

15911

FIRST AMENDMENT TO
AMENDED AND RESTATED
GREENSPRINGS PROFFER AGREEMENT

This First Amendment to Amended and Restated Proffer Agreement is made as of this 29th day of September, 1993, by Greensprings Plantation, Inc., a Virginia corporation ("Owner").

RECITALS

A. Greensprings Plantation, Inc. is the owner of certain real property consisting of approximately 1402 acres, located in James City County, Virginia (the "Property") along Route 5 and being more particularly described in Exhibit A attached hereto.

B. In 1989 the Owner applied for and James City County (the "County") granted a rezoning of the Property from the Limited and General Agricultural Districts, A-2/A-1, to the Residential Planned Community District, R-4, with proffered conditions as set forth in a Greensprings Proffer Agreement dated February 6, 1989 and recorded in James City County Deed Book 427, page 466 (the "Original Proffers").

C. In 1992, Owner applied for an amendment to the approved Master Plan for the Property and, in connection therewith, amended and restated the Original Proffers by Amended and Restated Greensprings Proffer Agreement dated April 30, 1992 and recorded in James City County Deed Book 562 at page 794 (the "Restated Proffers").

D. Owner has now applied for an amendment to the approved Master Plan for the Property pursuant to Sections 20-215(b) and

20-15 of the County Zoning Ordinance and in connection therewith desires to amend the Restated Proffers in certain respects.

NOW, THEREFORE, in consideration of the County of James City granting approval of the amendment of the Master Plan and pursuant to Section 15.1-491.2:1, et seq. of the Code of Virginia, 1950, as amended, and Section 20-15, et seq. of Chapter 20 of the Code of James City County, Virginia, the Owner agrees that the Restated Proffers are hereby amended as set forth below. If the County fails to grant the requested amendment to the approved Master Plan, this First Amendment to Amended and Restated Greensprings Proffer Agreement shall thereupon be void and the Restated Proffers shall remain in full force and effect.

AMENDMENTS

1. The table in Condition 1 of the Restated Proffers is hereby amended to read as follows:

<u>Project</u>	<u>Land Bay</u>	<u>R-4 Master Plan Designation</u>	<u>Maximum Number of Dwelling Units</u>
S- 1		A	209
S- 2		A	141
S- 3		A	175
S- 4		A	15
M- 5		D	172
M- 6		D	130
M- 7		D	66
M- 8		D	132
M- 9		D	165
M-10		B	100
M-10		C	56
M-10		D	144
M-10		Nursing Home	120 beds

2. Condition 4 (b) of the Restated Proffers is hereby amended to read as follows:

(b) Multi-Family Neighborhood Recreation Centers. (i)

Unless Owner elects to construct a single central multi-family neighborhood recreational center pursuant to subparagraph (ii) below, before the County shall be obligated to issue Certificates of Occupancy for more than 50 units in Land Bays M-5 through M-9 shown on the Amended Master Plan, residents of each of those Land Bays shall have access to at least one Multi-Family Neighborhood Recreation Center ("MNRC") serving (but not necessarily located in) that Land Bay. There shall be recreational facilities which comply with requirements of the Zoning Ordinance located within Land Bay M-10 with the type and location of such facilities to be determined by Owner following consultation with the residents of Land Bay M-10. The recreational facilities shall be shown on site plans of Land Bay M-10 and subject to the approval of the Development Review Committee. The MNRCs for all multi-family Land Bays in the aggregate shall be provided with swimming pools with a total minimum water surface area of 5,000 square feet with no single pool having a minimum water surface area of less than 750 square feet and a total of at least six regulation size, hard surface tennis courts. The MNRCs in Land Bay M-5, M-6, M-8, and M-9 shall have an open play area of at least one-fourth an acre and a tot lot with playground equipment. The pools and tennis courts shall be distributed as follows:

<u>Land Bay</u>	<u>Minimum Facilities</u>
M-5	1 pool, 1 tennis court
M-6	1 pool, 1 tennis court
M-7 and M-8	1 pool, 1 tennis court
M-9	1 pool, 1 tennis court

Each MNRC shall be open for use by owners of units within the
Land Bay(s) which it serves subject to the provisions of any
applicable restrictive covenants and rules and regulations
adopted thereunder.

3. Condition 6 of the Restated Proffers is hereby amended
by the addition of the following two paragraphs:

If a previously unidentified archeological site is
discovered during land disturbing activities, all construction
work involving subsurface disturbance will be halted in the area
of the site and in the surrounding area where further subsurface
remains can reasonably be expected to occur and Owner will
immediately notify the County of the discovery. The County, or
an archeologist approved by it, will immediately inspect the work
site and determine the area and the nature of the affected
archeological site and its potential eligibility for inclusion on
the National Register of Historical Places. Construction work
may then continue in the project area outside the archeological
site. Within 15 working days of the original notification of
discovery, the County shall determine the National Register
eligibility of the site. The County may extend this 15 working
day period for determining the National Register eligibility one
time by an additional 5 working days by written notice to Owner
prior to the expiration date of said 15 working day period.

If the site is determined to meet the National Register
Criteria (36 CFR Part 60.0), Owner shall prepare a plan for its
avoidance, protection, recovery of information, or destruction

without data recovery. The plan shall be approved by the County prior to implementation. Work in the affected area shall not proceed until either (a) the development and implementation of appropriate data recovery or other recommended mitigation procedures, or (b) the determination is made that the located remains are not eligible for inclusion on the National Register.

4. Conditions 11 of the Restated Proffers is hereby deleted and the following is inserted in lieu thereof:

11. Realigned Route 614 and Future Right-of-Way Greenbelt. The Owner shall designate a greenbelt buffer along realigned Route 614 and along the right-of-way shown on the Amended Master Plan as "Future Right-of-Way" measured from a line 60 feet from the center line of realigned Route 614 and the "Future Right of Way". Such line shall hereinafter be called the "Greenbelt Line". No structure except the road and related improvements in Land Bay S-3 shown on the Amended Master Plan shall be located within 150 feet of the Greenbelt Line. Where the road in Land Bay S-3 parallels realigned Route 614, the greenbelt buffer shall be no less than 115 feet from the Greenbelt Line of realigned Route 614. Where golf course fairways abut relocated Route 614 or the "Future Right-of-Way", the greenbelt buffer shall have a minimum width of 75 feet. Where tee boxes or the putting surface of greens are located within 100 feet of the Greenbelt Line, enhanced landscaping approved by the Development Review Committee in the golf course site plan review process shall be provided between the tee or green and the 75

foot greenbelt buffer. In all other areas, a minimum 150 foot buffer shall be maintained. Where golf course fairways abut realigned Route 614 or the "Future Right-of-Way", selective hand thinning of trees (but no removal of stumps) shall be permitted as a part of a landscaping plan approved by the Development Review Committee. Within this greenbelt the land shall be exclusive of any lots and undisturbed except for approved utilities, stormwater management improvements, entrance roads to Land Bays as shown generally on the Amended Master Plan, pedestrian/bicycle trails, golf cart path crossings and tunnels and project signs as approved by the Development Review Committee. No signs other than project signs and those requested by VDOT and/or the County shall be allowed.

5. Paragraph 1 under the heading Proffers Improvements in Condition 15(f) of the Restated Proffers is hereby amended by deleting the second sentence thereof and inserting in lieu thereof the following:

A 120 foot right-of-way (or such wider right-of-way as may be necessary to accommodate required drainage structures) shall be dedicated to allow for future improvements.

6. The following conditions are hereby added to the Restated Proffers:

20. Turn Lanes into Land Bay M-10. Prior to the issuance of a certificate of occupancy for any structure in Land Bay M-10, a right turn lane from westbound Route 5 into the entrance to Land Bay M-10 and a left turn lane from eastbound Route 5 into the entrance to Land Bay M-10 shall be provided. ?

10 shall have been constructed or construction commenced and completion bonds or other surety acceptable to the County Attorney posted to assure completion of the turn lanes.

21. Commercial Uses in Land Bay M-10. Any accessory commercial uses located in Land Bay M-10, such as bank offices, beauty salons and barbershops, shall be located and designed to serve residents of Land Bay M-10. Commercial uses shall not be advertised from any public right-of-way.

22. Residency Agreement. Prior to the start of construction in Land Bay M-10, Owner shall submit to the County a copy of the agreements between Owner and the future residents of Land Bay M-10 which agreements shall provide that permanent residents under the age of 18 (or such higher age determined by Owner) shall not be permitted in Land Bay M-10. If construction of a "continuing care facility" as defined in Title 38.2, Chapter 49, of the Code of Virginia has not commenced by December 31, 1995, the restrictions set forth in the first sentence of this Condition 22 shall thereupon terminate and Owner shall be limited to a maximum of 248 dwelling units in Land Bay M-10.

7. Except as specifically amended above, the Restated Proffers shall remain unchanged and in full force and effect.

WITNESS the following signatures:

GREENSPRINGS PLANTATION, INC.

By: Man B. Shaw
Title: PRESIDENT

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

The foregoing instrument was acknowledged before me
this 29th day of SEPTEMBER, 1993 by Marc B. Sharp.

Lisa N. Staud
NOTARY PUBLIC

My commission expires:

10-31-97.

EXHIBIT "A"

BOOK 502 PAGE 519

427 4477

PARCEL 1

All those certain tracts, pieces, or parcels of land situate, lying and being in James City County, Virginia, and shown as Parcel "B", containing 916.77 acres, and Parcel "D", containing 572.50 acres, all as shown on that certain plat entitled, "Plat Showing a Portion of Green Springs," dated July 24, 1965, made by S. U. Camp, III, & Associates, Certified Land Surveyor, Courthouse, Virginia, a copy of which said plat is recorded in the Clerk's Office of the City of Williamsburg and County of James City in Plat Book 24, pages 18A and 18B.

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

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

LESS AND EXCEPT property subject to a certain Option On Real Estate recorded July 24, 1986 in James City County Deed Book 309, Page 446, to Jorge Luna and Leticia Luna, and Herman Zamora and Josefina Zamora, or their assigns;

LESS AND EXCEPT property conveyed by deed recorded April 16, 1986 in James City County Deed Book 299, Page 334, to the Commonwealth of Virginia;

LESS AND EXCEPT property conveyed by deed recorded January 11, 1978 in James City County Deed Book 181, Page 333, to the United States of America;

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

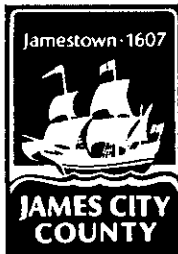
LESS AND EXCEPT any and all property in the said "Parcel B" east of Pehatan Creek;

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

In the Clerk's office of the Circuit Court of the City of Williamsburg and County of James City the 15 day of Nov, 1993 This

was presented with certificate annexed and admitted to record at 1:31 o'clock

Teste: Helene S. Ward, Clerk by [Signature] Deputy Clerk



OFFICE OF COUNTY ADMINISTRATOR
P. O. Box 8784
Williamsburg, Virginia 23187-8784

County Government Center, 101-C Mounts Bay Road
(804)253-6605

Create for
Greensprings file
Dev

May 16, 1995

Board of Supervisors
Perry M. DePue
Jack D. Edwards
Robert A. Magoon, Jr.
David L. Sisk
Stewart U. Taylor

County Administrator
David B. Norman

Mr. Marc Sharp
Greensprings Plantation
4029 Ironbound Road
Williamsburg, Virginia 23188

Dear Mr. Sharp:

In accordance with the Greensprings Proffer Agreement, the County is requesting that Greensprings convey to the County a public use site of at least 6 acres and a public use site of at least 10 acres in the locations shown on the Amended Master Plan. These sites shall be accessible from a public road.

It will be necessary for you to submit a preliminary survey plat for each parcel to the Planning Division for their review and comment. Once the Planning Division has approved the preliminary plats for the two parcels, Greensprings shall deed the parcels over to the County.

As you are well aware, Patriot's Colony is anxious to obtain final site plan approval and begin construction. Prior to final site plan approval, Patriot's Colony must enter into a cost share agreement to construct a pier over a ravine which would link the six acre public use site and the western side of Patriot's Colony. Once the County takes ownership of this parcel, this cost share agreement between the County and Patriot's Colony can be finalized. Your quick response to this request would be very much appreciated.

Thanks for your cooperation and if you have any questions please call Leo Rogers, Deputy County Attorney, at 253-6614.

Sincerely,

David B. Norman
County Administrator

bcc: Matt Maxwell

Fax: (804) 253-6833

COMMONWEALTH OF VIRGINIA



OFFICIAL RECEIPT
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT
DEED RECEIPT

DATE: 11/15/93 TIME: 13:31:10 ACCOUNT: 095CLR930015911 RECEIPT: 93000025845
CASHIER: CHR REG: W204 TYPE: AB PAYMENT: FULL PAYMENT
INSTRUMENT : 930015911 BOOK: 0 PAGE: 0 RECORDED: 11/15/93 AT 13:31
GRANTOR NAME : GREENSPRINGS PLANTATION INC EX: N LOCALITY: CC
GRANTEE NAME : GREENSPRINGS PLANTATION INC EX: N PERCENT: 100%
AND ADDRESS :
RECEIVED OF : JCCD DATE OF DEED: 09/29/93

CHECK : \$18.00
DESCRIPTION 1: FIRST AMEND GREENSPRINGS PROFFER AGREEMENT
2:

CONSIDERATION:	.00	ASSUMPTION:	.00	TAP:	
CODE DESCRIPTION		PAID CODE DESCRIPTION			PAID
301 DEEDS		17.00 145 VSLF			1.00

TENDERED : 18.00
AMOUNT PAID: 18.00
CHANGE AMT : .00

CLERK OF COURT: HELENE S. WARD

DC-18 (4/93)

COUNTY ATTORNEY
JCC - BLDG. C