-------|
| 0-10,000 | 15.00 |
| 10,001-20,000 | 20.00 |
| 20,001-50,000 | 25.00 |

Over 50,000, plus \$5.00 per 25,000 gallons or fraction thereof 25.00

(g) For the removal of storage tanks, the minimum fee shall be ~~ten dollars (\$10.00)~~ \$25.00.

(h) For fire suppression systems, the permit fee shall be (includes standpipes):

1. New construction: Same as basic fee in subsection ((b)(1)) above.
2. All others: Same as basic fee in subsection ((b)(1)) above.

(i) Elevators, dumbwaiters, moving stairways, moving walks, manlifts on special hoisting and conveying equipment permit fee:

1. New construction: Same as basic fee in subsection (b)(1) above.
2. All others: Same as basic fee in subsection (b)(1) above.

(j) Permit reissuance fee: Permits becoming invalid, as specified by the Code, may be reissued up to a period of ~~five (5)~~ years and charged a fee of ~~ten dollars (\$10.00)~~ for each six-month period.

(5) *Elevator Inspections:*

(a) The fee for a semiannual elevator inspection shall be ~~thirty-five dollars (\$35.00)~~.

(b) Reinspection: When an inspector is required to make a reinspection of an elevator for the convenience of the owner of the elevator or because the elevator fails to pass the inspection,

Ordinance to Amend and Reordain
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Page 8

there shall be a ~~twenty-five dollar (\$25.00)~~ reinspection fee. Such reinspection fee shall be paid at the office of building inspections prior to the reinspection.

(6) *Plan Review Fee:*

(a) The fee for the review of building plans shall be ~~ten dollars (\$10.00)~~ for each ~~one thousand~~ (1,000) square feet of floor space, or part thereof, reviewed. Such review fee shall be paid at the office of building inspections prior to the plan review or at the discretion of the building official, at the time of permit issuance.

(b) Revised plans: There shall be no fee for the review of revised building plans unless such plans are substantially different than the original plans and necessitate the issuance of additional review comments. Such revised plans shall be subject to an additional fee equal to the fee provided for in subsection (a) above.

(7) *Certificate of Occupancy Inspection:*

(a) The fee for an inspection for a certificate of occupancy shall be ~~twenty dollars (\$20.00)~~
\$25.00.

(b) No certificate of occupancy shall be issued until all inspection fees have been paid.

(8) *Mobile Home Installation Fee:*

(a) The fee for the inspection of the installation of a mobile home shall be ~~forty dollars~~
(~~\$40.00~~).

(b) The fee for the inspection of the mobile home installation shall supersede any fee otherwise
required for the inspection for an electrical or plumbing permit for that mobile home.

(9) *Reinspection:* When any building, electrical, mechanical or plumbing inspector is required to
make a reinspection of work or a mobile home for the convenience of the contractor,
subcontractor or mobile home owner because of incomplete, inadequate or improper work or
installation, or because the inspector could not obtain reasonable access to the work or mobile
home to be inspected, there shall be a ~~fifteen dollar (\$15.00)~~ ~~\$25.00~~ reinspection fee for each
reinspection, except as otherwise provided herein. Such reinspection fee shall be paid at the
office of building inspections prior to the reinspection.

Sec. 4-9. Refunds.

No fee paid for any permit covered under Section 4-8 of this Code shall be refunded unless the permit
application is denied and a permit is not issued or the permit is issued in error. If a permit is revoked, abandoned
or the project for which the permit is obtained is discontinued, a portion of the permit fee may be refunded after
deducting ~~ten dollars (\$10.00)~~ ~~\$25.00~~ for administrative costs plus ~~fifteen dollars (\$15.00)~~ for each normal

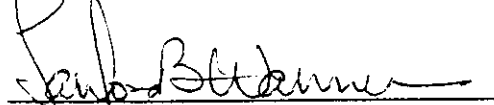
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inspection that has been made. No permit fee, the value of which is ~~ten dollars (\$10.00)~~ \$25.00 or less, shall be refunded.

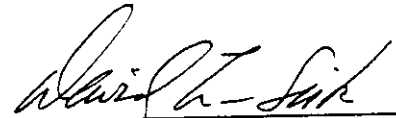
Sec. 4-10. Exemptions.

Where the owner of any premises is the United States of America, the commonwealth, the county or instrumentalities thereof, the payment of any permit fee established in Section 4-8 is hereby waived. *When the housing and community development administrator certifies that the work for which application has been made is funded through his office or a related program and requests that fees be waived, then the request shall be granted.*

ATTEST:



Sanford B. Wanner
Clerk to the Board



David L. Sisk, Chairman
Board of Supervisors

SUPERVISOR	VOTE
TAYLOR	NAY
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of July, 1996.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 5A, EROSION AND SEDIMENTATION CONTROL, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 5A-3, DEFINITIONS; SECTION 5A-4, NONCONTROLLED ACTIVITIES; SECTION 5A-5, PROCEDURES FOR PLAN SUBMISSION AND REVIEW; INSPECTION AND ENFORCEMENT; SECTION 5A-8, RESPONSIBILITY OF OWNER FOR EXPENSE OF CONTROL MEASURES; PERFORMANCE BONDS; SECTION 5A-9, LAND-DISTURBING PERMIT GENERALLY; TERM OF PLAN; AND SECTION 5A-11, PENALTY; CIVIL OR CRIMINAL.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 5A, Erosion and Sedimentation Control, is hereby amended and reordained by amending Section 5A-3, Definitions; Section 5A-4, Noncontrolled activities; Section 5A-5, Procedures for plan subdivision and review, inspection and enforcement; Section 5A-8, Responsibility of owner for expense of control measures; performance bonds; Section 5A-9, Land-disturbing permit generally; term of plan; and Section 5A-11, Penalty; civil or criminal.

Chapter 5A. Erosion and Sedimentation Control

Sec. 5A-3. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Administrator. The official designated by the governing body to serve as, its agent to administer this chapter,

Agreement in Lieu of a Plan. A contract between the plan-approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence; this contract may be executed by the plan approving authority in lieu of a formal site plan.

Applicant. Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

Board. The Virginia Soil and Water Conservation Board.

Clearing. Any activity which removes the vegetative ground cover, including, but not limited to, the removal of root mat and/or topsoil.

District or soil and water conservation district. A governmental subdivision of the state organized in accordance with the provisions of the Soil Conservation Districts Law, Title 10.1, Chapter 5, Code of Virginia, 1950, as amended.

Erosion impact area. An area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land ~~one (1) acre~~ 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or coastal process.

Erosion and sedimentation control plan, conservation plan or plans. A document containing material for the conservation of soil and water resources of a unit or a group of units of land. It may include appropriate

maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit of land will be so treated to achieve the conservation objectives.

Excavating. Any digging, scooping or other methods of removing earth materials.

Filling. Any depositing or stockpiling of earth materials.

Governing body. The board of supervisors of the county.

Grading. Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Land-disturbing activity. Any land change which may result in soil erosion from water and/or wind and the movement of sediments into waters or into lands, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

Land-disturbing permit. A permit issued by the county for clearing, filling, excavating, grading or transporting, or any combination thereof.

Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, or corporation in control of a property.

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Permittee. The person to whom the permit authorizing landing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of this state, any interstate body, or any other legal entity.

Plan-approving authority or permit-issuing authority. The division of code compliance.

Single-family residence. A noncommercial dwelling that is occupied exclusively by one family.

State waters. All waters on the surface and under the ground, wholly or partially within or bordering the commonwealth or within its jurisdiction.

Subdivision. The division of property into two (2) or more parcels for any purpose, including, but not limited to, transfer of ownership, development, or the creation of a new street. The term includes resubdivisions and, where appropriate to the context, shall relate to the process of subdividing or the land subdivided.

Transporting. Any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover, either by tracking or the buildup of earth materials, to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

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Sec. 5A-4. Noncontrolled activities.

In no instance shall the provisions of this chapter be construed to apply to the following:

- (a) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs and maintenance work;
- (b) Individual service connections;
- (c) Installation, maintenance or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
- (d) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- (e) Surface or deep mining; exploration or drilling for oil and gas including the well site, roads, feeder lines and off-site disposal areas;
- (f) Tilling, planting or harvesting of agricultural, horticultural or forest crops or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; ~~however, this exception shall~~

not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Section 10.1 - 1100 et seq.) of the Code of Virginia or is converted to bona fide agricultural or improved pasture as described in Subsection B of Section 10.1-1163;

- (g) Agricultural engineering operations including, but not limited to, construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, article 2 (section 10.1-604 et seq.) of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;
- (h) Repair or rebuilding of the tracks, right-of-ways, bridges, communication facilities and other related structures and facilities of a railroad company;
- ~~(i) Preparation for single-family residences separately built, unless in conjunction with multiple construction in subdivision development;~~
- (j)i Disturbed land areas of less than twenty-five hundred (2,500) square feet in size; provided, that the permit-issuing authority can determine a land-disturbing permit shall be required if, in its discretion, it is deemed necessary to adequately safeguard the control of erosion and sedimentation;

- ~~(k)~~ Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- ~~(l)~~ Shore erosion control projects on tidal waters when the projects are approved by the James City County Wetlands Board, the Marine Resources Commission or the United States Army Corps of Engineers;
- ~~(m)~~ Emergency work to protect life, limb or property, and emergency repairs; provided, that if the land-disturbing activity would have required an approved erosion and sedimentation control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

Sec. 5A-5. Procedures for plan submission and review, inspection and enforcement.

(a) Those procedures for plan submission and review, inspection and enforcement are set forth in a separate document, which is made a part hereof, entitled, "Administrative Guidelines," Chapter 7, adopted from the *Virginia Erosion and Sediment Control Handbook*, Third Edition, 1992. These procedures are controlling unless they are in conflict with a local ordinance or state law.

(b) The plan-approving authority or, if a permit is issued in connection with land-disturbing activities which involve the issuance of a grading, building or other permit, the permit-issuing authority:

- (1) Shall provide for periodic inspections of the land-disturbing activity; and

- (2) May require monitoring and reports from the person responsible for carrying out the plan, to ensure compliance with the approved plan, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, occupier or operator shall be given notice of the inspection and an opportunity to accompany the inspectors. If the permit-issuing authority or plan-approving authority determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. Where the plan-approving authority serves notice, a copy of the notice shall also be sent to the issuer of the permit. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this chapter and shall be subject to the penalties provided by this chapter.
- (c) In order to prevent further erosion, the administrator may require an approved erosion and sedimentation control plan for any land identified and designated as an erosion impact area. Any property owner whose land is designated as an erosion impact area, provided the erosion is not the result of activities specified in section 5A-4, shall:
- (1) Submit an erosion and sedimentation control plan for approval within thirty (30) days of receipt of the notice designating the property as an erosion impact area;

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(2) Obtain a land-disturbing permit with sufficient surety posted pursuant to section 5A-8;

(3) Install all control measures as approved on the plan; and

(4) Comply with all other provisions of this chapter.

(d) ~~The county may charge applicants a reasonable fee to defray the cost of program administration, including costs associated with the issuance of grading or land-disturbing permits, plan review, and periodic inspection for compliance with erosion and sedimentation control plans if charges for such costs are not made under any other law, ordinance or program. The fee shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill and administrator's expense involved, or one thousand dollars (\$1,000.00), whichever is less. Fees shall be charged to offset the cost of reviewing erosion control plans, making inspections, and other expenses incident to the administration of this chapter. The following fees shall be charged and collected at the time of plan submission:~~

(1) ~~Residential subdivisions shall pay \$25 per lot; and~~

(2) ~~All other land disturbing activities shall pay three hundred dollars (\$300) per acre of disturbance for the first 15 acres plus \$200 per acre for each additional acre over 15 acres, except for;~~

Sec. 5A-6. Plans generally; certain procedures adopted by reference.

(a) An erosion and sedimentation control plan is required under this chapter. The erosion and sedimentation control plan shall detail those methods and techniques to be utilized in the control of erosion and sedimentation.

(b) At a minimum, the erosion and sedimentation control plan shall follow the format detailed in Chapter 2, Chapter 4, Chapter 5 and Chapter 6 of the *Virginia Erosion and Sediment Control Handbook*, Third Edition, 1992, and as may be amended from time to time, which is adopted by reference as fully as if set forth herein in its entirety as part of this chapter.

(c) Approved standards and specifications for control techniques to be utilized in preparing this plan are set forth in Chapter 3 of the *Virginia Erosion and Sediment Control Handbook*, Third Edition, 1992, and as may be amended from time to time, which is adopted by reference as fully as if set forth herein in its entirety as part of this chapter.

Sec. 5A-8. Responsibility of owner for expense of control measures; performance bonds.

(a) All control measures required by the provision of this chapter be undertaken at the expense of the owner or his agent. Pending such actual provision thereof, the owner or his agent shall execute and file with the administrator, prior to issuance of the land-disturbing permit, a performance bond with surety, cash escrow, letter of credit, any combination thereof, or other legal arrangement as is acceptable to the county attorney. This shall be in an amount determined by the administrator, equal to the approximate total cost of providing erosion

and sedimentation control improvements. These documents shall be approved by the county and are to ensure that measures could be taken by the county, at the applicant's expense, should he fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of him by his approved plan as a result of his land-disturbing activity. *The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation actions based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the estimated cost of the conservation action.* If the agency takes such conservation action upon such failure by the permittee, the agency may collect from the permittee for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.

(b) Within sixty days of the achievement of adequate stabilization and completion of the land-disturbing activity, *in any project or section thereof*, as determined by a final inspection, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the owner or his agent or terminated, as the case may be, *based on the percentage of stabilization accomplished in the project or section thereof*

(c) These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

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Sec. 5A-9. Land-disturbing permit generally, term of plan.

(a) Except as provided in section 5A-4 of this chapter, no person shall engage in any land-disturbing activity as defined in section 5A-3 of this chapter within the county until he has acquired a land-disturbing permit.

Where the land disturbing activity results from construction of a single-family residence, an agreement in lieu of a plan may be substituted for an Erosion and Sedimentation Control Plan.

(b) Issuance of a land-disturbing permit is conditioned on an approved erosion and sedimentation control plan or certification of such which shall be presented at the time of application for such a permit; and in addition, the requirements of section 5A-8 of this chapter concerning a performance bond, cash escrow, or a letter of credit or such other legal arrangement, as is acceptable under the provisions of section 5A-8, must be complied with.

(c) Any land-disturbing permit shall contain a right of entry to allow the administrator or his designees access to the property until a final inspection determines that the land is adequately stabilized.

(d) Any approved erosion and sedimentation control plan shall become null and void one hundred eighty (180) days after the date of approval, and no further work subject to this chapter shall be allowed unless and until an additional or updated erosion and sedimentation control plan has been submitted and approved in accordance with the provisions of this chapter or unless all requirements of the approved control plan have been completed in less than one hundred eighty (180) days in accord with such plan and verified by the on-site inspection by the director of code compliance or his designee.

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Sec. 5A-11. Penalty; civil or criminal.

(a) *Violation deemed misdemeanor.* A ~~violation violator of~~ this chapter shall be deemed a ~~guilty~~ *of a Class I* misdemeanor and upon conviction a person shall be subject to a fine not exceeding one thousand dollars (\$1,000.00) or thirty (30) days' imprisonment, or both for each violation.

(b) *Civil penalties:*

(1) A civil penalty in the amount listed on the schedule below shall be assessed for each violation of the respective offense:

a. Land-disturbing activity when no permit has been issued:

1. Disturbing an area of ~~less than one acre~~ *greater than 2,500 square feet* \$ ~~50.00~~ *1,000.00*
2. ~~Disturbing an area of more than one acre or more~~ 100.00
3. Failing to respond to a notice of violation 100.00

b. Land disturbing when a permit has been issued:

1. Failing to fully satisfy to a notice to comply 100.00
2. Failing to obey a stop work order 100.00
3. Failing to stop work when the permit has been revoked 100.00

- (2) Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall specified violations arising from the same operative set of facts be charged more frequently than once in any ten-day period, and in no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of three thousand dollars (\$3,000.00). *except that a series of violations arising from the commencement of land-disturbing activities arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.*
- (3) A civil action for such violation may be brought by the locality wherein the land lies. In any trial for a scheduled violation, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. An admission or finding of liability shall not be a criminal conviction for any purpose. Any civil penalties assessed by a court shall be paid into the treasury of the locality wherein the land lies, except that where the violator is the locality or its agent, the court shall direct the penalty to be paid into the state treasury.
- (4) Designation of a particular violation for a civil penalty shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection (a).
- (c) *Application to circuit court.* The administrator, the county, or the board, *or the owner of property which has sustained damage or which is in imminent danger of being damaged;* may apply to the circuit court in any jurisdiction wherein the land lies to enjoin a violation or a threatened violation under section 5A-5 or section 5A-9 of this chapter without the necessity of showing that an adequate remedy at law does not exist;

however, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing damage to his property.

(d) *Liability of person to county.* In addition to any criminal or civil penalties provided under this chapter, any person who violates any provision of this chapter may be liable to the county, or to the board, as appropriate, in a civil action for damages.

(e) *Civil penalty enumerated.* Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or, refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to two thousand dollars (\$2,000.00) for each violation. A civil action for such violation or failure may be brought by the locality wherein the land lies. Any civil penalties assessed by a court shall be paid into the treasury of the locality wherein the land lies, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(f) *Payment of civil charges for past violations.* With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the board, the director, or plan approving or permit-issuing authority, any condition of a permit, or any provision of this chapter, the board, or plan-approving or permit-issuing authority may provide, in an order issued by the board or plan-approving or permit-issuing authority against such person, for the payment of civil charges for past violations in specific sums, not to exceed

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the limit specified in subsection (e) of this section. Such civil charges shall be imposed instead of any appropriate civil penalty which could be imposed under subsection (b) or (e).

(g) *Stop work order.* Upon receipt of a sworn complaint of a substantial violation of either section 5A-5 or section 5A-9 of this chapter from the division of code compliance, the county administrator or his designee may, in conjunction with or subsequent to a notice to comply, issue an order requiring that all or part of the land-disturbing activities on the site be stopped until the specified corrective measures have been taken. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, such an order may be issued without regard to whether the person or permittee has been issued a notice to comply. Otherwise, such an order may be issued only after the person or permittee has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply and shall remain in effect for a period of seven (7) days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. Upon completion of corrective action, the order shall immediately be lifted. Nothing in this subsection shall prevent the county administrator from taking any other action specified in this section.



David L. Sisk, Chairman
Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
TAYLOR	NAY
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of June, 1996.

REAL ESTATE INSTALLMENT SALES AGREEMENT

This REAL ESTATE INSTALLMENT SALES AGREEMENT is dated as of June 11, 1996, between TMB Service Corp., a Kansas corporation ("Seller"), James City Service Authority ("JCSA"), James City County ("Buyer") and Otey & Otey, a Virginia partnership ("Escrow Agent") and provides:

1. **The Property.** The Seller is the owner of those certain lots or parcels of land (together with all improvements thereon and appurtenances thereto, the "Real Property") located in James City County, Virginia containing approximately 528.82 acres shown and set out as "Parcel 1" on the proposed plat of subdivision (the "Subdivision Plat") entitled "Plat of Subdivision and Boundary Line Adjustment Being a Portion of the Warhill Tract" made by AES Consulting Engineers, dated May, 1996, and to be recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City, a copy of which is attached hereto as Exhibit A, and a total of 1,422 prepaid sewer connections issued by the James City Service Authority (the "Sewer Taps"). The Real Property and the Sewer Taps are hereinafter called the "Property".

2. **Purchase and Sale.** Subject to the terms and conditions hereof, Buyer agrees to buy from Seller and Seller agrees to sell to Buyer the Property.

3. **Purchase Price.** The purchase price (the "Purchase Price") for the Property shall be Three Million Seven Hundred and Fifty Thousand Dollars (\$3,750,000.00). The Purchase Price shall be payable as follows:

a) JCSA shall make a down payment of \$1,500,000.00 to Seller at settlement by certified or cashier's check or by wire transfer of funds to an account designated by Seller (the "Down Payment").

b) The Buyer shall execute and deliver to Seller at settlement its negotiable promissory note (the "Note") in the principal amount of 2,250,000.00 bearing interest at the tax exempt rate of (i) 5% per annum if the Note qualifies as a "bank qualified" debt under applicable tax laws or (ii) 6.36% per annum if the Note does not qualify as a "bank qualified" debt under applicable tax laws. The Note shall be payable in 48 equal monthly installments of principal and interest of \$51,815.91 (at 5% interest) or \$53,213.48 (at 6.36% interest) beginning on the day that is 30 days after settlement and continuing on the same day of each of the 47 succeeding months, shall provide that the obligation of the County to make payments under the Note is

subject to the Board of Supervisors of the Buyer annually appropriating sufficient funds for such purpose, and shall otherwise be in form and substance acceptable to the parties.

4. Settlement. Settlement shall occur within thirty (30) days of the formal approval of this Agreement by the Board of Supervisors of the Buyer but in any event by June 30, 1996 at the offices of Geddy, Harris & Geddy, 516 South Henry Street, Williamsburg, Virginia, 23185, or on such other date and at such other place as the parties may agree in writing.

5. Title. (a) The deed to be executed and delivered by Seller to the Escrow Agent at settlement as hereinafter provided shall be sufficient, when delivered to the Buyer by the Escrow Agent in accordance with this Agreement, to vest in the Buyer good and marketable title to the Real Property insurable at the Buyer's expense by a title insurance company selected by the Buyer at such company's regularly scheduled rates, free and clear of all liens, encumbrances and other exceptions to title, except for matters which do not materially and adversely affect title and for matters listed on Schedule A ("Permitted Exceptions") and other matters acceptable to the Buyer in its sole discretion. Seller shall convey the Real Property to the Buyer by special warranty deed with English covenants of title. The description of the Real Property included in such deed shall be by reference to the Subdivision Plat.

(b) If a title examination of the Real Property reveals facts which in the reasonable opinion of Buyer constitute objections to and materially and adversely affect the marketability of title to the Real Property, such objections discovered shall be reported to Seller in writing immediately, and Seller shall have the right but not the obligation to correct such objections. Seller shall give Buyer written notice within ten (10) days of the receipt of any such objections from Buyer of its election whether or not to correct such objections. If Seller elects to cure such objections it shall have a reasonable time not to exceed sixty (60) days thereafter to correct such objections. If Seller fails to correct such objections within such sixty day time period or elects not to correct such objections within the ten day time period, Buyer shall have the option either to (i) terminate this Agreement or (ii) waive the foregoing right and proceed to purchase the property as provided for herein without reduction in the Purchase Price. During the term of this Agreement Seller will not take any action or fail to take any action which would adversely affect the title to the Real Property.

(c) JCSA shall receive good and marketable title to the Sewer Taps, free and clear of all liens, encumbrances and other exceptions to title. Seller shall convey the Sewer Taps by instrument of assignment in form customary for the transfer of

prepaid sewer connections in James City County.

6. Subdivision. Seller, at its expense, shall take all actions necessary to subdivide the Real Property from the remaining property of Seller, including preparation of the Subdivision Plat and filing all required applications for approval of the same. Seller shall record the approved Subdivision Plat before or at settlement.

7. Property Information. (a) At the request of Buyer, Seller shall make available to Buyer for its review copies of all permits, authorizations, approvals, plans, surveys, engineering studies, analyses, soil test borings and other documentation in Seller's possession pertaining to the physical condition, development and operation of the Property (jointly referred to herein as the "Property Data"). Seller hereby grants a right of entry to Buyer and its representatives for access to the Property for the purpose of conducting an environmental audit, surveying, engineering, test boring, inspections and such other similar work as the Buyer shall consider appropriate. Buyer shall have the further right to make such inquiries of governmental agencies and utility companies and to make such feasibility studies and analyses of the Property as it considers appropriate.

(b) Buyer shall pay or cause to be removed any liens filed against the Property as a result of any actions taken above by Buyer or its representatives, and Buyer shall indemnify Seller to the extent of its insurance in force and collectable for all damages or losses incurred to the Property or anyone on the Property as a result of any actions taken above by Buyer or its representatives, and not resulting from any action of the Seller or Seller's employees or representatives, such indemnity to survive the settlement of the Property. If settlement does not occur, Buyer promptly shall restore the Property to the condition of such Property prior to the conducting of any tests as provided above. If settlement does not occur hereunder, copies of all Property Data provided to Buyer and all tests produced by Buyer or its representatives shall be returned or provided to Seller upon Seller's written request therefor.

8. Deliveries at Settlement. (a) At settlement, Buyer shall (i) pay to Seller the Purchase Price as hereinabove provided in Section 3 by delivery to Seller of the Down Payment and the Note, (ii) Buyer shall deliver to Seller certified copies of the resolutions of the Board of Supervisors of the Buyer approving this Agreement and the transactions contemplated hereby, including the issuance of the Note, and (iii) Buyer shall deliver to Seller an opinion of counsel to the Buyer to the effect that this Agreement and the transactions contemplated hereby, including the issuance of the Note, have been validly approved by all necessary action on the part of the Buyer and

JCSA, that this Agreement and the Note (subject to the non-appropriation provision) constitute valid, binding and enforceable obligations of Buyer, and that interest on the Note will be excluded from gross income for federal income tax purposes and will be exempt from taxation by the Commonwealth of Virginia.

(b) Seller shall execute, acknowledge and deliver to Escrow Agent (i) the deed that is described in Section 5(a) (the "Deed") and (ii) an affidavit as to liens and possession (the "Lien Affidavit") in form and substance sufficient for a title insurance company to issue an owner's policy of title insurance without exception for filed or unfiled mechanics' or materialmen's liens or rights of third parties to possession. Seller shall execute, acknowledge and deliver to Buyer (i) the instrument of assignment that is described in Section 5(c), (ii) a certification of non-foreign status of transferor (the "Non-Foreign Certification"), and (iii) a sworn statement or affidavit setting forth Seller's taxpayer identification number and such other information as may be necessary to fulfill reporting requirements of Section 6045 of the Internal Revenue Code of 1986 (the "1099 Certificate"). The parties agree to execute such other documents at settlement as may be reasonably necessary to consummate the transaction contemplated hereby.

9. Escrow; Escrow Agent. (a) The Deed and any other documents delivered to the Escrow Agent (the "Escrow Documents") shall be held by the Escrow Agent in accordance with the terms of this Agreement. Upon final payment in full of the Note and fulfillment by Buyer of all other obligations under this Agreement, the Escrow Agent shall deliver the Escrow Documents held by it to the Buyer.

(b) If at any time in the performance of its duties it is necessary for the Escrow Agent to receive, accept, or act upon any notice or writing purported to have been issued or executed by or on behalf of the parties, it shall not be necessary for the Escrow Agent to ascertain whether the person or persons who have executed, signed, or otherwise issued or authenticated the writing are authorized to execute, sign or otherwise issue or authenticate the writings, or that they are the persons named, or otherwise to pass upon any requirements of the instruments that may be essential for their validity. The Escrow Agent may act in reliance upon the advice of counsel in reference to any matter relating hereto and shall not be liable for any acts or omissions of any kind unless occasioned by its own negligence or willful misconduct. If any order, judgment, or decree shall be made or entered by any court or arbitration panel affecting the Escrow Documents or any part thereof or any act of the Escrow Agent, the Escrow Agent is hereby expressly authorized in its sole discretion to obey and comply with all writs, orders, judgments,

or decrees so entered or issued, whether with or without jurisdiction, and in case the Escrow Agent obeys and complies with any such writ, order, judgment, or decree, it shall not be liable to any of the parties or to any other person, firm, or corporation, by reason of its compliance, notwithstanding that the writ, order, judgment, or decree may subsequently be reversed, modified, annulled, set aside, or vacated. The Escrow Agent shall provide copies of all such orders, judgments, decrees or other documents to all the parties promptly upon receipt.

(c) Any reasonable legal fees at customary hourly rates reasonably incurred by the Escrow Agent because of a dispute between the parties respecting the Escrow Documents shall be paid equally by Buyer and Seller.

(d) Seller and Buyer jointly and severally agree to indemnify the Escrow Agent and hold the Escrow Agent harmless to the maximum extent permitted by law against any loss and expense (including, but not limited to, reasonable attorney fees at customary hourly rates) resulting from any and all claims, actions, settlements, or liability for acts or failure to act in connection with this Agreement, excepting, however, any loss or expense caused by the Escrow Agent's negligence or willful misconduct.

(e) The Escrow Agent may resign as Escrow Agent at any time following the 60th day after the date hereof, by providing the other parties with 30 days written notice of resignation. In the event the Escrow Agent resigns, the Escrow Agent shall deliver the Escrow Documents to a person or entity designated in writing by the Buyer and approved by the Seller, provided that such person or entity executes an addendum to this Agreement agreeing to act as Escrow Agent and be bound by the terms of this Agreement. If the designation of the new Escrow Agent is not received by the Escrow Agent within 30 days after the Escrow Agent sends its notice of resignation, the Escrow Agent may petition any court of competent jurisdictions for the appointment of a successor escrow agent or other appropriate relief and any resulting appointment shall be binding upon all of the parties to this Agreement.

(f) In the event of disagreement among the parties to this Agreement, or among them and any other person, resulting in adverse claims and demands being made upon or in connection with any property involved herein or affected hereby, the Escrow Agent may, but need not, tender into the registry or custody of any court of competent jurisdiction all documents or property in its hands under the terms of this Agreement, together with such legal proceedings as it deems appropriate, and thereupon to be discharged from all further duties under this Agreement. The filing of any such legal proceeding shall not deprive the Escrow

Agent of its compensation earned prior to such filing.

10. Possession; Improvements. Buyer shall be given possession of the Property at settlement and, so long as it is not in default hereunder, shall be entitled to possession during the term of this Agreement. Following settlement Buyer shall have the right at its expense to make improvements to the Real Property in its sole discretion. Buyer shall keep the Real Property free and clear of all liens, claims and encumbrances during the term of this Agreement. Buyer shall maintain the Real Property and all improvements thereon in good repair and shall not commit waste upon the Real Property.

11. Taxes and Assessments. Real estate taxes for the current year shall be pro-rated and paid at settlement. Buyer shall pay at least 10 days before they are due all taxes and assessments, if any, levied against the Real Property for all periods after settlement until and unless this Agreement is subsequently terminated. If Buyer fails to make any payment required under this Section when due, Seller may pay the same. All costs incurred by Seller shall be promptly repaid by Buyer together with interest on the amount advanced by Seller at the rate of 7% per annum. Buyer shall be responsible for and immediately pay (or reimburse Seller if Seller has paid) all penalties and interest imposed for failure to timely pay the taxes and assessments.

12. Insurance. (a) Buyer shall, at Buyer's expense, maintain in force during the term of this Agreement a policy of comprehensive public liability insurance insuring Seller and Buyer against any liability arising out of the beneficial ownership, use, improvement, occupancy or maintenance of the Premises and all areas appurtenant thereto and any acts, omissions or negligence of Buyer, its employees, invitees and licensees. Such insurance shall be in the initial amount of not less than \$1,000,000.00 for injury or death of one person in any one accident or occurrence and in the initial amount of not less than \$3,000,000.00 for injury or death of more than one person in any one accident or occurrence. Buyer may provide this insurance under a blanket policy.

(b) Buyer shall maintain hazard insurance on all improvements constructed on the Real Property in the amount of their reasonable insurable value.

(c) All policies of insurance maintained by Buyer shall be with insurance companies which are duly licensed and qualified to do business in Virginia. Buyer shall deliver to Seller, at or prior to settlement, copies of policies of liability insurance required herein or a certificate evidencing the existence and amounts of such insurance with loss payable clauses naming the

Seller as an additional insured satisfactory to Seller.

(d) If Buyer fails to obtain or maintain any of the insurance policies required hereby Seller may obtain or pay the premium to maintain the same. All costs incurred by Seller shall be promptly repaid by Buyer together with interest on the amount advanced by Seller at the rate of 7% per annum. Failure by Buyer to repay any amount due under this Section within 10 business days of receipt of notice from Seller shall constitute a default by Buyer hereunder.

13. Costs and Expenses. Seller shall be responsible for (a) the costs of preparing the Deed, the assignment of Sewer Taps, the Lien Affidavit, the Non-Foreign Certification and the 1099 Certificate, (b) the grantor's tax imposed pursuant to Section 58.1-302 of the Code of Virginia (1950) as amended, in connection with the recordation of the Deed. Buyer shall be responsible for all costs of (i) examination of title to the Property, (ii) any title insurance premiums as to its purchase of the Property, (iii) clerk's fees and other taxes for the recordation of the Deed, and (iv) the fees and expenses of the Escrow Agent.

14. Risk of Loss. All risk of loss, including loss by reason of fire or casualty or the exercise of the power of eminent domain shall remain on Seller until settlement. After settlement during the term of this Agreement all risk of loss, including loss by reason of fire or casualty or the exercise of the power of eminent domain shall remain on Buyer.

15. Real Estate Commission. Seller and Buyer each represent and warrant unto the other that this transaction has resulted between the parties without the assistance of any broker or finder being involved except for Cabear Corporation and its principle Pat Blew whose fees shall be the responsibility of Seller. In the event there are other fees or commissions payable to any person or firm on account of this sale and purchase, the same shall be the full responsibility of the party whose actions resulted in such a claim for commissions or fees, and such party shall indemnify and hold the other harmless as to any payment with respect thereto. The provisions of this paragraph shall survive the settlement and transfer of legal title to the Property or, as to the warranties, representations and indemnifications set forth in this paragraph, the termination of this Agreement as herein provided.

16. Termination by Buyer. If all or any portion of the Property, or any interest therein, is taken (other than by Buyer) pursuant to the exercise of the power of eminent domain, or is sold under threat of such exercise (other than to Buyer) before settlement, if the Property is damaged by fire or other casualty before settlement or if Seller has breached or is unable to

perform any of its agreements, covenants and obligations under this Agreement before settlement, Buyer may, at its option exercised by written notice to Seller, elect either to (a) terminate this Agreement, in which event this Agreement shall terminate and the parties hereto shall have no further obligations or liabilities to one another hereunder or (b) waive the foregoing right to terminate and proceed to purchase the Property as provided in this Agreement.

17. Default by Buyer. If Buyer defaults in performing its obligations under this Agreement or under the Note, Seller shall give Buyer prompt written notice of such default, and, if Buyer fails to cure such default within ten (10) business days after receipt of such notice, Seller may elect to terminate this Agreement. Upon any such termination by Seller, the Escrow Agent shall deliver the Escrow Documents to Seller, all right, title and interest of Buyer in the Real Property shall terminate, Buyer shall deliver peaceable possession of the Property to Seller, and Seller may retain all amounts paid by Buyer under this Agreement and the Note as liquidated damages and not as a penalty, this Agreement shall terminate and neither party shall have any further rights or obligations under this Agreement.

18. Assignment. Buyer may not assign this Agreement or its rights and obligations hereunder without the prior written consent of Seller, which Seller is not obligated to grant. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

19. Section Headings. The Section headings used in this Agreement are for convenience of reference only and shall not be deemed to alter the terms and provisions of this Agreement.

20. Applicable Law. This Agreement shall be executed, construed, performed and enforced in accordance with the laws of the Commonwealth of Virginia.

21. Condition of Property. Seller shall remove all paint cans from the trailers on the Real Property before settlement. Buyer shall remove or cause to be removed the trailers themselves and the storage tanks adjacent to the trailers. Any expense incurred by the Buyer in the removal shall be borne equally by the Seller and Buyer and Seller shall promptly reimburse Buyer for its share of such costs. Seller makes no representation as to the physical condition of the Real Property. Buyer agrees to accept the Real Property in "as is" condition.

22. Road Construction. (a) Centerville Road Entrance. Seller shall be responsible for the physical construction of all road improvements at the Centerville Road entrance into Seller's property. If not already constructed by Seller, at the request

of the Buyer, Seller, within 360 days of receipt of a written request from Buyer, shall construct a two lane road from Centerville Road to the boundary of the Real Property. Seller and Buyer shall agree upon the alignment of such road prior to the start of construction. The parties acknowledge that the Purchase Price includes \$150,000.00 representing Buyer's one-half share of the estimated costs of this road. If one-half of the actual costs of the road is less than \$150,000.00, Seller shall refund the difference to Buyer upon completion of the project. If the Virginia Department of Transportation requires the construction of turn lanes at the Centerville Road entrance based solely on Buyer's use of the Real Property, the parties will share the costs of such turn lanes equally. If development of Seller's remaining property triggers the obligation to construct road improvements at the Centerville Road entrance under applicable proffered zoning conditions or VDOT requirements, Seller shall construct all such improvements at its costs other than the shared costs of the two lane road to the boundary of the Real Property as described above. Seller shall provide all right-of-way necessary for construction of the improvements described herein at no charge. The parties shall each cooperate in granting the other party any necessary temporary access easements for access to each parties property before construction and dedication of the permanent access roads described herein. If Seller fails to construct the road as required herein after a request from the Buyer to do so, Buyer may construct the road and deduct the costs thereof from the payments due to Seller under the Note.

(b) Longhill Road Entrance. Seller shall at its costs repave the existing entrance into the remaining property of Seller on Longhill Road and replace the existing wooden curbs with concrete curbs. Buyer shall be responsible at its costs for all turn lanes at the Longhill Road entrance and for the construction of a road from the end of the existing entrance road to the boundary of the Real Property. Buyer agrees to either construct this road within three years from the date of settlement or to construct a turn-around acceptable to VDOT at the end of Beaver Run East road in the adjacent subdivision in accordance with VDOT standards to allow the roads in the subdivision to be dedicated to and accepted by VDOT as public roads. If Buyer constructs the road from the Longhill Road entrance to its property line, Seller shall be responsible for, at its expense, to pave the area necessary to connect the road to the existing end of pavement of Beaver Run East. The parties agree that Seller shall have the right, at its expense, to construct a road in accordance with VDOT standards from the Longhill Road entrance to the intersection of the road with Beaver Run East to serve the subdivision at any time. Buyer agrees that (i) the residents of the existing 58-lot subdivision now owned by Seller shall have the right and easement to use the road constructed by the County

from the end of the existing entrance road to the second entrance to the subdivision for ingress and egress to the subdivision and (ii) Seller shall have the right and easement to locate entrance signage complying with applicable ordinances at the entrance from Longhill Road into the remaining property of Seller so long as any lots or speculative houses remain unsold in the subdivision.

23. Easements; Boundary Line Adjustments. Each party agrees to grant and convey to the other party utility and other customary easements necessary for the development, use and operation of each party's property in locations acceptable to both parties and in customary form. If it is necessary to accommodate development on either parties property, the parties agree to cooperate in making minor boundary line adjustments acceptable to both parties so long as the adjustment does not adversely impact the property of either party.

24. Time of Essence. Time is of the essence under this Agreement.

25. Notices. Any notice required or permitted to be given hereunder shall be in writing and shall be deemed to be given and effective when delivered by telegram, telex or telecopy or by express mail, overnight courier services, or on the third mail delivery day after it is deposited in the United States mail postage prepaid, by certified or registered mail, return requested, addressed to the parties as follows:

To Seller: TMB Service Corp.
c/o The Mission Bank
5201 Johnson Drive
Mission, Kansas 66205
Telecopy: (913) 831-1230

To the Buyer: James City County
101-C Mounts Bay Road
Williamsburg, Virginia 23185
Attention: County Administrator
Telecopy: (804) 253-6833

To the Escrow Agent: Otey & Otey
485 McLaws Circle
Williamsburg, Virginia 23185
Attention: David W. Otey, Jr.
Telecopy: (804) 229-2156

or at such other addresses as a party may designate by giving written notice to the other party in the aforesaid manner.

26. Survival. This Agreement and the obligations of the parties hereunder shall survive settlement.

27. Recordation. The parties agree that a counterpart of this Agreement shall be recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and the County of James City. Upon payment in full of the Note and fulfillment of all other obligations of the parties hereunder or upon the earlier termination of this Agreement, a certificate of release shall be recorded to evidence the termination of this Agreement.

28. Offer and Acceptance. This Agreement when signed by Seller shall be deemed an offer and shall remain in effect, unless withdrawn, until 5:00 p.m. on June 12, 1996. If not accepted within that time by Buyer by delivery of a signed counterpart of this Agreement to Seller or Seller's attorney, it shall be null and void.

WITNESS the following signatures.

SELLER:

TMB SERVICE CORP.

Date: 6-7, 1996

By: [Signature]

Title: PRESIDENT

BUYER:

JAMES CITY COUNTY

Date: 6-11, 1996

By: [Signature]

Title: _____

JCSA:

JAMES CITY SERVICE AUTHORITY

Date: 6-11, 1996

By: [Signature]

Title: _____

ESCROW AGENT:

OTEY & OTEY

By: [Signature]

a Partner

Kansas
STATE OF ~~VIRGINIA~~
~~CITY~~/COUNTY OF Johnson, to-wit:

The foregoing instrument was acknowledged before me this
7th day of June, 1996, by Clay Coburn, Jr.
MILLI BRADLEY
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Expires 8-27-96
Milli Bradley
NOTARY PUBLIC

My commission expires:

August 27, 1996

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

The foregoing instrument was acknowledged before me this
11th day of June, 1996, by David L. Sisk
Mary Frances Rieger
NOTARY PUBLIC

My commission expires:

October 31, 1997

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

The foregoing instrument was acknowledged before me this
11th day of June, 1996, by Jack W. Edwards
Mary Frances Rieger
NOTARY PUBLIC

My commission expires:

October 31, 1997

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

The foregoing instrument was acknowledged before me this
17th day of June, 1996, by David W. Otey, Jr..

Mary Frances Rieger
NOTARY PUBLIC

My commission expires:

October 31, 1997.

Schedule A
Permitted Exceptions

RESOLUTIONPURCHASE OF SEWER TAPS

WHEREAS, TMB Service Corporation owns 1,422 sewer taps with a retail value of approximately \$2.6 million; and

WHEREAS, TMB Service Corporation has agreed to sell these sewer taps to the James City Service Authority for \$1.5 million, or approximately 56 percent of the retail value of the sewer taps; and

WHEREAS, the Board of Directors has determined the purchase of the taps and elimination of the Authority's obligation is a prudent financial decision.

NOW, THEREFORE, BE IT RESOLVED that the Chairman of the Board of Directors of James City Service Authority, James City County, Virginia, is hereby authorized to execute the sales agreement for the purchase of the 1,422 sewer taps from TMB Service Corporation for \$1.5 million.

BE IT FURTHER RESOLVED that the FY 96 Budget for the James City Service Authority is amended as follows:

Revenue:


Contributed Capital	\$ 229,900
Retained Earnings	<u>1,270,100</u>
Reserve	<u>\$1,500,000</u>

Expenses:

Taps Purchase (105-150-2064)	<u>\$1,500,000</u>
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 Jack D. Edwards
 Chairman, Board of Directors

ATTEST



 Sanford B. Wanner
 Secretary to the Board

<u>DIRECTOR</u>	<u>VOTE</u>
TAYLOR	AYE
MAGOON	AYE
SISK	AYE
DEPUE	AYE
EDWARDS	AYE

Adopted by the Board of Directors of the James City Service Authority, James City County, Virginia, this 11th day of June, 1996.

sewrtaps.res

I hereby certify that the foregoing document
 is the Original Resolution.


 Mari Lou Smith, Secretary to the Board

N-1

APPROPRIATION NOTE

June 25, 1996

\$2,250,000.00

FOR VALUE RECEIVED, JAMES CITY COUNTY, VIRGINIA (the "County"), hereby promises to pay, subject to annual appropriation, to the order of THE MISSION BANK (the "Noteholder"), without offset, at 5201 Johnson Drive, Mission, Kansas 66205, or at such other place as the Noteholder may designate that is acceptable to the County, the principal sum of Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000) with interest payable on the unpaid principal balance of such sum from the date of this Appropriation Note until this Appropriation Note is repaid in full at the interest rate per annum of six and thirty-six one hundredths percent (6.36%). This Appropriation Note shall be payable in forty-eight equal monthly installments of combined principal and interest of \$53,213.48 commencing on the date that is exactly one month after the date hereof and continuing on the same day in each of the forty-seven succeeding months.

All payments made on this Appropriation Note shall be applied first to accrued interest and then to principal.

Principal of, and interest on, this Appropriation Note shall be payable in lawful money of the United States of America at the office of the Noteholder in Mission, Kansas. Interest on this Appropriation Note shall be computed on the basis of a year consisting of 360 days for the actual number of days elapsed. If the due date of any payment hereunder would otherwise fall on a day on which commercial banks are authorized or required to close, then payment need not be made on such date, but may be made on the next succeeding date which is not such a date, and interest shall be payable on any principal so extended for the period of such extension.

This Appropriation Note is subject to optional prepayment in whole or in part, without premium or penalty, at any time prior to maturity. In the case of any partial prepayment of this Appropriation Note, the Noteholder shall make an appropriate endorsement on the Certificate of Prepayments attached hereto of the amount and date of such prepayment. Any partial prepayments shall be applied to the principal installments due under this Appropriation Note in inverse order of maturity.

This Appropriation Note is executed and delivered pursuant to the Real Estate Installment Sales Agreement, dated as of June 11, 1996 (the "Real Estate Installment Sales Agreement"), among the County, TMB Service Corp., a subsidiary of the Noteholder, Otey &

Otey and the James City County Service Authority, as authorized by the County in its Resolution adopted June 11, 1996 (the "Resolution"), for the purpose of financing the purchase certain real estate and prepaid sewer connections located in the County. The Noteholder shall be entitled to all benefits, and this Appropriation Note is issued subject to all terms and conditions, of the Real Estate Installment Sales Agreement and the Resolution.

The County shall act as Registrar (until a different Registrar is selected) and shall maintain registration books for the registration and the registration of transfer of this Appropriation Note. The transfer of this Appropriation Note may be registered only on the books kept for the registration and registration of transfer of this Appropriation Note upon surrender thereof to the Registrar at its address together with an assignment duly executed by the registered holder in person or by his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar. Upon any such transfer, the County shall execute and deliver, in exchange for this Appropriation Note, a new registered Appropriation Note registered in the name of the transferee. Prior to due presentment for registration of transfer, the Registrar shall treat the registered holder as the person exclusively entitled to payment of principal of, and interest on, this Appropriation Note and to the exercise of all other rights and powers of the owner.

If this Appropriation Note has been mutilated, lost or destroyed, the County shall execute and deliver a new Appropriation Note of like date and tenor in exchange or substitution for, and upon cancellation of, such mutilated Appropriation Note or in lieu of and in substitution for such lost or destroyed Appropriation Note; provided, however, that the County shall execute and deliver such Appropriation Note only if the holder has paid the reasonable expenses and charges of the County and the Registrar in connection therewith and, in the case of a mutilated Appropriation Note, such mutilated Appropriation Note shall first be surrendered to the Registrar, and in the case of a lost or destroyed Appropriation Note, the holder has furnished to the County and the Registrar (if different from the County) (a) evidence satisfactory to them that such Appropriation Note was lost or destroyed and the holder was the owner thereof and (b) indemnity satisfactory to them.

The County hereby expressly waives presentment, demand, protest and notice of dishonor and waives any rights which it may have to require the Noteholder to proceed against any other person or any property securing this Appropriation Note.

Any failure or delay by the Noteholder to exercise any right hereunder or under the Real Estate Installment Sales Agreement shall not be construed as a waiver of the right to exercise the same or any other rights at any time.

This Appropriation Note shall be governed and construed in accordance with the laws of the Commonwealth. Whenever possible, each provision of this Appropriation Note shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Appropriation Note shall be prohibited by or invalid under such law, such provisions shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Appropriation Note. This Appropriation Note shall apply to and bind the County's successors and assigns to the extent provided herein and shall inure to the benefit of the Noteholder, its successors and assigns.

The payment of this Appropriation Note and the interest hereon are subject to and dependent upon appropriations being made from time to time by the Board of Supervisors of the County (the "Board"). Nothing herein or in the Real Estate Installment Sales Agreement obligates the Board to make such appropriations.

All acts and conditions required to happen, exist or be performed precedent to and in connection with the issuance of this Appropriation Note have happened, exist and have been performed.

IN WITNESS WHEREOF, the Board of Supervisors of James City County, Virginia has caused this Appropriation Note to be issued in the name of James City County, Virginia and to be executed by its Chairman and its seal to be affixed to this Appropriation Note and attested by its Clerk.

JAMES CITY COUNTY, VIRGINIA

By *David L. Lick*
Chairman, Board of Supervisors

[SEAL]

Attest:

Sanford B. Wanner
Clerk, Board of Supervisors

FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

(Please print or typewrite name, address and Social Security Number or Taxpayer Identification Number of transferee) the within Appropriation Note and all rights therein and hereby irrevocably constitutes and appoints _____ attorney-in-fact to transfer the Appropriation Note on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears in the registration books of the County.

CERTIFICATE OF PREPAYMENTS

The principal amount of this Appropriation Note shall be reduced by an amount equal to the aggregate of prepayments noted on this Certificate of Prepayments. All prepayments shall be certified under this Certificate of Prepayments by an authorized representative of the Noteholder, and such certification shall constitute a cancellation of the principal amount due on this Appropriation Note in the aggregate of the amounts certified below.

<u>Amount</u>	<u>Date</u>	<u>Authorized Signature</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

RESOLUTION OF BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA
AUTHORIZING AND APPROVING THE
ISSUANCE OF ITS \$2,250,000 APPROPRIATION NOTE

WHEREAS, the Board of Supervisors of James City County, Virginia (the "Board of Supervisors") has determined that it is necessary and desirable to purchase certain real estate and prepaid sewer connections (the "Project") in James City County, Virginia (the "County");

WHEREAS, there has been presented to the Board of Supervisors a plan for the financing of the Project which would not create debt of the County for purposes of the Virginia Constitution;

WHEREAS, the County has decided, pursuant to such financing plan, to issue its Appropriation Note, in the original principal amount of \$2,250,000 (the "Appropriation Note"), the payments under which are subject to appropriation, for the purpose of financing a portion of the cost of the Project; and

WHEREAS, the Appropriation Note will be provided by the County to TMB Service Corp. (the "Noteholder") pursuant to the terms of a Real Estate Installment Sales Agreement, dated as of June 11, 1996 (the "Real Estate Installment Sales Agreement"), between the County and the Noteholder;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA:

1. Authorization of Appropriation Note and Use of Proceeds. The County determines that it is advisable to issue the Appropriation Note in the maximum principal amount of \$2,250,000, and to provide the Appropriation Note to the Noteholder, all pursuant to the terms of this Resolution and the Real Estate Installment Sales Agreement. The issuance and delivery of the Appropriation Note are authorized and approved. The Appropriation Note shall be used, together with other available funds, to finance the costs of the Project.

2. Details of Appropriation Note. The Appropriation Note shall be issued upon the terms and conditions set forth therein and in the Real Estate Installment Sales Agreement. The Appropriation Note shall be issued as a single note in fully registered form, shall be dated the date of its issuance and delivery and shall bear interest at the fixed rate of interest of (i) five percent (5%) per annum if the Note is determined to be a "qualified tax-exempt obligation" within the meaning of Section 265(b) of the Internal Revenue Code of 1986, as amended (the "Code"), or (ii) six and thirty-six one-hundredths percent (6.36%) per annum if the Note is determined not to be a "qualified tax-exempt obligation" within the meaning of Section 265(b) of the Code. The maturity and the due date of the principal and interest payments shall be as set forth in the form of the Appropriation Note. The monthly combined principal and interest payments shall

be in the amount of (i) \$51,815.91 if the Note is determined to be a "qualified tax-exempt obligation" or (ii) \$53,213.48 if the Note is determined not to be a "qualified tax-exempt obligation." The Chairman and Vice Chairman of the Board of Supervisors are each authorized to approve the final interest rate on the Note and the final combined principal and interest payment on the Note so long as the same are established as set forth in this paragraph. Such approvals shall be conclusively evidenced by the execution and delivery of the Note by the Chairman or Vice Chairman.

3. Form of Appropriation Note. The Appropriation Note shall be in substantially the form submitted to this meeting, with such variations, insertions or deletions as may be approved by the Chairman or the Vice Chairman of the Board of Supervisors. There may be endorsed on the Appropriation Note such legend or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto. All payments under the Appropriation Note are subject to appropriation by the County, and the County is not, under any circumstances, obligated to make such appropriations.

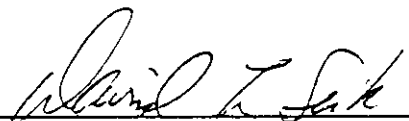
4. Execution and Delivery of Appropriation Note. The Chairman and the Vice Chairman of the Board of Supervisors is each authorized and directed to execute the Appropriation Note. The Clerk of the County is authorized and directed to affix the seal of the County to the executed Appropriation Note and to attest it and then to deliver the Appropriation Note to the Noteholder.

5. Approval of Real Estate Installment Sales Agreement. The Real Estate Installment Sales Agreement is approved in substantially the form presented to this meeting, with such changes, insertions or omissions as may be approved by the Chairman or the Vice Chairman of the Board of Supervisors, whose approval shall be evidenced conclusively by the execution and delivery of the Real Estate Installment Sales Agreement. The Chairman and the Vice Chairman is each authorized to execute and deliver the Real Estate Installment Sales Agreement and such other documents and certificates as such officer, the County Attorney and Bond Counsel may consider necessary in connection therewith.

6. Further Actions. The Chairman and the Vice Chairman of the Board of Supervisors and such officers and agents of the County, including the County Administrator, as may be designated by either of them are authorized and directed to take such further actions as they deem necessary regarding the issuance and sale of the Appropriation Note and the execution, delivery and performance of the Real Estate Installment Sales Agreement, including, without limitation, the execution and delivery of closing documents and certificates including a Form 8038-G and a Non-Arbitrage Certificate. All such actions previously taken by the Chairman and Vice Chairman and such officers and agents are hereby approved, ratified and confirmed.


7. Submission of Appropriation Request. The County Administrator is hereby directed to submit for each fiscal year a request to the Board of Supervisors for an appropriation in an amount equal to the payments becoming due on the Appropriation Note in the next fiscal year. Nothing in this Resolution shall obligate the County to make such appropriation or shall constitute a pledge of the full faith and credit of the County. The Board of Supervisors, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its intent to make annual appropriations in future fiscal years in amounts sufficient to make all payments under the Appropriation Note and hereby recommends that future Boards of Supervisors do likewise during the term of the Appropriation Note.

8. Effective Date. This Resolution shall take effect immediately.


 David L. Sisk
 Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
TAYLOR	NAY
MAGOON	AYE
DEPUE	AYE
EDWARDS	AYE
SISK	AYE

ATTEST:



 Sanford B. Wanner
 Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of June, 1996.

CERTIFICATE

The undersigned Clerk of the Board of Supervisors of James City County, Virginia certifies that the foregoing is a true, correct and complete copy of a Resolution adopted by the affirmative vote of a majority of the members of the Board of Supervisors of the County present at a public meeting duly called and held on June 11, 1996, at which meeting a quorum was present and acting throughout.

Dated: June 11, 1996



Clerk, Board of Supervisors of
James City County

[SEAL]