

120000540

THE CANDLE FACTORY

PROFFERS

THESE PROFFERS are made this 4<sup>th</sup> day of November, 2011 by CANDLE DEVELOPMENT, LLC (together with its successors in title and assigns, the "Owner") and JOHN B. BARNETT, JR. and JUDITH BARNETT, individually and as Trustees of the John B. Barnett Jr. and Judith L. Barnett Living Trust dated June 2, 2011 (the "Barnetts").

RECITALS

A. Owner is the owner of two tracts or parcels of land located in James City County, Virginia, with addresses of 7551 and 7567 Richmond Road, and being Tax Parcels 2321100001D and 2321100001E, containing approximately 64.356 acres (the "Candle Property"), and has contractual rights to acquire from the Barnetts a 1.764 acre portion of Tax Parcel 2321100001A (the "Barnett Property"), with the Candle Property and the Barnett Property being more particularly described on Exhibit A hereto (together, the "Property").

B. The Property is now zoned A-1, M-1 and MU. The Property is designated Low Density Residential and Mixed Use on the County's Comprehensive Plan Land Use Map.

C. The Owner has applied to rezone the Property from A-1, M-1 and MU to MU, with proffers.

D. Owner has submitted to the County a master plan entitled "Master Plan for Rezoning of Candle Factory Property for Candle Development, LLC" prepared by AES Consulting Engineers dated September 24, 2008, last revised March 5, 2010 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

Prepared By: Kaufman & Canoles, P.C., 4801 Courthouse Street, Suite 300, Williamsburg, VA 23188  
Return To: James City County Attorney's Office, 101-C Mounts Bay Road, Williamsburg, VA 23185

E. Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land zoned MU.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as amended (the “Virginia Code”), and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

#### CONDITIONS

1. **Density.** (a) There shall be no more than 175 dwelling units (“dwelling units”) in Areas 1B and 1C as shown on the Master Plan. There shall be no more than 96 assisted living units (“assisted living units”) in Area 1A as shown on the Master Plan. The term “assisted living unit” shall mean a non-medical residential room in the assisted living facility in Area 1A licensed in accordance with Sections 63.2-1800 et seq. of the Virginia Code and Sections 22 VAC 40-72 et seq. of the Virginia Administrative Code where adults who are aged, infirm or disabled are provided personal and health care services and 24-hour supervision and assistance. Rooms must meet the standards set forth in 22 VAC 40-72-730 and 880. Typically rooms are occupied by one person. No more than two persons may occupy a room and only persons directly related by blood or marriage may occupy the same room.

(b) All assisted living units developed on the Property shall be occupied by persons eighteen (18) years of age or older in accordance with applicable federal and state laws and regulations, including but not limited to: the Fair Housing Act, 42 U.S.C. 3601 et seq. and the exemption therefrom provided by 42 U.S.C. 3607(b)(2)(C) regarding discrimination based on

familial status; the Housing for Older Persons Act of 1995, 46 U.S.C. 3601 et seq.; the Virginia Fair Housing Law Va. Code 36-96.1 et seq.; any regulations adopted pursuant to the foregoing; any judicial decisions arising thereunder; any exemptions and/or qualifications thereunder; and any amendments to the foregoing as now or may hereafter exist. Specific provisions of the age restriction described above and provisions for enforcement of same shall be set forth in a recorded document which shall be subject to the review and approval of the County Attorney prior to issuance of the first building permit for construction in Area 1A.

2. **Owners Association.** There shall be organized a master owner's association for the Candle Factory development (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. In addition, there may be organized separate owner's associations for individual neighborhoods and for commercial uses within the Property in which all owners in the neighborhood or commercial area, by virtue of their property ownership, also shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer prior to final subdivision or site plan approval. The Governing Documents shall require that each Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, if any, sidewalks, and all other common areas (including open spaces) under the jurisdiction of each Association and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall

grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. The Governing Documents shall authorize the Association to develop, implement and enforce a water conservation plan and nutrient management plan as provided herein.

3. **Water Conservation.** (a) The Owner shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority (“JCSA”) and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of drought resistant native and other adopted low water use landscaping materials and warm season turf on lots and common areas in areas with appropriate growing conditions for such turf and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the JCSA prior to final subdivision or site plan approval.

(b) In the design phase, Owner shall take into consideration the design of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. If the Owner desires to have outdoor watering of common areas on the Property it shall provide water for irrigation utilizing surface water collection from the surface water ponds or other rainwater collection devices and shall not use JCSA water or well water for irrigation purposes, except as provided below. This requirement prohibiting the use of well water may be waived or modified by the General Manager of JCSA if the Owner demonstrates to the JCSA General Manager that there is insufficient water for irrigation in the surface water impoundments, and the

Owner may apply for a waiver for a shallow (less than 100 feet) well to supplement the surface water impoundments.

4. **Affordable and Mixed Costs Housing.** A minimum of 5 of the dwelling units shall be reserved and offered for sale at a sales price to buyer at or below \$160,000 subject to adjustment as set forth herein ("Affordable Units"). A minimum of an additional 5 of the dwelling units shall be reserved and offered for sale at a price at or below \$190,000 subject to adjustment as set forth herein. A minimum of an additional 48 of the dwelling units shall be reserved and offered for sale at a price at or below \$225,000 subject to adjustment as set forth herein. The maximum prices set forth herein shall include any adjustments as included in the Marshall and Swift Building Costs Index (the "Index") annually beginning January 1, 2012 until January 1 of the year in question. The adjustment shall be made using Section 98, Comparative Costs Multipliers, Regional City Averages of the Index of the adjusting year. Owner shall consult with and accept referrals of, and sell to, potential buyers qualified for the Affordable Housing Incentive Program ("AHIP") from the James City County Office of Housing and Community Development on a non-commission basis. At the request of the Office of Housing and Community Development, Owner shall provide downpayment assistance second deed of trust notes and second deeds of trust for the Affordable Units for the difference between the appraised value of the Affordable Unit and its net sale price to the purchaser in accordance with AHIP using the approved AHIP form of note and deed of trust. The Director of Planning shall be provided with a copy of the settlement statement for each sale of an Affordable Unit and a spreadsheet prepared by Owner showing the prices of all of the Affordable Unit that have been sold for use by the County in tracking compliance with the price restrictions applicable to the

Affordable Units. These documents shall be provided on or before January 30th of each year for all sales closing during the prior calendar year until all the Affordable Units have been sold. Affordable Units shall not be constructed all in the same location.

**5. Cash Contributions for Community Impacts.**

(a) Owner shall make a cash contribution to the County to offset community impacts to areas such as schools, stream restoration, traffic improvements, emergency and library services, and sewer and water facilities, based on the specific size, density, and scale of the development as approved and to the extent developed in connection herewith (the “Cash Contribution Amount”). Assuming full build out of the development as proposed herein, the Cash Contribution Amount shall be a lump sum amount of One Million Nine-Hundred Forty-Seven Thousand Nine-Hundred Seventeen and 61/100 Dollars (\$1,947,917.61). Rather than developing the Property all at once, the developer may elect to submit subdivision plats or site plans for portions of the development on the Property. If the developer so elects, the Cash Contribution Amount shall be payable incrementally at the time of each final site plan or subdivision plat approval requested in connection with the residential or assisted living facility components of this development. At the time of any final site plan or subdivision plat approval for any portion of the residential or assisted living components of this project, Owner shall pay any portion of the Cash Contribution Amount attributable to that portion of the development included on a final site plan or subdivision plat. The portion of the Cash Contribution Amount to be paid at each such approval shall be calculated to accurately and incrementally represent the percentage of the residential or assisted living facility land use entitlements for which final site plan or subdivision plat approval is being granted as compared to the overall land use

entitlements approved for the residential and assisted living facility components of this development. The Owner and the County shall execute a recordable agreement at the time of approval of any subdivision plat or site plan to reflect the partial payment arrangement with respect to the Cash Contribution Amount.

It is the Owner's specific intention and agreement that this Section 5(a) does not violate Virginia Code §15.2-2303.1:1, and Owner hereby waives any rights it may have to challenge this method of payment of the Cash Contribution Amount as being in conflict with such statute. Notwithstanding any provision to the contrary contained herein, if any portion of this Section 5(a) shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable for any reason, the rezoning in connection herewith shall be deemed null and void and the zoning of the Property shall revert to that applicable to the Property immediately prior to the subject rezoning, unless Owner agrees to pay any outstanding portion of the Cash Contribution Amount to the County on the same terms stated herein notwithstanding such ruling of invalidity of this Section 5(a).

(b) A contribution of an amount equal to \$2.17 per gallon of average daily sanitary sewage flow as determined by JCSA for each non-residential building based on the use of the building(s) shall be made to the JCSA to defray the costs of the Colonial Heritage Pump Station and Sewer System Improvements or any project related to improvements to the JCSA sewer system. Such contribution shall be payable at the time of final site plan approval for each non-residential building on the Property.

(c) A one-time contribution of \$30,000.00 shall be made to the County for off-site sidewalks. The County shall not be obligated to issue certificates of occupancy for more than 87 residential dwelling units on the Property until this contribution has been paid.

(d) The contribution(s) paid in each year pursuant to this Section and Section 6(e) shall be adjusted annually beginning January 1, 2012 to reflect any increase or decrease for the preceding year in the Index. In no event shall the amounts stated in this Section be adjusted pursuant to this Section 5(d) to a sum less than the amounts set forth in paragraphs (a) through (c) of this Section and Section 6(e). The adjustment shall be made using Section 98, Comparative Costs Multipliers, Regional City Averages of the Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the contributions to approximate the rate of annual inflation in the County.

6. **Entrances; Traffic Improvements.** (a) The existing private driveway at the Route 60/Croaker Road intersection shall be reconstructed to a public road with a four lane road section (provided, however, that the Director of Planning may require a fifth lane, if the level of development that has occurred on Tax Map Parcel Nos. 2331100001F and 2331100001G warrants such additional lane) at the Route 60 intersection and tapering to a two lane section. The northbound Croaker Road approach to the Croaker Road/Route 60 intersection shall include a left turn lane with 200 feet of storage, a through lane (provided, however, that the Director of Planning may require a through/left turn lane, if the level of development that has occurred on



Tax Map Parcel Nos. 2331100001F and 2331100001G warrants such through/left turn lane) and a right turn lane.

(b) At the intersection of Route 60 and Croaker Road, a right turn lane with 200 feet of storage and a 200 foot taper and with shoulder bike lane from east bound Route 60 into the Property shall be constructed.

(c) At the intersection of Route 60 and Croaker Road, the eastbound left turn lane shall be extended to have 200 feet of storage and a 200 foot taper.

(d) The improvements proffered hereby shall be constructed in accordance with Virginia Department of Transportation (“VDOT”) standards and shall include any related traffic signal improvements or replacement, including signal coordination equipment, at that intersection. The improvements listed in paragraphs (a) through (c) shall be completed or their completion bonded in form satisfactory to the County Attorney prior to final subdivision plat or site plan approval for development on the Property.

(e) Within 180 days after the County issuing building permits for more than 135 of the residential units on the Property, Owner shall pay to VDOT the costs, not to exceed \$10,000.00, of the equipment at the Norge Lane/Route 60 traffic signal necessary to allow the coordination of that signal and the signal at the Croaker Road/Route 60 intersection.

(f) Subject to the prior approval of VDOT and when sidewalk has been constructed on the north side of Route 60 at the Croaker Road/Route 60 intersection to receive pedestrians, Owner shall install or pay the costs of installation of crosswalks across Route 60, a median refuge island, signage and pedestrian signal heads at the intersection (“Pedestrian Improvements”). The County shall not be obligated to issue building permits for more than 100

residential units on the Property until either (i) the Pedestrian Improvements have been installed, or (ii) Owner shall have paid the costs of such improvements to the County or posted a bond in form satisfactory to the County Attorney for the installation of such Pedestrian Improvements.

7. **Connections to Adjacent Properties.** Owner shall provide pedestrian and vehicular connections between the Property and the adjacent property (Tax Parcel 2321100001F) generally as shown on the Master Plan, with the plans, location and materials for such connections subject to review and approval by the Director of Planning and with such connections to be shown on the development plans for the Property. The connections shall be either (i) installed or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of final site plan approval for the phase of the development in which such connection is located.

8. **Streetscape Guidelines.** The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy or, with the permission of VDOT, the plantings (meeting County standards for plant size and spacing) may be installed in the adjacent VDOT right-of-way. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the subdivision or site plan approval process. Street trees shall be located no farther than 10 feet from the edge of pavement, subject to VDOT approval. Streetscape improvements shall be either (i) installed within six months of the issuance of a certificate of occupancy for any residential or non-residential units adjacent structures or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of a certificate of occupancy for any residential or non-residential units in adjacent structures.

9. **Recreation**. (a) The following recreational facilities shall be provided:

approximately 3.65 acres of parkland; one centrally located, shared playground at least 2,500 square feet in area with at least five activities either in composite structures or separate apparatus; one picnic shelter of at least 625 square feet; a minimum eight foot wide, concrete or asphalt shared use path along one side of the entrance road approximately .36 miles in length and an additional approximately .94 miles of soft surface walking trails generally as shown on the Master Plan; one paved multi-purpose court approximately 50' x 90' in size; and two multi-purpose fields, one of which will be at least 200' x 200' in size. The exact locations and design of the facilities proffered hereby and the equipment to be provided at such facilities shall be shown on development plans for the Property and approved by the Director of Planning. Recreational facilities shall be constructed at the time of the construction of the phase of the development in which they are located or immediately adjacent to as shown on the development plans for the Property.

(b) There shall be provided on the Property other recreational facilities, if necessary, such that the overall recreational facilities on the Property meet the standards set forth in the County's Parks and Recreation Master Plan as determined by the Director of Planning

10. **Archaeology**. If required by the Director of Planning, a Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and

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

**11. Design Guidelines and Review; Sustainable Building.** Owner shall prepare and submit design review guidelines to the Director of Planning for his review and approval setting forth design and architectural standards for the development of the Property generally consistent with the Supplemental Submittal materials submitted as a part of the rezoning application and on file with the Planning Department and the general intent of the design standards outlined in the Comprehensive Plan for the Norge Community Character Area for the approval of the Director of Planning prior to the County being obligated to grant final approval to any development plans for the Property (the "Guidelines"). Once approved, the Guidelines may not be amended without

the approval of the Director of Planning. Owner shall establish a Design Review Board to review all building plans and building elevations for conformity with the Guidelines and to approve or deny such plans. Owner shall achieve LEED certification at the certified level for the assisted living and the commercial buildings shown on the Master Plan. All single family detached houses shall achieve EarthCraft House Virginia certification at the EarthCraft House Certified (Level I) level. Owner shall provide a copy of each certification to the Director of Planning within one year of the issuance of a certificate of occupancy for such building or dwelling.

12. **Sidewalks.** There shall be sidewalks installed on at least one side of each of the public streets on the Property, which sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of any certificates of occupancy for adjacent dwelling units. The Planning Director shall review and approve sidewalk design.

13. **Curb and Gutter.** Streets (but not the private alleys) within the Property shall be constructed with curb and gutter provided, however, that this requirement may be waived or modified by the Director of Planning along those segments of street, including entrance roads, where structures are not planned.

14. **Master Stormwater Management Plan.** (a) Owner shall submit to the County a master stormwater management plan for the Property consistent with the Conceptual Stormwater Management Plan prepared by AES Consulting Engineers dated September 24, 2008 (“Stormwater Plan”) and included in the Master Plan set submitted herewith and on file with the County, including facilities and measures necessary to meet the County’s 10 point stormwater management system requirements and the special stormwater criteria applicable in the Yarmouth

Creek watershed (“SSC”) and, in addition, including additional LID measures to treat stormwater from 30% of the impervious areas on the Property, which additional LID measures are over and above those necessary to meet the 10 point and SSC requirements. Prior to the County granting final approval of any subdivision or site plan, Owner shall submit to the Environmental Division a geotechnical report from a duly licensed engineer confirming the embankment of Marston’s Pond is structurally sound or indentifying any repairs needed to make the embankment structurally sound. Any necessary repairs shall be incorporated into the development plans for the Property. The master stormwater management plan shall be approved by the Environmental Director or his designee prior to the submission of any development plans for the Property. The master stormwater management plan may be revised and/or updated during the development of the Property based on on-site conditions discovered in the field with the prior approval of the Environmental Division. The approved master stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Property.

15. **Nutrient Management Plan.** The Association shall be responsible for contacting an agent of the Virginia Cooperative Extension Office (“VCEO”) or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia, an agent of the Soil and Water Conservation District or other qualified professional to conduct soil tests and to develop, based upon the results of the soil tests, customized nutrient management plans (the “Plans”) for all common areas within the Property and each individual single family lot shown on each subdivision plat of the Property. The Plans shall be submitted to the County’s Environmental Director for his review and approval prior to the issuance of the building permits for more than 25% of the units shown on the subdivision plat. Upon approval, the Owner so long as it controls

the Association and thereafter the Association shall be responsible for ensuring that any nutrients applied to common areas which are controlled by the Association be applied in strict accordance with the Plan. The Owner shall provide a copy of the individual Plan for each lot to the initial purchaser thereof. Within 12 months after issuance of the Certificate of Occupancy for the final dwelling unit on the Property and every three years thereafter, a turf management information seminar shall be conducted on the site. The seminar shall be designed to acquaint residents with the tools, methods, and procedures necessary to maintain healthy turf and landscape plants. The County shall be provided evidence of the seminars taking place by submitting to the Planning Director a seminar agenda and or minutes no later than 10 days after each seminar.

16. **Private Streets.** All private streets, if any, and alleys on the Property shall be maintained by the Association. The party responsible for construction of a private street shall deposit into a maintenance reserve fund to be managed by the association responsible for maintenance of that private street an amount equal to one hundred and fifty percent (150%) of the amount of the maintenance fee that would be required for a similar public street as established by VDOT - Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee prior to final site plan or subdivision plat approval by the County for the particular phase or section which includes the relevant private street.

17. **Development Phasing.** The County shall not be obligated to grant final subdivision plat or site plan approval for more than the number of lots/dwelling units on a cumulative basis set forth beside each anniversary of the date of the final approval of the applied for rezoning by the Board of Supervisors:

<u>Anniversary of Rezoning</u>	<u>Maximum Number of Lots/Units</u>
1	55
2	115
3 and thereafter	175

18. **Water and Sanitary Sewer Master Plan.** Owner shall submit to the JCSA for its review and approval a master water and sanitary sewer plan for the Property prior to the submission of any development or subdivision plans for the Property.

19. **Route 60 Median Landscaping.** Subject to VDOT approval, Owner shall install landscaping as provided herein in the portion of the Route 60 median beginning at the Route 60/Croaker Road intersection and extending eastward 800 feet. The landscaping shall consist of 20 street trees at least 125% of Ordinance caliper size requirements. A landscape plan for the median shall be submitted to the Director of Planning with the initial site plan for development on the Property for his review and approval for consistency with this proffer and the County's Streetscape policy. The median shall be planted or the planting bonded in a form satisfactory to the County Attorney prior to the County being obligated to issue building permits for buildings located on the Property.

20. **Crosswalks.** Subject to VDOT approval, Owner shall provide a crosswalk across Croaker Road from Tax Parcel 2321100001B to Tax Parcel 2321100001F and crosswalks providing access to the two internal parks on the Property both in the locations generally as shown on the Master Plan at the time the final layer of pavement is placed on the segment of Croaker Road where the crosswalks are located.

21. **Phasing of Residential Development Based on Assisted Living Facility.** The County shall not be obligated to issue building permits for more than 87 dwelling units on the



Property until a temporary or permanent certificate of occupancy has been issued by the County for the assisted living facility located in Area 1A of the Master Plan.

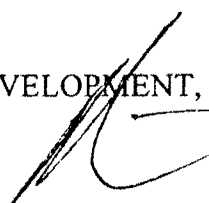
**22. Master Plan.** The Property shall be developed generally as shown on the Master Plan. Development plans may deviate from the Master Plan as provided in Section 24-518 of the Zoning Ordinance.

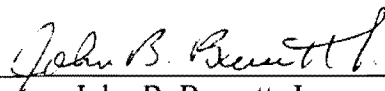
**23. Phased Clearing.** The Property shall be developed in phases in accordance with the approved site plan or plans for the development. Owner shall only clear the area necessary for the construction and operation of the phase then under development. Such necessary clearing includes, without limitation, clearing for roads, sidewalks, trails, building sites, recreational facilities and areas, utility connections, earthwork and grading, soil stockpiles and stormwater management. The limits of clearing for each phase shall be subject to the approval of the Environmental Director or his designee.

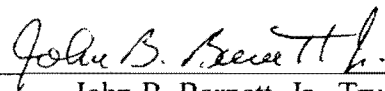
**24. Severability.** In the event that any clause, sentence, paragraph, section or subsection of these proffers shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application thereof directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or provision hereof.

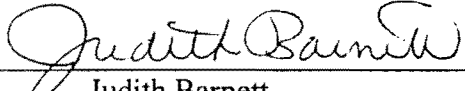
WITNESS the following signatures.

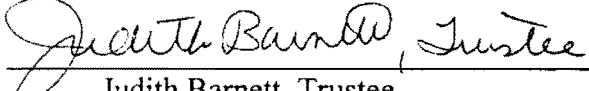
CANDLE DEVELOPMENT, LLC

By:   
Pete Henderson

  
John B. Barnett, Jr.

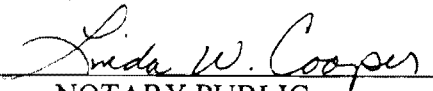
  
John B. Barnett, Jr., Trustee

  
Judith Barnett

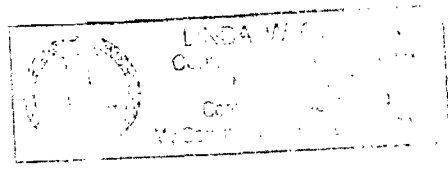
  
Judith Barnett, Trustee

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

The foregoing instrument was acknowledged this 30<sup>th</sup> day of December, 2011,  
by Pete Henderson on behalf of Candle Development, LLC.

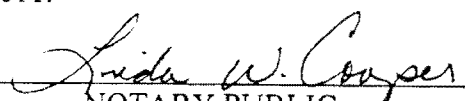
  
NOTARY PUBLIC

My commission expires: 10/31/12  
Registration No.: 183594



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

The foregoing instrument was acknowledged this 3<sup>rd</sup> day of January, 2012,  
John B. Barnett, Jr. and Judith Barnett, individually and as trustees of the John B. Barnett, Jr. and  
Judith L. Barnett Living Trust dated June 2, 2011.

  
NOTARY PUBLIC

My commission expires: 10/31/12  
Registration No.: 183594

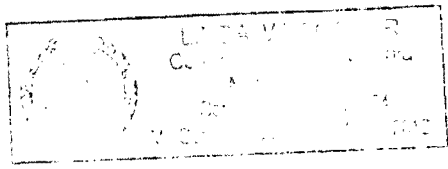


Exhibit A  
Property Description

Parcel D1

All that certain piece, parcel or lot of land situate in James City County, Virginia, set out and described as Parcel D1 as shown on a certain plat entitled "PLAT OF SUBDIVISION ON THE PROPERTY OWNED BY JOHN B. BARNETT JR., POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated April 6, 2006 and made by AES Consulting Engineers of Williamsburg, Virginia, recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia as Instrument No.

and

Parcel E

All that certain piece, parcel or lot of land situate in James City County, Virginia, set out and described as Parcel E as shown on a certain plat entitled "PLAT OF SUBDIVISION & PROPERTY LINE EXTINGUISHMENT BETWEEN THE PROPERTIES OWNED BY JOHN B. BARNETT JR., CHICKASAW, L.L.C. AND BARNETT DEVELOPMENT COMPANY, INC., POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated April 4, 2006 and made by AES Consulting Engineers of Williamsburg, Virginia, recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia as Instrument No. 060013607.

And

Portion of Parcel A

PROPERTY DESCRIPTION  
A PORTION OF PARCEL "A"  
TAX MAP PARCEL #(23-2)(11-1A)  
CONTAINING A TOTAL OF 1.764 ACRES±

ALL THAT CERTAIN PORTION OF PARCEL "A", TAX MAP PARCEL #(23-2)(11-1A), SITUATE, LYING AND BEING IN THE POWHATAN DISTRICT OF THE COUNTY OF JAMES CITY, VIRGINIA, CONTAINING A TOTAL OF 76,820 SQUARE FEET± OR 1.764± ACRES MORE OR LESS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF RICHMOND ROAD, U. S. ROUTE #60; A CORNER OF PARCEL "B", NOW OR FORMERLY OWNED BY CROSSWALK COMMUNITY CHURCH, INC., TAX MAP PARCEL #(23-2)(11-1B); THENCE IN A EASTERLY DIRECTION AND ALONG THE

SOUTHERLY RIGHT-OF-WAY LINE OF RICHMOND ROAD, U. S. ROUTE #60, S70°01'07"E, 573.20' TO A POINT; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 2824.79' AND AN ARC LENGTH OF 14.83' TO A POINT; THIS BEING THE TRUE POINT OF BEGINNING (P.O.B.) AND THE NORTHWESTERN CORNER OF PARCEL "A" OF THE PROPERTY DESCRIBED HEREON.

THENCE FROM SAID TRUE POINT OF BEGINNING, SAID POINT BEING ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF RICHMOND ROAD, U. S. ROUTE #60, A CORNER TO PARCEL "A" OF THE PROPERTY DESCRIBED HEREON AND PARCEL "E" OF THE LANDS NOW OR FORMERLY OWNED BY CANDLE DEVELOPMENT, LLC; THENCE CONTINUING ALONG THE RIGHT-OF-WAY LINE OF RICHMOND ROAD, U. S. ROUTE #60, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 2824.79' AND AN ARC LENGTH OF 25.14' TO A POINT; A CORNER TO PARCEL "A" OF THE PROPERTY DESCRIBED HEREON AND PARCEL "D" OF THE LANDS NOW OR FORMERLY OWNED BY CANDLE DEVELOPMENT, LLC; THENCE LEAVING SAID CORNER AND RIGHT-OF-WAY LINE OF RICHMOND ROAD, U. S. ROUTE #60, S26° 33'06"W, 399.43' TO A POINT; THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 583.96' AND AN ARC LENGTH OF 71.64' TO A POINT; THENCE S19° 31'22"W, 247.60' TO A POINT, THENCE S36° 52'20"W, 2358.01' TO A POINT; THENCE N51° 43'03"E, 25.01' TO A POINT; THENCE N36° 52'20"E, 2353.58' TO A POINT; THENCE N19° 31'22"E, 243.78' TO A POINT; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 608.96' AND AN ARC LENGTH OF 74.71' TO A POINT; THENCE N26° 33'06"E, 396.79' TO THE AFORESAID TRUE POINT OF BEGINNING;

THAT PORTION OF PARCEL "A" AND THE PROPERTY DESCRIBED HEREON IS MORE PARTICULARLY SHOWN ON THAT CERTAIN PLAT ENTITLED, "PLAT OF SUBDIVISION & PROPERTY LINE EXTINGUISHMENT BETWEEN THE PROPERTIES OF JOHN B. BARNETT, JR., CHICKASAW, L.L.C. AND BARNETT DEVELOPMENT COMPANY, INC.", DATED APRIL 4, 2006, REVISED MAY 5, 2006 AND DULY RECORDED AT THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE COUNTY OF JAMES CITY, VIRGINIA AS INSTRUMENT #060013607.