

Tax Parcels: 3843300001C and 3843300002B

Prepared by ~~and return to:~~  
Vernon M. Geddy, III, Esquire  
Geddy, Harris, Franck & Hickman, L.L.P.  
1177 Jamestown Road, Williamsburg, VA 23185

~~by~~/Return to:  
✓ Adam R. Kinsman  
Deputy County Attorney  
P. O. Box 8784  
101-C Mounts Bay Road  
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**FIRST AMENDMENT TO NEW TOWN - SECTION 9 -  
SETTLER'S MARKET AT NEW TOWN - PROFFERS**

This First Amendment to New Town – Section 9 – Settler’s Market at New Town – Proffers is made this 15th day of September, 2011 by FCP SETTLER’S MARKET II, LLC, a Virginia limited liability company (“Owner”), to be indexed as “Grantor,” and the COUNTY OF JAMES CITY, VIRGINIA (the “County”), to be indexed as Grantee.

**RECITALS**

R-1. Owner is the owner of certain real property in James City County, Virginia, being more particularly described on Exhibit A attached hereto and made a part hereof (the “FCP II Property”). The FCP II Property is a part of Section 9 of New Town and is subject to (i) New Town – Section 9 – Settler’s Market at New Town – Proffers dated March 17, 2006 and recorded in the Clerk’s Office of the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 060017870 (the “Existing Proffers”); (ii) a master plan entitled “Settler’s Market at New Town, Master Plan” dated December 22, 2005 (the “Existing Master Plan”); and (iii) design guidelines entitled “Settler’s Market at New Town, Design Guidelines” dated December 5, 2005 (the “Existing Design Guidelines”).

R-2. Owner has applied to the County to amend the Existing Master Plan and Existing Design Guidelines as they apply to the FCP II Property only and, in connection therewith, desires to amend the Existing Proffers.

R-3. Owner has submitted to the County (i) an amended master plan of the FCP II

Property entitled “New Town, A Portion of Section 9, Master Plan Amendment” made by AES Consulting Engineers dated June 22, 2011 and revised August 31, 2011 (the “FCP II Master Plan”) and (ii) an amendment to the Existing Design Guidelines applicable to the FCP II Property entitled “Settler’s Market at New Town, Design Guidelines Amendment” prepared by AES Consulting Engineers and Hopke & Associates, Inc. dated June 22, 2011, revised September 2, 2011 (the “FCP II Guidelines”).

#### AMENDMENT TO PROFFERS

1. With respect to the FCP II Property only, the defined terms “Section 9 Master Plan” and “Section 9 Guidelines” used in the Existing Proffers shall mean and refer to the FCP II Master Plan and FCP II Guidelines, respectively. With respect to all other portions of Section 9, the meaning of those defined terms in the Existing Proffers shall remain unchanged.

2. In addition to the options set forth in Proffer 2 of the Existing Proffers, Owner shall have the option to submit the FCP II Property to the New Town Residential Association, Inc., a Virginia non-stock corporation (the “Residential Association”), and the Amended and Restated Master Declaration of Protective Covenants and Restrictions, New Town (Residential), dated June 27, 2005, recorded in the Clerk's Office as document no. 050014430, the Articles of Incorporation and the Bylaws governing the Residential Association, as any of the foregoing have been or may be hereafter supplemented, amended or modified pursuant to the terms thereof, with it being specifically intended that the FCP II Property shall be maintained as a stand-alone development by the owner thereof and the FCP II Property shall not be subject to all of the covenants, restrictions, terms and conditions set forth in the declarations governing New Town.

3. Except as specifically amended hereby, the Existing Proffers remain unchanged and in effect.

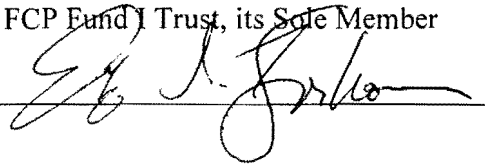
WITNESS the following signature.

FCP SETTLER'S MARKET II, LLC

By: FCP Settler's Market Member, LLC,  
its Class A Member and General Manager

By: FCP Fund I Trust, its Sole Member

By: \_\_\_\_\_



*District of Columbia*

~~STATE OF VIRGINIA~~

~~CITY OF WILLIAMSBURG~~, to-wit:

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of Sept.,  
2011, by Esko I. Korhonen President of FCP Fund I Trust, sole  
member of FCP Settler's Market Member, LLC, Class A Member and Manager of FCP Settler's  
Market II, LLC, on behalf of the company.

*Dorothy A. Leggin* (SEAL)  
Notary Public

My Commission expires: \_\_\_\_\_  
Registration No. \_\_\_\_\_

**DOROTHY A. LEGGIN**  
**NOTARY PUBLIC DISTRICT OF COLUMBIA**  
**My Commission Expires June 14, 2012**



EXHIBIT "A"

FCP II Property Legal Description

Parcel C

All of that certain real property situated in James City County, Commonwealth of Virginia, described as Parcel C, as shown on the plat made by Ronald W. Eads, L.S., dated July 10, 2007, last revised January 28, 2008, entitled "PLAT OF SUBDIVISION, BOUNDARY LINE ADJUSTMENT, AND PROPERTY LINE EXTINGUISHMENT OF THE PROPERTIES OWNED BY AK) BAKER WILLIAMSBURG, L.L.C. AND SETTLERS MARKET DEVELOPERS, LLC, NEW TOWN SECTION 9, 'SETTLER'S MARKET AT NEWTOWN", as attached to Affidavit of Plat recorded March 27, 2008, among the Clerk's Office of the Circuit Court of James City County, Virginia, as Instrument No. 080008540, LESS and EXCEPT those portions of the above described parcel contained within proposed Casey Boulevard and Settlers Market Boulevard, and shown on said plat as dedicated, or to be dedicated, to public use.

IT BEING a portion of the same property conveyed to FCP Settler's Market II, LLC from Union Bank, N.A. by Deed dated January 31, 2011 and recorded in the Clerk's Office of the Circuit Court of James City County, Virginia as Instrument Number 110003643.

Parcel 2B

That certain parcel or lot of land located in James City County, Virginia shown and set out as "Parcel #2B (508,959 S.F.±; 11.684 AC.±)" on the plat entitled "Plat of Subdivision, Parcel 2A, New Town, Section 9, "Settler's Market at New Town," Property of FCP Settler's Market, LLC. (FCP I)," consisting of Sheets 1 through 3, made by AES Consulting Engineers and dated April 20, 2011, which plat is recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City as Instrument No. 110011912.

Together with all and singular the buildings and improvements thereon, the rights and privileges, tenements, hereditaments, easements and appurtenances unto the land belonging or in anywise appertaining.

Subject, however, to all easements, conditions, and restrictions of record affecting said property.

This is a portion of the same property conveyed unto FCP Settler's Market II, LLC by Deed dated June 22, 2011 from FCP Settler's Market, LLC and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City as Instrument Number 110013932.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on Dec 19, 2011  
at 9:58 AM/PM The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.  
STATE TAX LOCAL TAX ADDITIONAL TAX

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
TESTE: BETSY B. WOOLRIDGE, CLERK

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BY: Betsy B. Woolridge Clerk