

Ret to: JCC County Atty

CLR210004422

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

Parcel No. 4810100063

### PROFFER AMENDMENT

*Applicable to Tax Parcel No. 4810100063 (Boatwright Circle Property)*

THIS PROFFER AMENDMENT ("Amendment") is made this 24<sup>TH</sup> day of SEPTEMBER 2020, by and between WILLIAMSBURG LANDING, INC., a Virginia non-stock non-profit corporation, and/or its successors and assigns (collectively "WLI") (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. WLI 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 "Boatwright Circle Property").

R-2. The Boatwright Circle Property is subject to that Proffer Agreement (the "Initial Proffers") dated April 30, 1993, and 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") at Deed Book 623 at Page 661, as amended by that Proffer Amendment, dated April 18, 2013, and of record in the Clerk's Office as Instrument No. 13001739 (together with the Initial Proffers, the "Existing Proffers").

R-3. The Boatwright Circle Property is subject to that certain special use permit dated May 3, 1993, and identified as SUP-0007-1993, as amended by that special use permit, dated June 11, 2013, and identified as SUP-0002-2013 (collectively, the "Existing SUP").

R-4. WLI has made application to the County pursuant to County Case Nos. Z-20-0004 and SUP-20-0014 (the "Applications") to amend the Existing Proffers and Existing SUP to increase the number of units permitted to be constructed in accordance with Condition No. 2 of the Existing Proffers by four (4) additional units.

R-5. The provisions of the James City County Zoning Ordinance, Section 24-1, *et seq.* (the "Zoning Ordinance"), may be deemed inadequate for protecting and enhancing orderly development of the Boatwright Circle Property. Accordingly, WLI, 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 Boatwright Circle 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 of the Applications set forth above by the County Board of Supervisors, and pursuant to Sections 15.2-2303 and 15.2-2303.4(D) of the Virginia Code, Ordinance No. 31A-346, and Section 24-16 of the Zoning

Ordinance, it is agreed that all of the following conditions shall be met and satisfied in developing the Boatwright Circle Property.

PROFFERS:

1. Amendment of Existing Proffers to Allow for Additional Unit (the "Additional Unit"). Condition No. 2 of the Existing Proffers is hereby amended and restated in its entirety as follows:

*Independent living units shall be limited to a total of thirty-two (32) units for the Undeveloped Property; however, such limitation shall not apply to the other uses hereby permitted.*

2. Effect of this Amendment. As amended by this Amendment, the Existing Proffers and Existing SUP are hereby ratified and confirmed and all other terms of the Existing Proffers and Existing SUP shall remain in full force and effect.

3. Delegation of Subsequent Approvals. The County Board of Supervisors by accepting this Amendment is exercising its legislative function. While this Amendment and the Existing 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.

4. Severability. In the event that any clause, sentence, paragraph, section or subsection of this Amendment or the Existing 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 Boatwright Circle 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.

5. Successors and Assigns. This Amendment and the Existing Proffers shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns.

**[SIGNATURES APPEAR ON THE FOLLOWING PAGES]**

[SIGNATURE PAGE TO PROFFER AMENDMENT]

WITNESS the following signatures, thereunto duly authorized:

**WILLIAMSBURG LANDING, INC.**  
a Virginia non-stock, not-for-profit corporation

By [Signature]  
(Name, Title)

ROBERT J SINGLEY  
CHAIRMAN - BOARD OF DIRECTORS

COMMONWEALTH OF VIRGINIA  
COUNTY OF JAMES CITY, to wit:

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of Sept., 2020  
by Robert J Singley as Chairman - BOB of Williamsburg Landing, Inc.,  
a Virginia non-stock, not-for-profit corporation, on its behalf.

[Signature]  
NOTARY PUBLIC

My commission expires: 10-31-23

Patricia A. Buckless  
NOTARY PUBLIC  
Commonwealth of Virginia  
Reg. # 153480  
My Commission Expires 10/31/2023

**EXHIBIT A**

All that certain tract or parcel of land situate in James City County, Virginia, and more particularly described as "13.9303 ACRES" as shown on that certain plat entitled "PLAT OF 1.8609 ACRES & 13.9303 ACRES, PARCEL "B" & PART OF PARCEL "C" (P.B. 39, PG. 20 & 21), BEING A SUBDIVISION OF PROPERTY OF AMERICAN RETIREMENT CORPORATION FOR CONVEYANCE TO WILLIAMSBURG LANDING, INC., JAMES CITY COUNTY, VIRGINIA", dated 12-14-92 and prepared by Stephen A. Romeo, Land Surveyor, Langley and McDonald, Engineers-Planners-Surveyors, a copy of which plat is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book 56, Page 72.

INSTRUMENT 210004422  
RECORDED IN THE CLERK'S OFFICE OF  
WMSBG/JAMES CITY CIRCUIT ON  
MARCH 8, 2021 AT 02:13 PM  
MONA A. FOLEY, CLERK  
RECORDED BY: EEO