

Tax Parcel No. 3831800005

120022140

NEW TOWN SECTION 12
PROFFERS

Prepared by/██████████
Kaufman & Canoles, P.C.
4801 Courthouse Street, Suite 300
Williamsburg, Virginia 23188

1 of 22

RETURN TO:
Adam R. Kinsman, Esq.
James City County Attorney's Office
101-D Mounts Bay Road
Williamsburg, VA 23187

NEW TOWN SECTION 12 PROFFERS

THESE PROFFERS ("Proffers") are made this 19th day of September, 2012, by and between **OXFORD PROPERTIES, LLC**, a Virginia limited liability company, and/or its successors and assigns (collectively the "Developer") (to be indexed as grantor), **C. C. CASEY LIMITED COMPANY**, a Virginia limited liability company ("Owner") (to be indexed as grantor), and **THE COUNTY OF JAMES CITY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia ("County") (to be indexed as grantee), provides as follows:

RECITALS

R-1. Developer is the contract purchaser of certain real property located in James City County, Virginia, being more particularly described on **EXHIBIT A** attached hereto and made a part hereof (the "Property").

R-2. The Property is subject to the New Town Proffers (the "New Town Proffers"), dated December 9, 1997, of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia (the "Clerk's Office") as Instrument Number 980001284.

R-3. The New Town Proffers provide for development of the Property in accordance with (i) a conceptual plan of development (the "New Town Master Plan") entitled, "NEW TOWN PLAN", dated July 23, 1997, revised December 8, 1997, prepared by Cooper, Robertson & Partners and AES Consulting Engineers, and (ii) design guidelines (the "New Town Design Guidelines") entitled "NEW TOWN DESIGN GUIDELINES, JAMES CITY COUNTY, VIRGINIA", dated September 3, 1997, prepared by Cooper, Robertson & Partners. A copy of the New Town Master Plan and New Town Design Guidelines are on file with the County Planning Director.

R-4. In furtherance of the vision embodied in the New Town Master Plan and New Town Design Guidelines, Developer has applied for a rezoning of the Property from R-8, Rural Residential with proffers to MU, Mixed-Use with proffers. The rezoning of the Property to MU, with proffers, is consistent both with the land use designation for the Property on the County Comprehensive Plan and the statement of intent for the MU zoning district set forth in Section 24-514 of the County Zoning Ordinance, Section 24-1 *et seq.* of the County Code of Ordinances, in effect on the date hereof (the "Zoning Ordinance").

R-5. A community impact study ("Community Impact Study") entitled "Oxford Properties at New Town Section 12" prepared by AES Consulting Engineers, dated March 21, 2012, and revised as of July 27, 2012, has been submitted to the County Planning Director for review by the County in connection with this proposed rezoning. The Community Impact Study is on file in the office of the County Planning Director.

R-6. A fiscal impact study ("Fiscal Impact Study") entitled "New Town West Fiscal Impact Study James City County, Virginia", dated March 21, 2012, and revised as of June 19, 2012, prepared by Ted Figura Consulting has been submitted to the County Planning Director for review by the County in connection with this proposed rezoning. The Fiscal Impact Study is on file in the office of the County Planning Director.

R-7. In accordance with the requirements of paragraph 4 of the New Town Proffers, Developer has submitted to the County an updated traffic study memorandum (the "Traffic Study") entitled "New Town Section 12 (Oxford New Town West) And Monticello Avenue Corridor", dated May 24, 2012, prepared by DRW Consultants, LLC, Midlothian, Virginia, which addresses the proposed development of the Property and is on file with the County Planning Director.

R-8. Pursuant to subparagraph 2(b) of the New Town Proffers, there has been established a Design Review Board ("DRB") for development of the property subject to the New Town Proffers.

R-9. Pursuant to the New Town Proffers, the DRB is charged with the responsibility of rendering a written advisory recommendation to the County Planning Commission and to the County Board of Supervisors as to the general consistency with the New Town Master Plan and the New Town Design Guidelines of any proposed master plans and design guidelines in future rezonings of the property subject to the New Town Proffers.

R-10. Developer has submitted to the DRB, and the DRB has approved in writing, as consistent with both the New Town Master Plan and the New Town Design Guidelines, a conceptual plan of development (the "Section 12 Master Plan") entitled "OXFORD PROPERTIES AT NEW TOWN SECTION 12 JAMESTOWN DISTRICT JAMES CITY COUNTY VIRGINIA", dated March 21, 2012, and revised as of September 14, 2012, prepared by AES Consulting Engineers, and design guidelines (the "Section 12 Guidelines") entitled "Oxford Properties at New Town Section 12 Design Guidelines", revised as of September 14, 2012, prepared by AES Consulting Engineers, for the Property, copies of which Section 12 Master Plan and Section 12 Guidelines are on file with the County Planning Director.

R-11. A Phase I Archaeological Study (the "Casey Study") was conducted on the Property as detailed in that certain report entitled "A Phase I Archaeological Survey of the Casey Property, James City County, Virginia", dated July 30, 1990, prepared for the Casey Family c/o Virginia Landmark Corporation by the William and Mary Archaeological Project Center, which report has been submitted to, reviewed and approved by the County Planning Director. The Casey Study identified no areas of archaeological significance on the Property.

R-12. The County constitutes a high-growth locality as defined by Section 15.2-2298 of the Virginia Code.

R-13. The provisions of the Zoning Ordinance, Section 24-1, *et seq.*, may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Developer and Owner, in furtherance of the above-described application for rezoning, desires to proffer certain conditions which are limited solely to those set forth herein in addition to the regulations provided for by the Zoning Ordinance for the protection and enhancement of the development of the Property, in accordance with the provisions of Section 15.2-2303 *et seq.* of the Code of Virginia, as amended (the "Virginia Code") and Section 24-16 of the Zoning Ordinance.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the rezoning set forth above and the Section 12 Master Plan, the Section 12 Guidelines and all related documents described herein, and pursuant to Section 15.2-2303, *et seq.*, of the Virginia Code, Section 24-16 of the Zoning Ordinance and the New Town Proffers, it is agreed that all of the following conditions shall be met and satisfied in developing the Property.

PROFFERS:

1. Application of New Town Proffers, Master Plan and Design Guidelines.

These Proffers, the Section 12 Master Plan and the Section 12 Guidelines shall supersede, amend and restate in their entirety the New Town Proffers, the New Town Master Plan and the New Town Design Guidelines, but only as to the Property. Accordingly, this document contains the only proffers hereinafter applicable to the Property.

2. **Development Process and Land Use.**

(a) **Development.** The Property shall be developed in one or more phases generally in accordance with the Section 12 Master Plan and the Section 12 Guidelines, including, but not limited to, the land uses, densities and design set forth therein. All of such development shall be expressly subject to such changes in configuration, composition and location as required by all other governmental authorities having jurisdiction over such development.

(b) **DRB Authority, Duties and Powers.** All site plans, landscape plans, building materials, building elevation plans and other development plans for the Property shall be submitted to the DRB for review and approval in accordance with the manual entitled "NEW TOWN DESIGN PROCEDURES JAMES CITY COUNTY" as the same may be amended by the DRB from time to time, a copy of which is on file with the County Planning Director, and such other rules as may be adopted by the DRB from time to time, for general consistency with the Section 12 Master Plan and Section 12 Guidelines. Evidence of DRB approval of plans required to be submitted to the County for approval shall be provided with any submission of such plans to the County Department of Development Management. The County shall not be required to review any development plans not receiving the prior approval of the DRB. In reviewing applications, development plans and specifications, the DRB shall consider the factors set forth in the Section 12 Master Plan and/or the Section 12 Guidelines. The DRB may approve development plans that do not strictly comply with the Section 12 Master Plan and/or the Section 12 Guidelines, if circumstances, including, but not limited to, topography, natural obstructions, design/development hardship, economic conditions or aesthetic or environmental considerations, warrant approval. All structures, improvements, open space, wetlands and other

natural features on the Property shall be constructed, improved, identified for preservation, left undisturbed or modified, as applicable, substantially in accordance with the plans and specifications as finally approved by the DRB.

(c) Limitation of Liability. Review of and recommendations with respect to any application and plans by the DRB is made on the basis of aesthetic and design considerations only and the DRB shall not have any responsibility for ensuring the structural integrity or soundness of approved construction of modifications, nor for ensuring compliance with building codes or other governmental requirements, ordinances or regulations. Neither Developer, Owner, the County, the DRB nor any member of the DRB shall be liable for any injury, damages or losses arising out of the manner or quality of any construction on the Property.

3. Owners Association. The Property is governed by the New Town West Association (the "Association"), and is subject to the "DECLARATION OF PROTECTIVE COVENANTS, NEW TOWN WEST SIDE, COUNTY OF JAMES CITY, VIRGINIA JULY 23, 2004" recorded in the Clerk's Office as Instrument No. 040024399, and the articles of incorporation and the bylaws governing the Association (as any of the foregoing have been or may be hereafter supplemented, amended or modified pursuant to the terms thereof). Prior to final site plan approval for the Property, Developer shall provide evidence satisfactory to the County Attorney that either (i) the Association or (ii) an independent property owners association or sub-association has assumed the rights and obligations of such an association set forth herein.

4. **Community and Open Spaces.**

(a) The Section 12 Master Plan sets forth “TRANSITION OPEN SPACE PARK” along WindsorMeade Way, and other open and/or community spaces (collectively, the “Community Space”).

(b) A site plan or other appropriate plan as may be reasonably requested by the Planning Director for the Community Space shall be submitted to the County prior to final site plan approval for the Property. Any improvements to be located in the Community Space shall be completed or guaranteed (“Guaranteed”) in accordance with Section 15.2-2299 of the Virginia Code (or such successor provision) and the applicable provisions of the County Code of Ordinances (such performance assurances to be hereinafter referred to as a “Guarantee” or “Guarantees”) prior to final site plan approval for the Property. The form of guarantee shall be approved by the County Attorney.

(c) The configuration, composition, location and design of the Community Space is subject to the provisions of paragraph 2(b) hereof, and shall be further expressly subject to such changes in configuration, composition and location as may be required by governmental authorities, other than the County, having jurisdiction.

(d) The Community Space shall be maintained by the Association, and shall be subject to rules and regulations as may be promulgated, from time to time, by the Association.

(e) The Property shall be developed in compliance with currently applicable County open space requirements, including Section 24-520 of the Zoning Ordinance. The Community Space, or portions thereof, may be utilized to meet the open space requirements for the Property, provided such space meets the applicable definition of open space contained in the Zoning Ordinance.

5. **Streetscapes.** Streetscape improvements shall be provided and installed in accordance with the Section 12 Guidelines. 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 site plan approval process. Streetscape improvements shall be either (i) installed prior to the issuance of a certificate of occupancy for any residential or non-residential structures adjacent to such improvements, or ii) bonded in form satisfactory to the County Attorney prior to the issuance of a certificate of occupancy for any structure adjacent to such improvements.

6. **Recreation Facilities.** The Property is being developed in furtherance of a comprehensive town plan that is subject to the Section 12 Guidelines and the Section 12 Master Plan which provide for a more urban approach to the design of buildings and public spaces in order to avoid conventional suburban patterns and promote an environment conducive to walking. Implementation of such development design will provide for a network of sidewalks, alleyways and community areas. Specifically, in accordance with of the County Comprehensive Parks and Recreation Plan proffer guidelines (the "County Parks and Recreation Guidelines"), as in effect on the date hereof, recreation facilities in the form of Community Space to be established on the Property shall be provided, open to all residents of the Property, and maintained and regulated by the Association. Further, prior to issuance of final site plan approval for the Property, installation of the following shall be guaranteed in a form satisfactory to the County Attorney:

- i) a neighborhood park and pocket parks totaling no less than 0.57 acres;
- ii) a minimum of one-thousand five-hundred eighty-four (1,584) linear feet of paved multi-purpose trails, unless Developer elects prior to final site plan approval to increase the Cash Contribution Amount (as defined below) by

the sum of Fifty-Four Thousand Six-Hundred Sixty-Eight and 60/100 Dollars (\$54,668.60), which is the equivalent cash-in-lieu proffer calculated in accordance with the County Parks and Recreation Guidelines;

- iii) a minimum of one (1) outdoor activity facility area designed for activities such as community picnic shelters, barbeque grilling areas, or horseshoe pits; and
- iv) one (1) swimming pool

in accordance with the currently adopted version of the County Parks and Recreation Master Plan and as approved by the DRB and County Planning Director. Subject to approval by the County Planning Director, the Community Space may be utilized to meet the aforementioned requirements. Installation of the recreation facilities shall occur prior to the County being obligated to grant certificates of occupancy for more than seventy-five percent (75%) of the residential units ("Residential Units") to be constructed on the Property.

7. **Water Conservation.** Water conservation standards for the Property shall be developed and submitted to the James City Service Authority ("JCSA") for approval. The standards shall address such water conservation measures as limitations on use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. Design features, including the use of drought tolerant grasses and plantings, a water conservation plan, and drought management plan shall be implemented to accomplish the limitation on use of public water and groundwater. The standards shall be submitted to and reviewed by the County Attorney for general consistency with this proffer and shall be approved by JCSA prior to final site plan approval for development of the Property.

During the design phase, the Developer and designing engineer should take into consideration the design of storm water systems that can be used to collect storm water for outdoor water use for the entire development. At a minimum storm water should be used to irrigate common areas. Thus, only collected storm water may be used for irrigating common areas within the Property (the "Irrigation"). In no circumstance shall JCSA water or well water be used for Irrigation, except as otherwise provided by this proffer or approved by the General Manager of the JCSA.

8. **Nutrient Management.** During the design phase, 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 or other qualified professional shall be engaged to conduct soil tests and to develop, based upon the results of the soil tests, customized nutrient management plans ("Nutrient Management Plans") for all common areas of the Property. The Nutrient Management Plans for individual common areas shall be submitted to the County Engineering and Resource Protection Director for his review and approval prior to the issuance of a certificate of occupancy for any Residential Unit. Upon approval, the Association shall be responsible for ensuring that any nutrients applied to the common areas which are controlled by the Association be applied in accordance with the applicable Nutrient Management Plan or any updates or amendments thereto as may be approved by the County Engineering and Resource Protection Director.

9. **Cash Contribution for Community Impacts.**

(a) A cash contribution shall be made to the County to offset community impacts to areas such as schools, 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 Five-Hundred Thirty Thousand Three-Hundred Fifty-One and 44/100 Dollars (\$1,530,351.44), payable prior to the County being obligated to issue a building permit for any portion of the development on the Property. Rather than developing the Property all at once, Developer may elect to develop the property in phases or incrementally. If Developer so elects, the Cash Contribution Amount shall be payable incrementally at the time of each building permit requested for the development of the Property. Prior to the County being obligated to issue a building permit for any portion of the development on the Property, Owner shall pay any portion of the Cash Contribution Amount attributable to that portion of the development included pursuant to such building permit. The portion of the Cash Contribution Amount to be paid at the time of each such building permit shall be calculated to accurately and incrementally represent the percentage of the land use entitlements for which building permit approval is being granted as compared to the overall land use entitlements approved for the entire development. The Owner and the County shall execute a recordable agreement at the time of approval of any building permit 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 9(a) does not violate Virginia Code §15.2-2303.1:1.

(b) For purposes of Section 9, the term "building permit" shall mean a permit issued by the James City County Building Safety and Permits Division for the construction of any buildings on the Property, and shall specifically exclude any site plan approvals or land disturbing permits necessary for the development.

(c) Inflation Adjustments. The Cash Contribution Amount shall be adjusted annually beginning January 1, 2013 to reflect any increase or decrease for the preceding year in the Marshall and Swift Building Cost Index, Section 98, Comparative Cost Multipliers, Regional City Averages (the "MSI"). In the event a substantial change is made in the method of establishing MSI, then Cash Contribution Amount shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the MSI. In the event that the MSI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the MSI (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 Cash Contribution Amount to approximate the rate of annual inflation in the County. In no event shall the Cash Contribution Amount stated in this Section be adjusted pursuant to this Section 9(c) to a sum less than the amount originally proffered.

10. Private Streets. Any and all streets on the Property may be private. Pursuant to Section 24-528 of the Zoning Ordinance, private streets within the Property shall be maintained by the Association. The party responsible for construction of a private street shall deposit into a maintenance fund to be managed by the Association an amount equal to one hundred 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 or appropriate equivalent as determined by the Planning Director. The County shall be provided evidence of the deposit of such maintenance fee amount at the time of final site plan approval by the County for the particular phase or section which includes the street to be designated as private.

11. **Enhanced Buffer From Route 199.** Within the area shown generally on the Section 12 Master Plan as “LANDSCAPED BERM” along the eastern portion of the Property, additional landscaping and/or berms shall be installed to provide a visual and sound buffer between the Property and Route 199. The plan and materials for such landscaping and/or berms shall be approved by the County Planning Director as a part of site plan approval.

12. **Natural Resources Inventory.** To the extent not previously submitted and approved, Developer shall commission a natural resource inventory for the portion of the Property to be disturbed, before each such portion is disturbed, which will map and describe unique and sensitive habitats for known threatened and/or endangered species, as well as rare species of concern (“Natural Heritage Resources”) which are listed as of the date hereof by the Virginia Department of Conservation and Recreation’s Division of Natural Heritage (“DCR/DNH”). These investigations will be conducted by personnel who are qualified to conduct such studies and be submitted to and approved by the County Planning Director prior to issuance of a preliminary site plan approval for any portion of the Property occupied by a Natural Heritage Resource. If the natural resource inventory confirms that a Natural Heritage Resource exists on a particular portion of the Property to be disturbed, a conservation management plan will be prepared, submitted, and approved by the County Planning Director, as well as other agencies responsible for the protection/conservation of the specific species inventoried, prior to issuance of any land disturbance permit for the affected portion of the Property. All inventories and conservation management plans shall meet or exceed DCR/DNH standards. All approved conservation management plans shall be incorporated into the development plan of the portion of the Property affected, to the maximum extent possible. If unavoidable impacts will occur as a result of clearing, grading or construction, an appropriate mitigation plan will be developed by

Developer and approved by the County Planning Director and the appropriate regulatory agency prior to issuance of a land disturbance permit for the portion of the Property occupied by any Natural Heritage Resource. Such an inventory shall be completed and the terms above met for any portion of the Property which is the subject of a land disturbance permit application before issuance of that permit. This proffer shall be implemented and interpreted in accordance with the County's Natural Resource Policy adopted by the County Board of Supervisors on July 27, 1999.

13. **Transportation Improvements**. Developer shall construct a right-turn lane on northbound WindsorMeade Way at the proposed entrance to the Property with 100 feet of storage and a 100 foot taper (the "Right-Turn Lane"). The Right-Turn Lane shall be constructed in accordance with Virginia Department of Transportation ("VDOT") standards. The Right-Turn Lane shall be completed or bonded in a form satisfactory to the County Attorney prior to final site plan approval for development on the Property.

14. **Affordable Housing**. For a period of twenty (20) years from the date hereof, a minimum of nine (9) of the Residential Units shall be reserved and offered for rent at rental rates qualifying as Affordable Units (as defined below).

(a) For purposes of this paragraph, the term "Affordable Unit" shall mean any Residential Unit offered at a rental rate equal to or less than the Maximum LIHTC (Low-Income Housing Tax Credit) Gross Rent Limits (Rent Calculation Factor 30% of 60%) for James City County as published by the Virginia Housing Development Authority (VHDA). The Maximum LIHTC Gross Rents published by the VHDA shall be used only to establish the applicable rental rates hereunder, and no portion of the Property shall be required to formally qualify for the VHDA's Low Income Housing Tax Credit program. Rental rates for Affordable Units shall not

be subject to any VHDA utility allowance and no VHDA review or certifications shall be required of Developer.

(b) The rental rates applicable hereunder for Affordable Units shall be adjusted annually so that any new lease entered during a calendar year shall have a rental rate equal to or less than the latest Maximum LIHTC Gross Rent Limits published by VHDA as of January 1 of the calendar year in which such lease is to be entered.

(c) In implementing this proffer, Developer may consult with and accept referrals of potential qualified renters from the James City County Office of Housing and Community Development and/or other community organizations serving families in need of affordable housing. On or before March 31st of each calendar year, the County Planning Director shall be provided a listing of all current rental rates for Affordable Units for all rentals occurring during the prior calendar year. To the extent possible, Affordable Units shall not be concentrated all in the same building or location of the Property. Any Residential Unit may be defined as an Affordable Unit at any given time, regardless of its prior classification or lack thereof.

(d) Affordable Units shall not be included in the calculation or determination of the Cash Contribution Amount payable hereunder.

15. **Pre-Construction Meeting**. Prior to final site plan approval for the development of the Property, Developer shall hold a pre-construction meeting with residents of WindsorMeade of Williamsburg to receive input from such residents with respect to construction on the Property, including topics such as construction timelines, development phasing,

construction parking and traffic, dirt on roadways, and safety issues. The County Planning Director and management of WindsorMeade of Williamsburg shall be consulted to schedule a mutually agreeable date for such meeting.

16. **Fencing.** Prior to issuance of any building permit on the Property, Developer shall either: a) install fencing on the New Town Section 13 property in the area shown generally as "PROPOSED SECURITY FENCE" on the Section 12 Master Plan with specific fencing materials to be approved by the owner of the New Town Section 13 property, or b) remit payment to the owner of the New Town Section 13 property in the amount necessary for the erection of said fencing, not to exceed Five Thousand Dollars (\$5,000.00), and provide written documentation of said payment to the County Planning Director. Any approvals required by any authority including, without limitation, the DRB, with respect to the construction, specifications, or location of said fencing to be constructed on the New Town Section 13 property shall be the responsibility of the owner of the New Town Section 13 property.

17. **Construction Restrictions.**

(a) All clearing, grading, installation of utility infrastructure, site work, exterior framing, and exterior construction activity with regard to development of the Property shall occur during the hours of 7:00 a.m. to 7:00 p.m., on Monday through Friday, and 8:00 a.m. to 7:00 p.m. on Saturday, with no such construction on Sunday. The construction hours established herein specifically shall not apply to interior construction or exterior construction activities which are not noise producing, such as painting, site clean up and the like. The construction hours established herein may be temporarily extended from time to time on a case by case basis with the prior written consent of the County Planning Director or his or her

designee, which consent shall be based on a reasonable determination that such extended hours are necessary as a result of extraordinary circumstances.

(b) All bulk deliveries of construction materials shall occur between 8:00 a.m. and 5:00 p.m., Monday through Saturday.

(c) No portion of the Property north of the entrance road and proposed clubhouse as shown generally on the Section 12 Master Plan shall be used as a construction parking or staging area.

18. **Headings.** All section headings and subheadings of these Proffers are for convenience only and shall not be read as a part of these Proffers or utilized in interpretation thereof.

19. **Delegation of Subsequent Approvals.** The County Board of Supervisors by accepting these Proffers is exercising its legislative function. While these Proffers provide for subsequent approvals by the County or by its duly authorized designees appointed by the County, such subsequent approvals by any duly authorized designee of the County shall not include the exercise of any legislative function.

20. **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.

21. **Conflicts.** In the event that there is any conflict between these Proffers and the Zoning Ordinance, the conflict shall be resolved by the County's Zoning Administrator subject to the appeal process to the Board of Supervisors and the Courts as otherwise provided by law.

22. **Successors and Assigns.** These Proffers shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns.

23. **Void if Rezoning Not Approved.** In the event that any of the proposed rezoning sought by this application is not approved by the County as submitted, these Proffers shall be null and void.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

[COUNTERPART SIGNATURE PAGE TO NEW TOWN SECTION 12 PROFFERS]

WITNESS the following signatures, thereunto duly authorized:

OXFORD PROPERTIES, LLC
a Virginia limited liability company

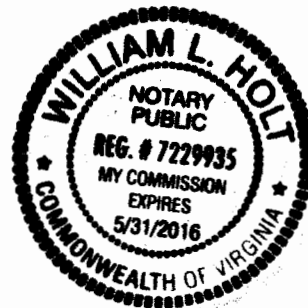
By: 
William H. Hall, Member

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF James City, to wit:

The foregoing instrument was acknowledged before me this 24th day of September, 2012 by William H. Hall as Member of Oxford Properties, LLC, a Virginia limited liability company, on its behalf.


NOTARY PUBLIC

My commission expires: 5/31/2016



[COUNTERPART SIGNATURE PAGE TO NEW TOWN SECTION 12 PROFFERS]

C. C. CASEY LIMITED COMPANY
a Virginia limited liability company

By: Robert T. Casey
Robert T. Casey, Secretary

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Williamsburg, to wit:

The foregoing instrument was acknowledged before me this 24th day of September, 2012 by Robert T. Casey as Secretary of C. C. Casey Limited Company, a Virginia limited liability company, on its behalf.

Patricia A. Buckless
NOTARY PUBLIC

My commission expires: October 31, 2015



Patricia A. Buckless
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #153460
My Commission Expires
October 31, 2015

EXHIBIT A

That certain piece, parcel, or tract of land located in the Jamestown Magisterial District in the County of James City, Virginia, identified as James City County Tax Parcel No. 3831800005, and which is shown as "PARCEL 5" containing 34.215 acres on that certain plat entitled "PLAT OF SUBDIVISION AND LOT LINE EXTINGUISHMENT PARCELS 1 THROUGH 5 BEING THE PROPERTY OF C. C. CASEY LIMITED COMPANY JAMESTOWN DISTRICT JAMES CITY COUNTY VIRGINIA", dated January 15, 2004, prepared by AES Consulting Engineers, a copy of which plat is recorded in the Clerk's Office of the Circuit Court of James City County as Instrument No. 040024397, and to which plat reference is hereby made for a more particular description of said real estate.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 18 Oct 2012
at 11:21 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

BY: Betsy B. Woolridge Clerk

11534202_16.DOC



FILED



BETSY B. WOOLRIDGE
CLERK CIRCUIT COURT

2012 OCT 11 PM 2:59

CITY OF WILLIAMSBURG
COUNTY OF JAMES CITY

BY _____ D.C.