



**FLUVANNA COUNTY BOARD OF SUPERVISORS**  
**REGULAR MEETING AGENDA**  
**Fluvanna County High School Auditorium**  
**September 18, 2013, 7:00 pm**

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**TAB    AGENDA ITEMS**

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**1 - CALL TO ORDER, PLEDGE OF ALLEGIANCE, MOMENT OF SILENCE**

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**2 - COUNTY ADMINISTRATOR'S REPORT**

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**3 - PUBLIC COMMENTS #1** (5 minutes each)

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**4 - PUBLIC HEARING**

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- B    Aqua PPEA Proposal for Zion Crossroads Water System – Steve Nichols, County Administrator
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**5 - ACTION MATTERS**

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- C    Interjurisdictional Agreement Regarding the James River Water Pipeline - Steve Nichols, County Administrator
- D    Potential Amendments to the Fluvanna County Comprehensive Plan/Zoning Ordinances Regarding Extension of Public Utilities – Allyson Finchum, Planning Director
- E    EST 13:01, Central Meadows, LLC – Conservation Easement – Steve Tugwell, Senior Planner
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**6 - PRESENTATIONS** (normally not to exceed 10 minutes each)

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None

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**7 - CONSENT AGENDA**

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- F    Minutes of September 4, 2013 – Mary Weaver, Clerk to the Board
- G    VITA Wireless E-911 PSAP Education Program Grant Award, Ratify and Accept - Sheriff Ryant Washington & Lt. Andrea Gaines
- H    VITA Wireless E-911 Enhancement Program Grant Award, Ratify and Accept - Sheriff Ryant Washington & Lt. Andrea Gaines
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**8 - UNFINISHED BUSINESS**

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None

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**9 - NEW BUSINESS**

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**10 - PUBLIC COMMENTS #2** (5 minutes each)

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**11 - CLOSED MEETING**

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TBD

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**12 – ADJOURN**

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County Administrator Review

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## **PLEDGE OF ALLEGIANCE**

I pledge allegiance to the flag  
of the United States of America  
and to the Republic for which it stands,  
one nation, under God, indivisible,  
with liberty and justice for all.

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## **ORDER**

1. It shall be the duty of the Chairman to maintain order and decorum at meetings. The Chairman shall speak to points of order in preference to all other members.
2. In maintaining decorum and propriety of conduct, the Chairman shall not be challenged and no debate shall be allowed until after the Chairman declares that order has been restored. In the event the Board wishes to debate the matter of the disorder or the bringing of order; the regular business may be suspended by vote of the Board to discuss the matter.
3. No member or citizen shall be allowed to use abusive language, excessive noise, or in any way incite persons to use such tactics. The Chairman and/or the County Administrator shall be the judge of such breaches, however, the Board may vote to overrule both.
4. When a person engages in such breaches, the Chairman shall order the person's removal from the building, or may order the person to stand silent, or may, if necessary, order the person removed from the County property.

## **PUBLIC HEARING RULES OF PROCEDURE**

1. PURPOSE
  - The purpose of a public hearing is to receive testimony from the public on certain resolutions, ordinances or amendments prior to taking action.
  - A hearing is not a dialogue or debate. Its express purpose is to receive additional facts, comments and opinion on subject items.
2. SPEAKERS
  - Speakers should approach the lectern so they may be visible and audible to the Board.
  - Each speaker should clearly state his/her name and address.
  - All comments should be directed to the Board.
  - All questions should be directed to the Chairman. Members of the Board are not expected to respond to questions, and response to questions shall be made at the Chairman's discretion.
  - Speakers are encouraged to contact staff regarding unresolved concerns or to receive additional information.
  - Speakers with questions are encouraged to call County staff prior to the public hearing.
  - Speakers should be brief and avoid repetition of previously presented comments.
3. ACTION
  - At the conclusion of the public hearing on each item, the Chairman will close the public hearing.
  - The Board will proceed with its deliberation and will act on or formally postpone action on such item prior to proceeding to other agenda items.
  - Further public comment after the public hearing has been closed generally will not be permitted.

## BOARD OF SUPERVISORS AGENDA ITEM

Meeting Date: September 18, 2013

<b>SUBJECT:</b>	Public Hearing for the “Unsolicited PPEA proposal from Aqua Virginia, Inc., to Provide Water Service and a Sewer Collection System to Zion Crossroads.”
<b>MOTION(s):</b>	<p><b><u>MOTION #1</u></b> I move that the Board of Supervisors defer action on the “Unsolicited PPEA Proposal from Aqua Virginia, Inc., to Provide Water Service and a Sewer Collection System to Zion Crossroads” for at least 30 days until _____, 2013.</p> <p style="text-align: center;"><b>OR</b></p> <p><b><u>MOTION #2</u></b> I move that Fluvanna County reject the “Unsolicited PPEA Proposal from Aqua Virginia, Inc., to Provide Water Service and a Sewer Collection System to Zion Crossroads.”</p>
<b>STAFF CONTACT:</b>	Steven M. Nichols, County Administrator
<b>RECOMMENDATION:</b>	Approve Motion #1
<b>TIMING:</b>	Routine
<b>DISCUSSION:</b>	As outlined in my Aqua PPEA recommendation letter.
<b>FISCAL IMPLICATIONS:</b>	
<b>POLICY IMPLICATIONS:</b>	
<b>LEGISLATIVE HISTORY:</b>	
<b>ENCLOSURES:</b>	

# TAB B

## Aqua Virginia PPEA Agreements

The AGREEMENTS and all draft and working documents relating to the proposal are available for review on the county website at:

[www.fluvannacounty.org/business/projects/aqua-ppea-proposals-package](http://www.fluvannacounty.org/business/projects/aqua-ppea-proposals-package)

In addition, copies of all the documents are available on CD at the County Administrator's Office for anyone having difficulty accessing the web-based documents.

Please contact Mary Weaver (Ph: 591-1910) to coordinate pick-up of a CD copy.



# **Public Hearing for the**

**“Unsolicited PPEA proposal from  
Aqua Virginia, Inc., to Provide Water  
Service and a Sewer Collection  
System to Zion Crossroads.”**

**September 18, 2013**



# Aqua Virginia PPEA Agreements

01	Agreement between Fluvanna County and Aqua Virginia, Inc. for the <b>Purchase and Sale of Bulk Potable Water</b>
02	<b>Water Pipeline</b> Construction, Operation and Maintenance Agreement
03	Water Services Agreement for the Zion Crossroads Public Water System
04	<b>Sewer Pipeline</b> Construction, Operation and Maintenance Agreement
05	Sewer Services Agreement for the Zion Crossroads Public Sewer Collection System

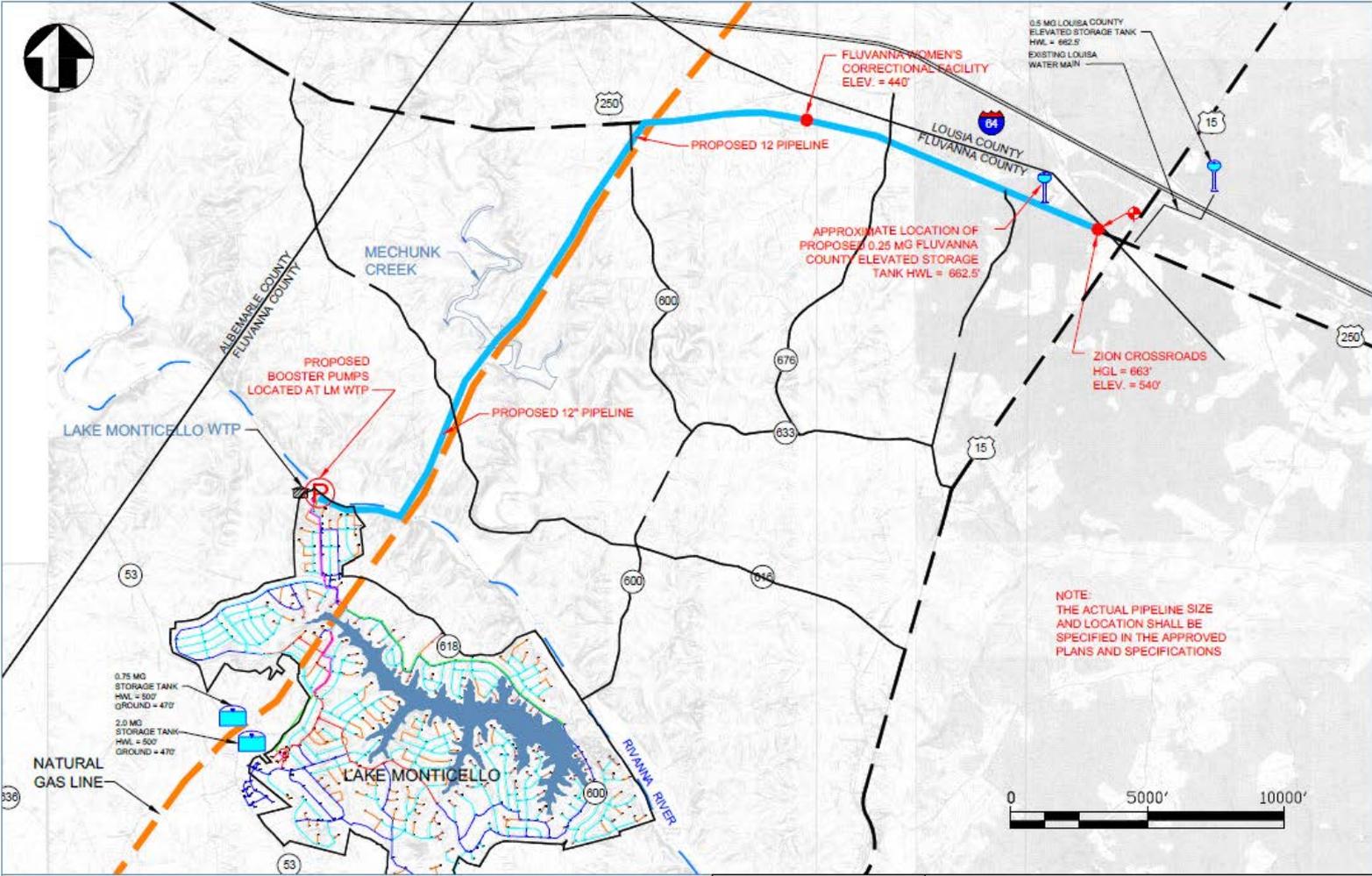


# Agreement Provisions

- **To serve Zion Crossroads Community Planning Area (west of Hwy 15)**
- **Aqua Virginia/Affiliate Partner will design, build, manage, and operate the facilities.**
- **Provides up to 500,000 GPD of treated water**
  - Requires initial DOC sewer service (100K GPD available)
  - Water Cost - \$2.94 per thousand gallons
  - Sewer Cost - \$1.60 per thousand gallons
- **Fluvanna sets water/sewer rates and manages service area**
- **Costs**
  - Annual payments of ~\$912K over 20 year term
  - 10% escrow payment for 18 years
  - Initial deposit of ~\$912K within 45 days of signing agreements
  - Other agreement costs TBD
  - Early buyout option at 1.5 times initial capital cost



# Nominal Water Pipeline Route



**NEW MAINS**                      **EXISTING GAS MAINS**

— NEW WATER MAIN                      - - - GAS MAIN

THIS DRAWING IS THE PROPERTY OF AQUA VIRGINIA INC.

THIS DRAWING IS SUBMITTED WITH THE AGREEMENT THAT IT IS NOT TO BE REPRODUCED, COPIED, OR LOANED IN PART OR WHOLE. IT IS NOT TO BE USED IN ANY MANNER THAT MAY CONSTITUTE A DETRIMENT DIRECTLY OR INDIRECTLY TO AQUA. ACCEPTANCE OF DRAWING WILL BE CONSTRUED AS AN AGREEMENT TO THE ABOVE.

**AQUA VIRGINIA INC**  
 2414 GRANITE RIDGE ROAD ROCKVILLE, VA 23146    PH 804-749-8868

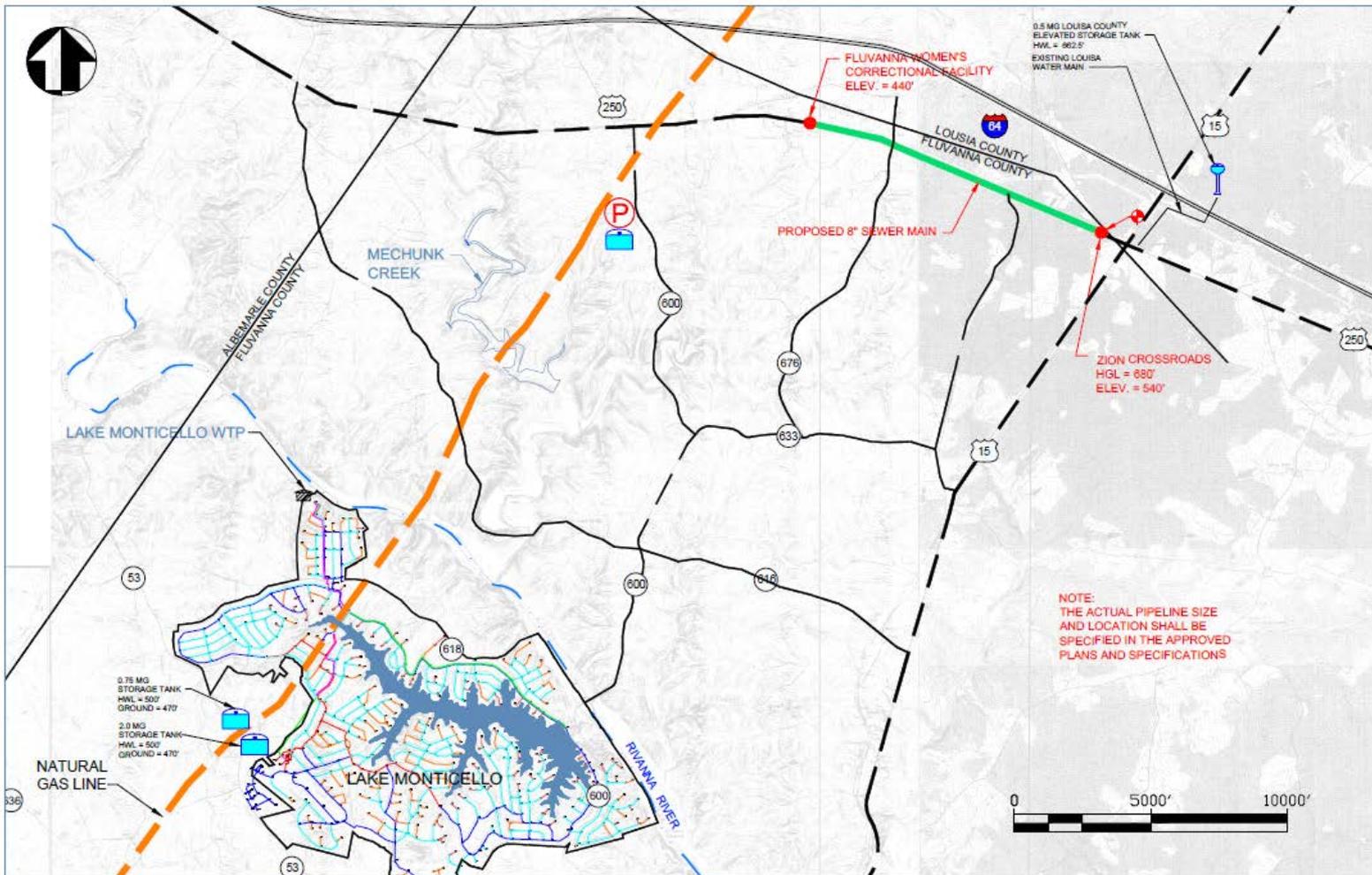
**CONCEPT DRAWING, PROPOSED ROUTE FROM L.M. TO ZION CROSSROADS**

COMPANY: AQUA VIRGINIA, INC.  
 LOCATION: FLUVANNA COUNTY, VA

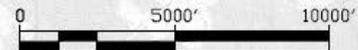
FILE NAME	SHEET	DATE	SCALE	DRN. BY	MASTER NO.	P.W.S.L.D. NO.
FLUV. REG.	1	3.13.12	1"=5,000'	BAH	-	2065480



# Nominal Sewer Pipeline Route



NOTE:  
THE ACTUAL PIPELINE SIZE  
AND LOCATION SHALL BE  
SPECIFIED IN THE APPROVED  
PLANS AND SPECIFICATIONS



**NEW MAINS**                      **EXISTING GAS MAINS**

— NEW SEWER MAIN              - - - GAS MAIN

THIS DRAWING IS THE PROPERTY OF AQUA VIRGINIA INC.		<b>AQUA VIRGINIA INC</b>	
		2414 GRANITE RIDGE ROAD ROCKVILLE, VA 23146    PH 804-749-8868	
CONCEPT DRAWING, PROPOSED ROUTE FROM PRISON TO ZION CROSSROADS			
COMPANY: AQUA VIRGINIA, INC.			
LOCATION: FLUVANNA COUNTY, VA			
FILE NAME	SHEET	DATE	SCALE
FLUV. REG.	2	3.9.11	1"=5,000'
		DRN. BY	MASTER NO.
		BAH	-
		P.W.S.I.D. NO.	2065480



# Questions?

## BOARD OF SUPERVISORS AGENDA ITEM

Meeting Date: September 18, 2013

<b>SUBJECT:</b>	Interjurisdictional Agreement Regarding the James River Water Pipeline
<b>MOTION(s):</b>	<b>I move that the Board of Supervisors approve, “AN AGREEMENT BETWEEN LOUISA COUNTY, VIRGINIA, FLUVANNA COUNTY, VIRGINIA, THE LOUISA COUNTY WATER AUTHORITY, AND THE JAMES RIVER WATER AUTHORITY REGARDING THE JAMES RIVER WATER PIPELINE.”</b>
<b>STAFF CONTACT:</b>	Steven M. Nichols, County Administrator
<b>RECOMMENDATION:</b>	Approve
<b>TIMING:</b>	Routine
<b>DISCUSSION:</b>	The Agreement delineates rights and duties of Fluvanna County, Louisa County, LCWA, and JRWA regarding a water pipeline from a point on the James River near the Town of Columbia to a point in Louisa County.
<b>FISCAL IMPLICATIONS:</b>	<p>Costs for the JRWA capital portion are estimated at \$3.34M (split between Fluvanna and Louisa Counties), plus undetermined easements costs for the JRWA raw water pipeline from the James River to near Route 6.</p> <p>Fluvanna County will also be responsible for the cost of pipeline(s) to meet Fluvanna County needs and capital costs for a treatment facility(es), as well as associated operations and maintenance costs.</p> <p>Fluvanna County may also have costs arising from expansion of the Louisa owned pipeline to handle Fluvanna water flow capacity (TBD).</p>
<b>POLICY IMPLICATIONS:</b>	
<b>LEGISLATIVE HISTORY:</b>	
<b>ENCLOSURES:</b>	“AN AGREEMENT BETWEEN LOUISA COUNTY, VIRGINIA, FLUVANNA COUNTY, VIRGINIA, THE LOUISA COUNTY WATER AUTHORITY, AND THE JAMES RIVER WATER AUTHORITY REGARDING THE JAMES RIVER WATER PIPELINE”

8/27/13 Draft

**[---DRAFT---]**

**AN AGREEMENT BETWEEN LOUISA COUNTY, VIRGINIA, FLUVANNA COUNTY,  
VIRGINIA, THE LOUISA COUNTY WATER AUTHORITY, AND THE JAMES RIVER  
WATER AUTHORITY REGARDING THE JAMES RIVER WATER PIPELINE**

**Dated as of \_\_\_\_\_, 2013**

## AGREEMENT

This Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between LOUISA COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia with powers vested in its Board of Supervisors (“Louisa”), FLUVANNA COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia with powers vested in its Board of Supervisors (“Fluvanna”), the LOUISA COUNTY WATER AUTHORITY, a political subdivision of the Commonwealth of Virginia and a water authority created under the Virginia Water And Waste Authorities Act with powers vested in its Board of Directors (“LCWA”), and the JAMES RIVER WATER AUTHORITY, a political subdivision of the Commonwealth of Virginia and a water authority created under the Virginia Water and Waste Authorities Act with powers vested in its Board (“JRWA”).

WHEREAS, Louisa, Fluvanna, LCWA, and JRWA (each a “Party” and collectively “the Parties”) mutually desire to enter into this Agreement for the purpose of delineating their respective rights and duties regarding a water pipeline (the “James River Pipeline” or “Pipeline”) from a point on the James River near the Town of Columbia to a point in Louisa County;

WHEREAS, the Parties wish to work cooperatively to provide a reliable public water supply to the citizens of Louisa and Fluvanna Counties;

WHEREAS, the Parties recognize that the current Virginia Department of Environmental Quality (“DEQ”) water withdrawal permit held by JRWA for the Bremono Bluff area (“the Bremono Bluff Permit”) should be moved to an area near the Town of Columbia (“the Columbia Permit”);

WHEREAS, the planning, design, acquisition of real property, and construction of the James River Pipeline will require, among other things, a great deal of planning, engineering work, and site acquisition;

WHEREAS, the cost of the James River Pipeline may run into the tens of millions of dollars, and bonds may be necessary; and

WHEREAS, LCWA and JRWA have authority to enter this Agreement with one another and with each of the Counties, under Va. Code §§ 15.2-5114(11), 15.2-5115, and 15.2-5147, Fluvanna and Louisa may enter into this agreement pursuant to Va. Code § 15.2-5147 as regarding the authorities, and with each other pursuant to Va. Code § 15.2-2148;

NOW THEREFORE, in consideration of \$10.00, cash in hand paid, as well as the mutual covenants, warranties, and agreements set forth herein, and intending to be legally bound, the Parties agree as follows:

### 1. Covenants Of The Parties

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Subject to the terms and conditions of this Agreement, the Parties mutually covenant and agree that:

#### 1.1 Funding of Property Acquisition, Design, and Construction

(a) *JRWA.*

- i. JRWA agrees to fund, construct, operate, and maintain the James River intake and associated structures, the James River pipeline from the intake facility to a point near Route 6 west or north of the Columbia Community Planning Area (CPA), as the CPA is shown on the Fluvanna County Comprehensive Plan at the date of execution of this Agreement, as well as “T” connections and valves to allow Fluvanna and Louisa/LCWA connection to the JRWA system. The precise location of the point will be determined and agreed by the Parties at a later date based on engineering, planning, legal, and other considerations. JRWA will also bear the cost of the acquisition of all real property rights necessary to build the portion of the James River Pipeline that it will own, as laid out in Section 1.2(a), below.
- ii. JRWA may fund its portion of the cost of the activities set out in Section 1.1(a)(i), above, through any lawful means including by issuance of bonds, through a direct contribution from Fluvanna and Louisa, or charge a connection fee and/or periodic water reservation charge to Fluvanna and Louisa proportional to its flow reservation. The amount of the charge which will be fairly and reasonably calculated to amortize the cost of constructing, operating, and maintaining the portion of the James River Pipeline referenced in Section 1.1(a)(i), above. JRWA is encouraged to apply for grants, gifts, subsidized loans, and other sources of funding.
- iii. The fixed baseline operations and maintenance (“O&M”) costs of JRWA property, incurred in the absence or regardless of flow, will be split evenly between Fluvanna and Louisa/LCWA. The variable O&M costs which can be attributed to water flows will be proportionally split based on actual water flow to each party, regardless of each party’s actual customer location.

(b) *Fluvanna.*

- i. If, after the effective date of this Agreement but prior to the beginning of design of the Pipeline, Fluvanna identifies additional locations at which it desires to make a “T” connection to the James River Pipeline, Fluvanna agrees to pay the incremental increase in costs of design, construction, and property acquisition up to the location of the “T” connection, plus the marginal cost of the “T” connection over the cost of a straight pipe at that location. Fluvanna will also take an ownership interest to that point as a tenant in common proportional to its flow capacity requirement identified in the design.
- ii. If, after design of the Pipeline has begun, Fluvanna identifies additional locations at which it desires to make a “T” connection to the

James River Pipeline, Fluvanna agrees to pay Louisa/LCWA a fair and reasonable periodic reservation fee for the conveyance of the water to that point on the line. The amount of the fee will be fairly and reasonably calculated to amortize the incremental costs of design, construction, and property acquisition and ongoing O&M costs proportional to the flow capacity of the water reserved to Fluvanna.

(c) *Louisa & LCWA.*

- i. Louisa and LCWA agree to fund, construct, operate, and maintain the James River Pipeline from a point near Route 6 west or north of the Columbia Community Planning Area (CPA), as the CPA is shown on the Fluvanna County Comprehensive Plan at the date of execution of this Agreement (*see* Section 1.1(a), above).
- ii. Louisa and LCWA agree that they will fund and acquire all real property rights necessary to build the portion of the James River Pipeline that they will own, as laid out in Sections 1.2(a) and (b), below.

(d) *Route of the Pipeline.* The Parties agree that Attachment A to this Agreement shows the general or approximate location of the James River Pipeline. The specific location will be determined by the Parties in accordance with engineering, planning, legal, and other considerations at a later date. The Party that is contemplated to have responsibility for O&M under this Agreement will have final responsibility for choosing the specific route of the Pipeline. The specific route must substantially conform to the general or approximate location shown on Attachment A unless otherwise specifically agreed by the Parties.

1.2 Ownership

- (a) *In General.* The Parties agree that they will each own such real and personal property as they each acquire or construct, subject to the limitations and specific procedures set forth in this subsection.
- (b) *Property of Louisa/LCWA.* All real and personal property to be acquired, constructed, operated, and maintained by either Louisa or LCWA under this Agreement may be acquired, constructed, operated, maintained, and owned by either Louisa or LCWA under the terms of whatever operating agreement(s) may be operative between them.

1.3 Reservation of Capacity

- (a) *In General.* This Agreement contemplates that allocation of water between Fluvanna and Louisa will be in accordance with the needs of each county as established and agreed in the Columbia Permit water withdrawal

application and DEQ's summary findings of need regarding the Columbia Permit.

- (b) *Temporary Reallocation.* Raw water capacity may be reallocated on a temporary basis. Costs and terms for such temporary reallocations will be fair and reasonable in accordance with law and will be determined by JRWA on request by any of the Parties.
- (c) *Bulk Purchases.* In lieu of or in addition to the procedures laid out in Section 1.2 above for allocation of ownership of the Pipeline, Fluvanna may purchase raw or finished water from Louisa/LCWA, or Louisa/LCWA may purchase raw or finished water from Fluvanna, at a mutually agreed bulk rate. Such rates will be fair and reasonable in accordance with law and will be determined by JRWA on request by any of the Parties.
- (d) *Future Expansion to Columbia Permit.* Unless otherwise agreed by the Parties, if at any time any Party seeks an expansion of the Columbia Permit, JRWA will make such application and be reimbursed by the Party or Parties seeking an expansion. The expansion in the withdrawal permitted by the Columbia Permit will then be reserved to the Party or Parties seeking the expansion.

1.4 Comprehensive Planning, Zoning, and Other Approvals.

- (a) *Fluvanna County Comprehensive Plan.* Fluvanna will take all necessary and legally permissible steps to determine consistency with and/or amend its Comprehensive Plan so as to make the James River Pipeline shown on Attachment A to this Agreement a feature whose general or approximate location, character, and extent are shown on its Comprehensive Plan in accordance with Va. Code Ann. § 15.2-2232 (2012). A determination of substantial conformance or appropriate amendments to the Fluvanna Comprehensive Plan will be completed by November 30, 2013.
- (b) *Fluvanna County Zoning Ordinance.* Fluvanna will take all necessary and legally permissible steps to ensure that the James River Pipeline and its facilities are and remain permitted under its Zoning Ordinance.
- (c) *Local Permits.* JRWA and Louisa/LCWA will obtain construction permits for their portions of the intake, supporting structures, and the James River Pipeline and will make all reasonable efforts to restore all property to its condition prior to the construction or maintenance of the Pipeline.
- (d) *Conservation Easements and Agricultural & Forestal Districts.* To the extent the James River Pipeline passes through an area that is subject to a County conservation easement or an agricultural and forestall district, all Parties agree to take all necessary and legally permissible steps necessary to permit the Pipeline in said area or district.

- (e) *Consent to Use of Property and Power of Eminent Domain.* By executing this Agreement, Fluvanna authorizes JRWA and LCWA to establish, construct, use and maintain the facilities contemplated in this Agreement, and to use the power of eminent domain within its jurisdiction for the purposes contemplated in this Agreement, as required by Va. Code Ann. § 15.2-5114(6) (2012).

1.5 Cooperation on State and Federal Regulatory Approvals.

- (a) *Withdrawal Permit.* JRWA agrees that it will apply for, and pay all costs associated with acquiring, the Columbia Permit. The Parties mutually agree that in pursuit of such permit, JRWA may relinquish the Bremono Bluff Permit. The Parties agree to take all reasonable and legally permissible steps to support JRWA's application.
- (b) *State Board of Health.* The Parties mutually agree to take all necessary and legally permissible steps to obtain the permit from the State Board of Health required by Va. Code Ann. § 32.1-172 (2011).
- (c) *Further Cooperation.* The Parties mutually agree to take all necessary and legally permissible steps to obtain any other local, state, or federal approvals necessary for the James River Pipeline and related facilities.

1.6 Litigation Cooperation.

- (a) *Third Parties.* Notwithstanding anything to the contrary contained in this Agreement, if any action or proceeding by any third party is instituted or threatened to be instituted challenging any transaction or action contemplated by this Agreement, the Parties will mutually use their reasonable best efforts to (i) contest, resist, or resolve any such proceeding or action and (ii) have vacated, lifted, reversed, or overturned any injunction adverse to the Parties or any one thereof resulting from such proceeding or action.
- (b) *Eminent Domain.* The Parties agree that they will mutually use all necessary and legally permissible means for the acquisition of property, including, but not limited to, easement rights as contemplated in this Agreement at the lowest reasonable price.
- (c) *Obtaining Permits.* If litigation becomes reasonably necessary in order to obtain any of the permits necessary for the objects contemplated in this Agreement, the Parties will mutually use their reasonable best efforts and take all necessary and legally permissible steps to prosecute such litigation to a successful conclusion.

2. Representations And Warranties.

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Each of the Parties represents and warranties to the other Parties as follows:

- (a) *Organization in Good Standing.* Each of the Parties is a political subdivision of the Commonwealth duly organized, validly existing, and in good standing under the laws of the Commonwealth of Virginia. In particular, and without limitation, Fluvanna, Louisa, and JRWA stipulate and agree that the rights and obligations of the Parties set forth in this Agreement are consistent with JRWA's purpose and powers as set forth in Paragraph 4 of its Articles of Incorporation.
- (b) *Authorization and Enforceability.* Each of the Parties has the full power and lawful authority, through its governing body, to execute this Agreement and perform its obligations contemplated herein and has duly and validly authorized the execution of this Agreement.

This Agreement constitutes the legal, valid, and binding obligation of each of the Parties, enforceable against each of the Parties in accordance with its terms, except as such enforceability may be limited by applicable laws relating to bankruptcy, insolvency, fraudulent conveyance, reorganization, or affecting creditor's rights generally.

- (c) *Noncontravention.* The Parties' performance of the obligations contemplated by this Agreement will not (i) require any further approvals or consents from any third party other than those approvals or consents mandated by law, ordinance, or regulation in effect as of the date of this Agreement; (ii) violate any law, ordinance, or regulation; or (iii) conflict with or result in a breach of, or constitute a default under, any contract, lease, permit, or other agreement or commitment to which any of the Parties is a party; except where the approvals, consents, violations, or conflicts would have no effect on the ability of any Party to fully consummate all terms of this Agreement.
- (d) *Budgets.* Each of the Parties is responsible for keeping its own budgets relating to this Agreement.

### **3. Termination.**

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3.1 This Agreement may be terminated only as follows:

- (a) By mutual written consent of all Parties;
- (b) By any Party, if any state or federal approval necessary to its performance under the terms of this Agreement is refused by a final decision not subject to appeal following diligent pursuit thereof; or
- (c) By any Party, upon a material breach by any other Party of any covenant, warranty, representation, agreement, or provisions of this Agreement that has not been (i) cured within 30 days after a non-breaching Party gives written notices of said breach to the breaching Party; or (ii) waived by the non-breaching Party.

- 3.2 The effect of termination of this Agreement will be as follows:
- (a) Each Party's right of termination under Section 3.1 of this Agreement is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies.
  - (b) If this Agreement is terminated pursuant to Section 3.1 of this Agreement, all further obligations of the Parties under this Agreement will terminate.

**4. Remedies.**

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- 4.1 Specific Performance.
- (a) The Parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement is not performed in accordance with its specific terms or is otherwise breached.
  - (b) The Parties agree that, in the event that there is a disagreement between them regarding compliance with the terms and conditions of this Agreement, prior to filing any suit the disagreement will be submitted by the Parties to a neutral mediator for at least 60 days for assistance in reaching a resolution of the disagreement satisfactory to all Parties.
  - (c) Each Party agrees that, in the event of any breach or threatened breach by any other Party of any covenant, warranty, or obligation contained in this agreement, the non-breaching Parties will be entitled (in addition to any other remedy that may be available, whether in law or equity) to seek and obtain (i) a decree or order of specific performance to enforce the observation and performance of such covenant, warranty, or obligation, and (ii) an injunction restraining such breach or threatened breach.

**5. Miscellaneous.**

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- 5.1 Entire Agreement. This Agreement constitutes the entire agreement between the Parties concerning its subject matter and supersedes all prior oral or written agreements, understandings, representations, and warranties, as well as courses of dealing among the Parties.
- 5.2 Amendment. This Agreement may be amended or modified only by a writing executed by all Parties.
- 5.3 Extension or Waiver of Performance. The Parties may jointly extend the time or waive the performance of any of the obligations of any other, waive any inaccuracies in the warranties or representations made by the other, or waive compliance with any of the covenants, conditions, or agreements contained in this Agreement, provided that any such extension or waiver must be in writing and

signed by all other Parties in the case of a waiver, or by all Parties in the case of an extension.

- 5.4 Assignment or Delegation. No Party shall assign, delegate, or otherwise transfer any of its duties, rights, or obligations under this Agreement without the prior written consent of all other Parties.
- 5.5 Successors and Assigns; Binding Effect. This Agreement is binding on, and inures to the benefit of, the Parties and their respective successors and permitted assigns.
- 5.6 Governing Law. This Agreement is to be governed and construed under the laws of the Commonwealth of Virginia.
- 5.7 Notices. All notices provided in this Agreement must be in writing, and may be delivered in person; sent by U.S. registered and certified mail, return receipt requested; or sent by Federal Express or other nationally-recognized overnight courier from which a receipt may be obtained to the chief administrative officer and chief legal counsel of each of the other Parties.
- 5.8 Construction. In the event of any ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

Any reference to any federal, state, local, or foreign statute shall be deemed to refer to all statutes, rules, and regulations referenced therein or promulgated thereunder, unless the context requires otherwise.

Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context may require. The word “including” means included, without limitation.

- 5.9 Remedies. The remedies afforded in this Agreement are cumulative to each other and to all other remedies provided by law.
- 5.10 Time of the Essence. Where a specific date or time is stated in this Agreement, time is of the essence of this Agreement.
- 5.11 Waiver. Except as otherwise provided herein, no delay of or omission in the exercise of any right, power or remedy accruing to any Party as a result of any breach or default by any other Party under this Agreement will impair any such right, power, or remedy; nor shall it be construed as a waiver of or acquiescence in such breach or default, or any similar breach or default occurring later; nor shall any waiver of a single breach or default be deemed a waiver of any other breach or default occurring before or after the waiver.

- 5.12 Jurisdiction and Venue. Each Party irrevocably submits to the exclusive jurisdiction of the Circuit Courts for Louisa County and Fluvanna County, at the option of the plaintiff in such suit, and the appellate courts therefrom, for the purposes of any suit or action arising out of this Agreement.
- 5.13 Third-Party Beneficiaries. Nothing herein expressed or implied is intended or should be construed to confer on or give to any person other than the Parties any rights or remedies under or by reason of this Agreement.
- 5.14 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original copy of this Agreement and all of which, when taken together, shall be deemed to constitute one and the same agreement.

**[Signatures Appear on Next Page]**

FOR LOUISA COUNTY, VIRGINIA:

\_\_\_\_\_ Date: \_\_\_\_\_  
Chairman, Board of Supervisors

FOR FLUVANNA COUNTY, VIRGINIA:

\_\_\_\_\_ Date: \_\_\_\_\_  
Chairman, Board of Supervisors

FOR THE LOUISA COUNTY WATER  
AUTHORITY:

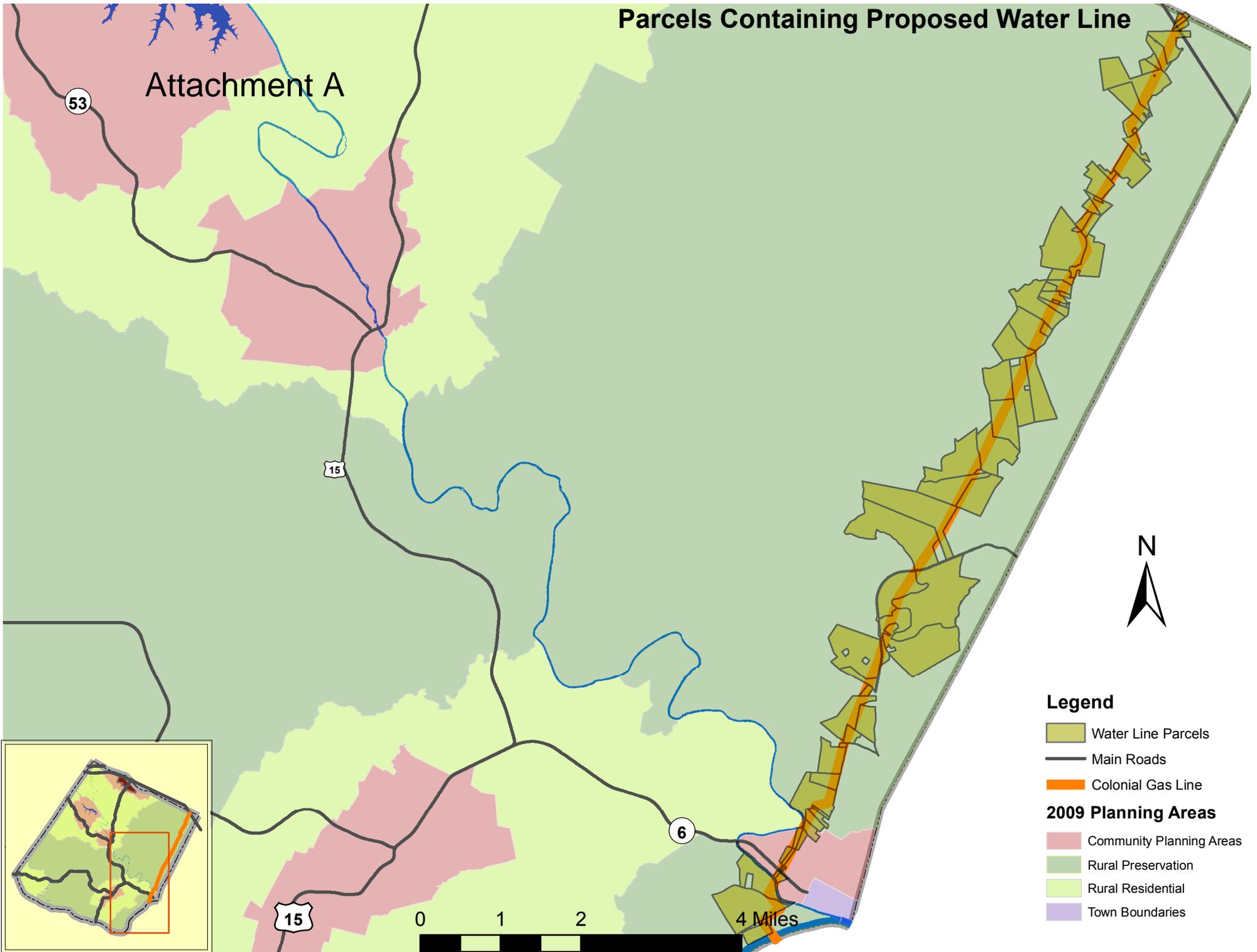
\_\_\_\_\_ Date: \_\_\_\_\_  
Chairman, Board of Directors

FOR THE JAMES RIVER WATER  
AUTHORITY:

\_\_\_\_\_ Date: \_\_\_\_\_  
Chairman, Board of Directors

# Parcels Containing Proposed Water Line

Attachment A



## Legend

 Water Line Parcels

 Main Roads

 Colonial Gas Line

## 2009 Planning Areas

 Community Planning Areas

 Rural Preservation

 Rural Residential

 Town Boundaries



# Interjurisdictional Agreement Regarding the James River Water Pipeline

**“AN AGREEMENT BETWEEN LOUISA COUNTY,  
VIRGINIA, FLUVANNA COUNTY, VIRGINIA, THE  
LOUISA COUNTY WATER AUTHORITY, AND THE  
JAMES RIVER WATER AUTHORITY REGARDING  
THE JAMES RIVER WATER PIPELINE”**

**September 18, 2013**

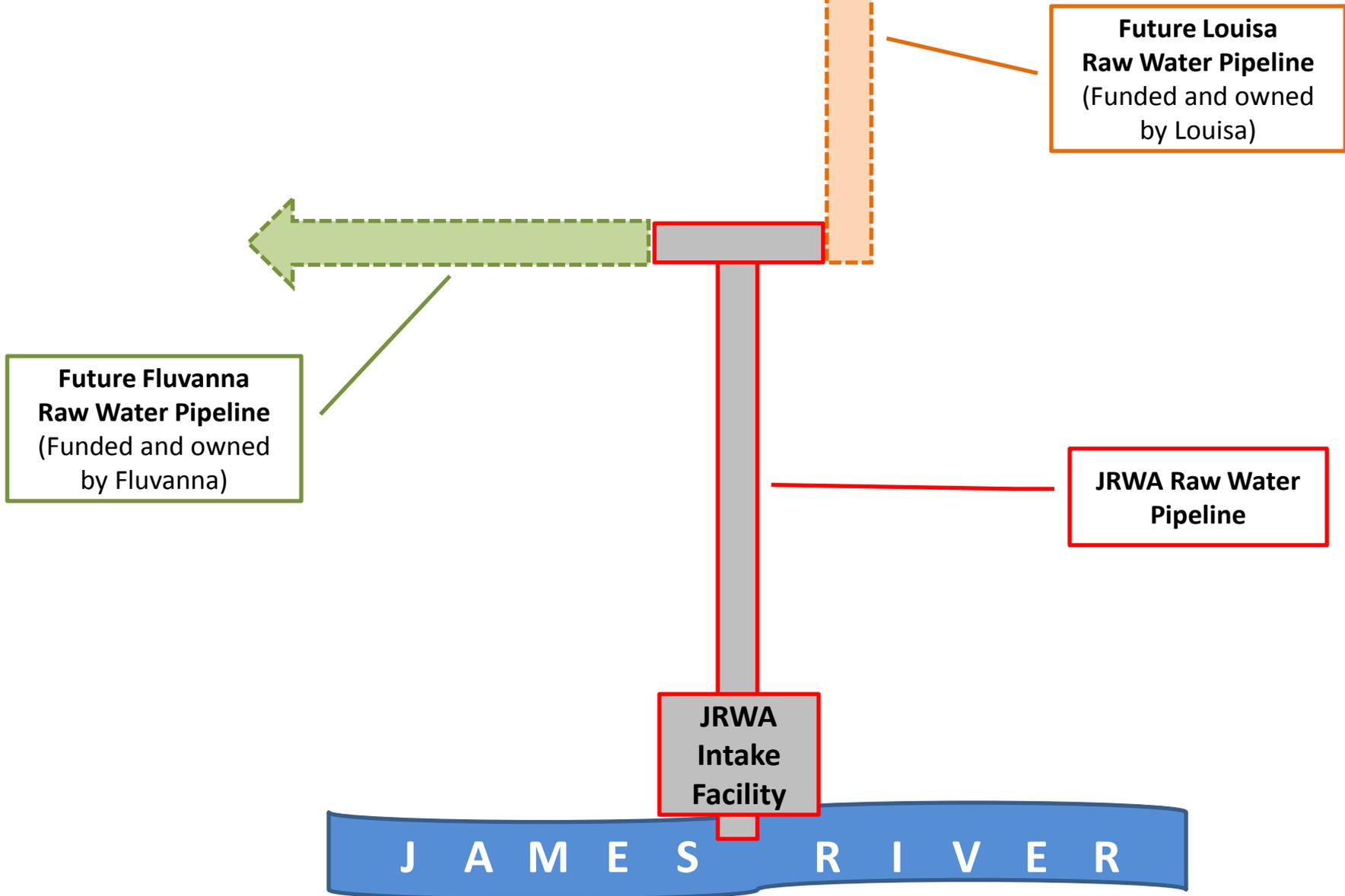


# Agreement Purpose

- **To delineate the rights and duties of the parties regarding the James River Pipeline from a point on the James River near the Town of Columbia to a point in Louisa County.**
- **Agreement parties:**
  - **Louisa County**
  - **Fluvanna County**
  - **Louisa County Water Authority**
  - **James River Water Authority**



# Fluvanna-Louisa Agreement





# Agreement Provisions

- **Funding of Property Acquisition, Design, and Construction**
  - **JRWA**
    - Capital costs - split 50/50
    - Fixed O&M costs - split 50/50
    - Variable O&M costs - split proportionally according to flow
  - **Fluvanna Costs**
    - Fluvanna pipeline – 100%
    - Additions to Louisa Pipeline – incremental costs
  - **Louisa/LCWA Costs**
    - Pipeline to Louisa – 100%
- **Ownership**
  - Parties will each own such real and personal property as they each acquire or construct



# Agreement Provisions (cont.)

- **Reservation of Capacity**

- Allocation of water between Fluvanna and Louisa will be in accordance with the needs of each county as established and agreed in the Columbia Permit water withdrawal application and DEQ's summary findings of need regarding the Columbia Permit.
- **Temporary Reallocation**. Raw water capacity may be reallocated on a temporary basis. Costs and terms for such temporary reallocations will be fair and reasonable and determined by JRWA on request by any of the Parties.
- **Bulk Purchases**. Fluvanna may purchase raw or finished water from Louisa/LCWA, or Louisa/LCWA may purchase raw or finished water from Fluvanna, at a mutually agreed bulk rate.
- **Future Expansion to Columbia Permit**. Unless otherwise agreed by the Parties, if at any time any Party seeks an expansion of the Columbia Permit, JRWA will make such application and be reimbursed by the Party or Parties seeking an expansion.

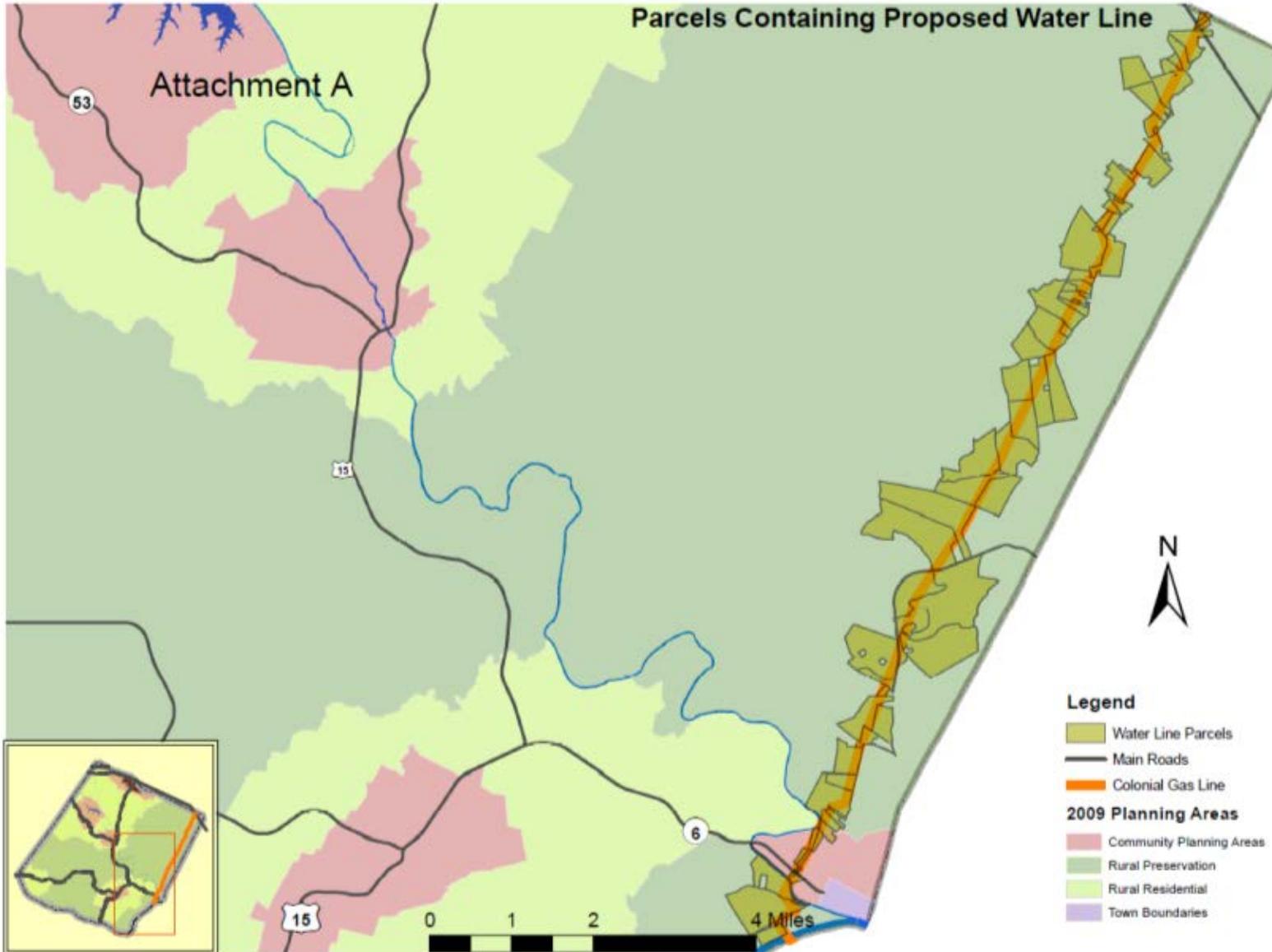


# Agreement Provisions (cont.)

- **Comprehensive Planning, Zoning, and Other Approvals**
  - ***Fluvanna County Comprehensive Plan.*** Fluvanna will take all necessary and legally permissible steps to determine consistency with and/or amend its Comprehensive Plan so as to make the James River Pipeline shown on Attachment A to this Agreement a feature whose general or approximate location, character, and extent are shown on its Comprehensive Plan in accordance with Va. Code Ann. § 15.2-2232 (2012). A determination of substantial conformance or appropriate amendments to the Fluvanna Comprehensive Plan will be completed by November 30, 2013.
- **Outlines cooperation on:**
  - State and Federal Regulatory Approvals
  - Litigation

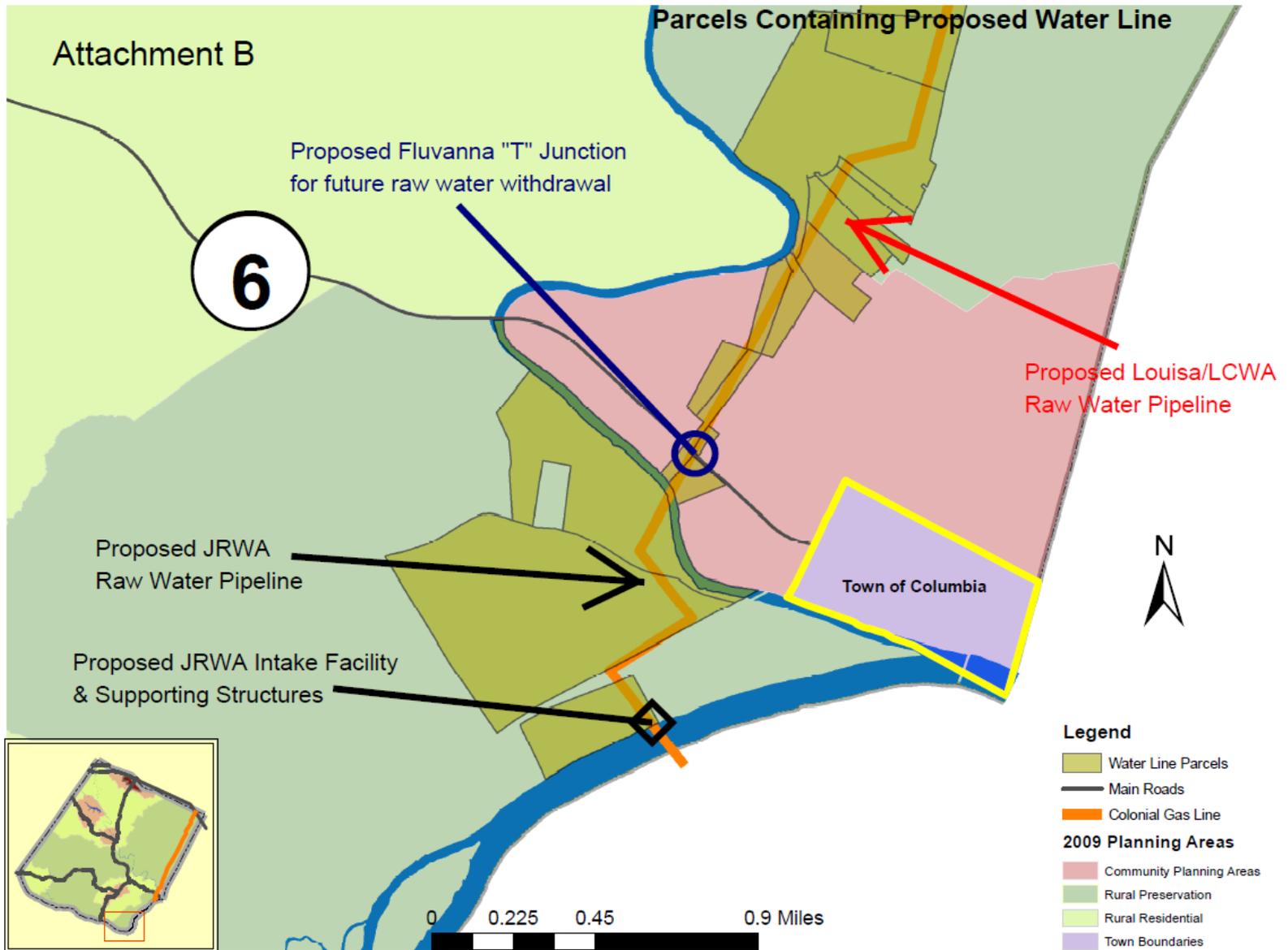


# Nominal Pipeline Route





# Columbia Area Diagram





# Potential Cost of JRWA Structures & Pipeline

## Estimate of Total Project Costs for 3.0 MGD Raw Water Uptake near Columbia and Associated Water Line to a point North of Rt 6 in Fluvanna County (July 2013)

Description/Source	Original Estimate	Original FY Estimate	Current FY	Avg. Inflation	Adjusted Cost Estimate (2) (Current FY \$)
3 MGD Raw Water Intake Facility (1)	\$ 1,150,000	2003	2014	3.50%	\$ 1,678,965
8,500 LF Raw Water Line	\$ 1,126,240	2003			\$ 1,644,276
Easement Costs along Colonial Pipeline					????
Estimated Cost of Permit Modification (to move Raw Water Uptake from vicinity of Brems Bluff to vicinity of Columbia)					\$ 25,000
<b>Total Estimated JRWA Costs</b>					<b>\$ 3,348,241</b>

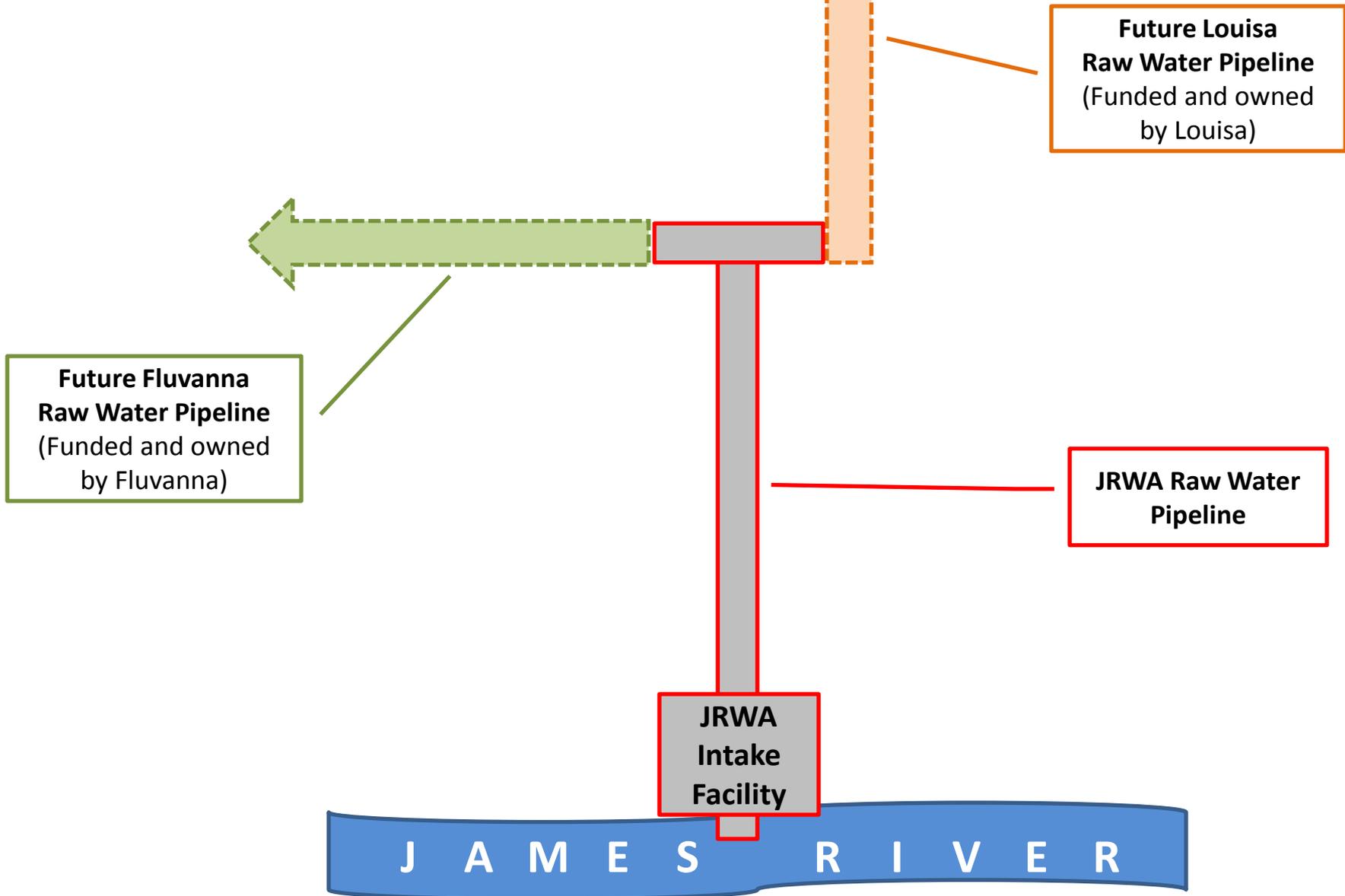
**NOTES:**

(1) The cost estimate for the 3.0 mgd raw water uptake structure is taken from the 2003 Water Study performed by Anderson & Associates, adjusted for inflation.

(2) The cost estimate for the raw water line was computed in 2003 dollars using the methodology from the 2003 Anderson & Associates study, then adjusted for inflation (see Work Sheet titled "Raw Water Line" for details of this computed estimate).



# Fluvanna-Louisa Agreement





# Questions?

## BOARD OF SUPERVISORS AGENDA ITEM

Meeting Date: September 18, 2013

<b>SUBJECT:</b>	<b>Potential Amendments to the Fluvanna County Comprehensive Plan/Zoning Ordinances Regarding Extension of Public Utilities</b>
<b>MOTION(s):</b>	<p style="text-align: center;"><b><u>COMPREHENSIVE PLAN</u></b></p> <p>I move that the Board of Supervisors direct the Planning Commission to initiate a Comprehensive Plan Amendment regarding extension of major utilities.</p> <p style="text-align: center;"><b><u>ZONING ORDINANCE</u></b></p> <p>I move that the Board of Supervisors INITIATE / NOT INITIATE a Zoning Text Amendment to eliminate the SUP requirement for extension of major utilities.</p>
<b>STAFF CONTACT:</b>	Jay Lindsey, Long Range Planner
<b>RECOMMENDATION:</b>	Approve/Deny
<b>TIMING:</b>	October 9 <sup>th</sup> Planning Commission Work Session, October 23 <sup>rd</sup> Planning Commission meeting (Public Hearing), and November 20 <sup>th</sup> Board of Supervisors meeting (Public Hearing).
<b>DISCUSSION:</b>	Fluvanna County will consider the need for amendments to its Comprehensive Plan and Zoning Ordinance to enable, in cooperation with Louisa County, an extension of public utilities.
<b>FISCAL IMPLICATIONS:</b>	Exact impacts will require further research.
<b>POLICY IMPLICATIONS:</b>	Zoning Ordinance and Comprehensive Plan
<b>LEGISLATIVE HISTORY:</b>	None
<b>ENCLOSURES:</b>	None

# Potential Amendments to the Fluvanna County Comprehensive Plan/Zoning Ordinances Regarding Extension of Public Utilities

**Board of Supervisors**  
**Staff Presentation - Jay Lindsey, Planner**  
**September 18, 2013**

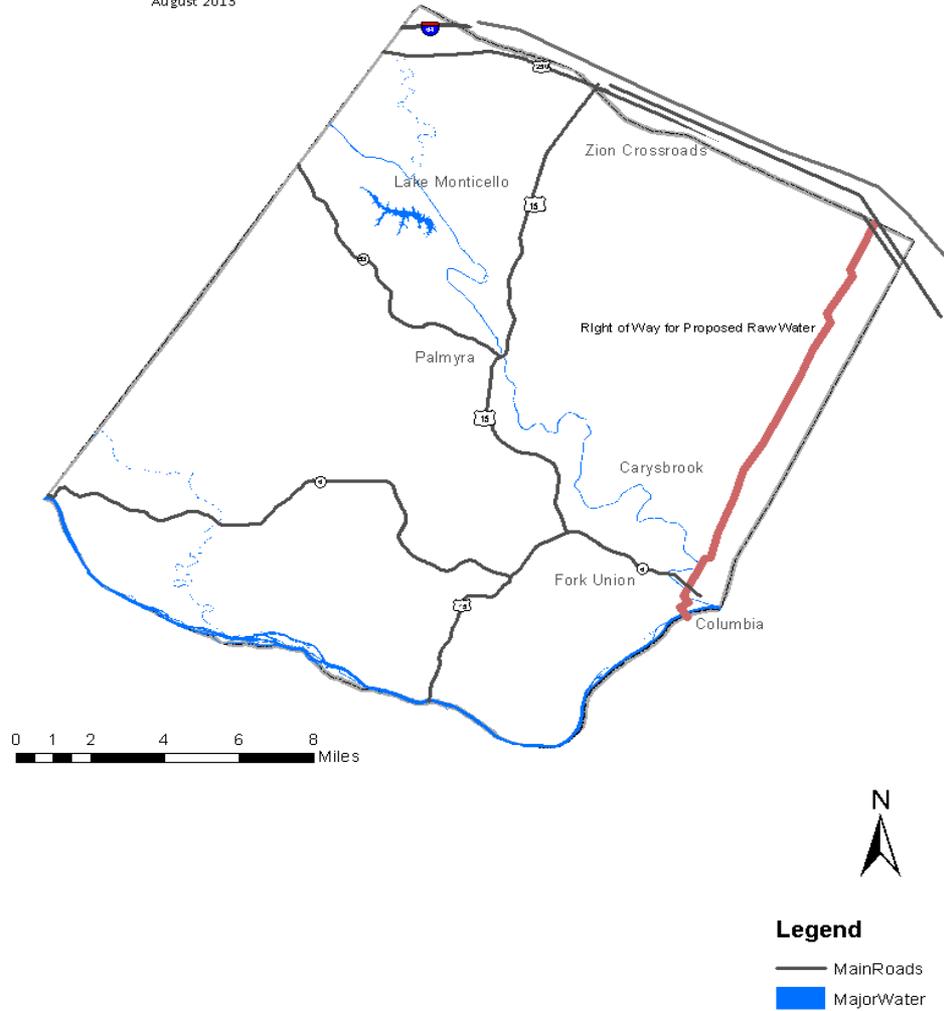
**Fluvanna County**  
**Dept. of Planning & Community Development**



*“Responsive & Responsible Government”*

# Topics for Consideration

Fluvanna County  
Proposed Raw Water Right-of-Way  
August 2013



# Nature of Proposed Project

Fluvanna County

- *Utility, Major: Facilities for the distribution, collection, treatment, production, **transmission**, and generation of public, private, and central utilities including, but not limited to, **transmission lines**, production plants, electrical substations, pumping stations, treatment facilities, and communication facilities.*

# Major Utilities in A-1

Fluvanna County

- **Major utilities in A-1 are allowed by special use permit (SUP) only.**
  
- **This is consistent with Staff's findings in the ordinances of other localities:**
  - Orange County
  - Hanover County
  - Southampton County
  - Spotsylvania County
  - Albemarle County
  - Goochland
  - Brunswick County
  - Buckingham County
  - Louisa
  - Isle of Wight County
  - Greenville County

# Proposed Comprehensive Plan Amendment

---

Fluvanna County

## Land Use Section, Course of Action, Goal 2, Implementation Strategy 8:

~~Discourage centralized water and sewer utilities in  
the rural preservation area.~~

Discourage potable water and centralized sewer  
utilities in the rural preservation area.

# Proposed Comprehensive Plan Amendment

Fluvanna County

## Infrastructure, Water Systems

***Fluvanna’s 2013 agreement with Louisa County, through the jointly-held James River Water Authority (created under the Virginia Water and Waste Authorities Act), will result in a pipeline which draws water from the James River near Columbia on Fluvanna’s southern boundary for transmittal to Louisa County on Fluvanna’s northern boundary. The water line will closely follow the existing right-of-way of the Colonial Gas Line.***

***Fluvanna County may, at future points, connect to the raw water line with “T” connections for distribution of water to the Community Planning Areas (the CPAs). However, any water transmitted through Fluvanna’s rural preservation districts should be raw, non-potable water, which can be treated for consumption at the CPAs. This measure ensures that rural preservation areas will not be subject to the development pressures associated with access to potable water.***

## **COMPREHENSIVE PLAN**

- **I move that the Board of Supervisors direct the Planning Commission to initiate a Comprehensive Plan Amendment regarding extension of major utilities.**

## **ZONING ORDINANCE**

- **I move that the Board of Supervisors INITIATE/ NOT INITIATE a Zoning Text Amendment to eliminate the SUP requirement for extension of major utilities.**

## BOARD OF SUPERVISORS AGENDA ITEM

Meeting Date: September 18, 2013

<b>SUBJECT:</b>	EST 13:01, Central Meadows, LLC – Conservation Easement
<b>MOTION(s):</b>	I move that the Board of Supervisors <b>approve/deny</b> EST 13:01 with respect to 665.86 acres of Tax Map (22-A-7), (22-A-42), (22-A-43), (22-3-2) and (22-3-3), [if approved], subject to the property restrictions listed in the staff report, the Deed of Easement being subject to approval as to form by the County Attorney.
<b>STAFF CONTACT:</b>	Steven Tugwell, Senior Planner
<b>RECOMMENDATION:</b>	-
<b>TIMING:</b>	Board of Supervisors Public Hearing September 18, 2013
<b>DISCUSSION:</b>	Request for a conservation easement with respect to 665.86 acres of Tax Map (22-A-7), (22-A-42), (22-A-43), (22-3-2) and (22-3-3).
<b>FISCAL IMPLICATIONS:</b>	-
<b>POLICY IMPLICATIONS:</b>	The Board of Supervisors may: <ul style="list-style-type: none"><li>• Approve this request, allowing the conservation easement; OR</li><li>• Deny this request, preventing the conservation easement; OR</li><li>• Defer this request and make a final decision at a later date.</li></ul>
<b>LEGISLATIVE HISTORY:</b>	Review of a proposed conservation easement in accordance with Chapter 5.5 of the Fluvanna County Code  Application received on August 31, 2013
<b>ENCLOSURES:</b>	Staff Report (with accompanying attachments)



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# COUNTY OF FLUVANNA

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*"Responsive & Responsible Government"*

P.O. Box 540 Palmyra, VA 22963 (434) 591-1910 FAX (434) 591-1911 [www.co.fluvanna.va.us](http://www.co.fluvanna.va.us)

## STAFF REPORT

**To:** Fluvanna County Board of Supervisors

**Case Number:** EST 13:01

**Tax Map:** Tax Map 22, Section A, Parcels 7, 42, 43;  
Tax Map 22, Section 3, Parcels 2, 3

**From:** Steve Tugwell

**District:** Columbia

**Date:** September 18, 2013

**General Information:**

This request is to be heard by the Board of Supervisors on Wednesday, September 18, 2013 at 7:00 pm in the Circuit Court Room in the Courts Building.

**Owner/Applicant:**

Central Meadows, LLC

**Representative:**

Zorbist Law Group, PLLC

**Requested Action:**

To establish the creation of a Conservation Easement of 665.86 acres of Tax Map 22-A-7, 22-A-42, 22-A-43, 22-3-2 and 22-3-3. (Attachment A)

**Location:**

The affected property is located south of Twin Oaks Lane approximately ½ mile from its intersection with State Route 629 (Deep Creek Road). (Attachment B)

**Existing Zoning:**

A-1, Agricultural, General

**Planning Area:**

Rural Preservation Planning Area

**Existing Land Use:**

Vacant Land

**Adjacent Land Use:**

The surrounding area is zoned A-1, Agricultural, General

**Zoning History:**

The Planning Commission approved a sketch plan for a major subdivision that included two of the parcels in question (TMP 22-A-42, 22-A-43) on September 28, 2006 (SUB 06-059). The Subdivision Agent reviewed a preliminary plat and sent comments, the request then pending on the applicant's resubmittal with revisions. The Planning Commission approved a sketch plan for a major subdivision request that included the remaining three parcels in question (TMP 22-A-7, 22-3-2, 22-3-3) on February 28, 2007 (SUB 06-099).

## **Purpose of Conservation Easements:**

As stated in Sec. 5.5-2. of the Fluvanna County Code, “The Board of Supervisors finds that a substantial area of rural land in the County has been converted to uses not consistent with or conducive to agriculture, forestry, or other traditional rural uses; that regulatory land-use planning tools may not, in themselves, be sufficient to inhibit the conversion of farm and forest land, clean water and airsheds, biological diversity, scenic vistas and rural character have a public value as well as a private value. Therefore, the Board of Supervisors has determined that it is advisable to establish a program, pursuant to Virginia Code Sec.10.1-1700, *et seq.*, by which the County can acquire conservation easements voluntarily offered by owners to serve as one means of assuring that the County’s resources are protected and efficiently used; to help in preserving open-space and the rural character of the County by (a) preserving farm and forest lands; (b) conserving and protecting water resources; (c) conserving and protecting biodiversity and wildlife and aquatic habitat; (d) improving the quality of life for the inhabitants of the County; (e) assuring availability of lands for agricultural, forestall, recreational, or open-space use; and (f) promoting tourism through the preservation of scenic resources”. (Ord. 06-21-06)

## **Analysis**

In accordance with Sec. 5.5-6 of the Fluvanna County Code, the Board of Supervisors must consider several criteria when determining whether to accept a proposed conservation easement:

- I. The use of the parcel subject to the conservation easement must be consistent with Comprehensive Plan;
- II. The proposed terms of the conservation deed of easement must be consistent with the minimum terms and conditions set forth in Sec. 5.5-7 of the County Code; and
- III. The acceptance of the proposed conservation easement is consistent with the purposes of the Conservation Easements Program.

The subject parcel is located within the Rural Preservation Planning Area as identified by the Comprehensive Plan.

## **Comprehensive Plan:**

### **Natural Environment**

As of January 2013, there were 32 conservation and historic easements in the County, totaling 12,600.4 acres (6.9% County land). Most of the easements are owned by the Virginia Outdoors Foundation. The Board of Supervisors created a County easement program whereby the County, as a jurisdiction, may hold and protect easements. In 2007, Fluvanna County accepted the first easement under this program. As of 2012, the County approved three conservation easements that total over two hundred acres.

### **Land Use Planning Area**

The Comprehensive Plan designates this area as within the Rural Preservation Planning Area. With regard to the Rural Preservation Planning Area, the Land Use section of the Comprehensive Plan states “*large parks, agriculture and forestal districts, working farms, and passive open spaces should comprise most of the land use, with very low-density residential*

*development (e.g., less than one unit every five acres).” This application for a conservation easement is in general conformance with the Comprehensive Plan because the subject parcel is located within a rural area; and, as the Land Use section of the Comprehensive Plan states, “maintaining the rural character of the county is the primary principle and vision that drives the plan.”*

As stated in the applicant’s draft deed, the Easement is granted to Fluvanna County exclusively, and will be held in perpetuity. Restrictions on the property include:

1. Accumulation or dumping of trash, refuse, or junk is not permitted on the property;
2. The types of signs will be limited in type and will be no larger than nine (9) square feet;
3. The land may not be subdivided;
4. Forest management will take place through a forest stewardship plan;
5. Land disturbing activities will be limited in nature and will be consistent with best management practices;
6. No permanent or temporary building or structure may be built or maintained on the property other than: one single family dwelling and non-residential outbuildings or structures commonly and appropriately incidental thereto; not more than two secondary dwelling units, (including, e.g. barn or garage apartment) not to exceed 2,000 square feet of livable space each if more than one) and non-residential outbuildings or structures commonly and appropriately incidental thereto; and farm buildings or structures.
7. Private roads and utilities that serve permitted buildings or structures may be constructed.
8. Industrial or commercial activities other than the following are prohibited: agriculture, viticulture, aquaculture, silviculture, horticulture, hunting, fishing and equine activities, temporary or seasonal outdoor activities that do not permanently alter the physical appearance of the property, no commercial recreational use shall be allowed on the property;
9. The County has the right to enter onto the property to inspect it for compliance with the easement. (Attachment C)

### **Technical Review Committee:**

At the September 12, 2013 Technical Review Committee meeting, there were no comments with regard to this application.

### **Conclusion:**

Staff believes that EST 13:01 is in general conformance with the intent of Chapter 5.5, Conservation Easements Program and the Fluvanna County Comprehensive Plan. Therefore, approval of this application may be appropriate. When reviewing this application, the Board may want to consider how it does or does not meet the intentions of the Comprehensive Plan.

### **Suggested Motion:**

I move that the Board of Supervisors **approve/deny** EST 13:01, a request to establish the creation of a Conservation Easement, 13:01 for 665.86 acres of Tax Map (22-A-7), (22-A-42),

(22-A-43), (22-3-2) and (22-3-3) [if approved] subject to the property restrictions listed in the staff report, the Deed of Easement being subject to approval as to form by the County Attorney.

**Attachments:**

A – Application

B – Sketch Plan

C – Draft deed of easement

D – Chapter 5.5 of the Fluvanna County Code

E – Site photographs

Copy:

Applicant – Central Meadows, LLC, 151 Starlite Park, Troy, VA 22974

Representative – Zobrist Law Group, PLLC, 1900 Arlington Blvd, Suite B, Charlottesville, VA 22903



# Application for the Creation of a CONSERVATION EASEMENT

ID: EST 13-01

**FEES payable with application:** Establishment of a new easement = \$750.00 plus mailing costs\*  
\*Mailing Costs: \$20.00 Adjacent Property Owner(APO) after 1st 15, Certified

### Owner Information:

1. The property is owned by: (check one)

- One or more persons
- Limited Liability Company
- General Partnership
- Trust
- Limited Partnership
- Other Central Meadows, LLC
- Corporation

Received  
AUG 20 2013

2. Names and contact information for all owners. (For business entities, list general partners, president, trustees or managers, as the case may be)

Fluvanna County

Name: Mike Clark Phone Number +1 (434) 531-0671

Address: 151 Starlite Park, Troy, VA 22974 Email Address: enviromjc@earthlink.net

Name: Gordon Faulknier Phone Number +1 (434) 589-6025

Address: 151 Starlite Park, Troy, VA 22974 Email Address: \_\_\_\_\_

Name: \_\_\_\_\_ Phone Number \_\_\_\_\_

Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

Name: \_\_\_\_\_ Phone Number \_\_\_\_\_

Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

Name: \_\_\_\_\_ Phone Number \_\_\_\_\_

Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

3. Source of title (Deed Book and Page Number). If title comes from will, inheritance or other source, please include citation to will book and page number of will or list of heirs or other source document. (Attach a copy of deed/will/list of heirs/other source.)

(1) Parcels 22-A-42 - 261.046 acres; conveyance to owner in DB 710 p. 850; (2) parcel 22-A-7 - 143.2 acres, parcel 22-3-2 - 120 acres, and parcel 22-3-3 - 105 acres conveyance to owner in DB 710 p. 834; and (3) parcel 22-A-43 - 36.61 acres conveyance to owner in DB 710 p. 853.

4. Do you own other land in Fluvanna County?  No  Yes

If yes, is the other land contiguous to the land which is the subject of this application?  No  Yes

If yes, please give Tax Map and Parcel Number for each contiguous parcel. \_\_\_\_\_

5. How long has the subject parcel been owned by the current owner or members of the family? Seven Years

6. List all other persons having interests in the property, including, but not necessarily limited to, lessees, owners of easements in the property and lienholders. (Lienholders must sign to evidence their approval of the easement. Owners of other interests may need to sign as well.) Attach separate sheet listing names and contact information for such persons, as well as a copy of current title report.

**Property Information:**

Tax Map and Parcel(s): 22-A-7, 22-A-42, 22-A-43, 22-3-2&3 Election District: Columbia

Zoning: A1 Acreage: 665 +/- 665.86 Nearest State Highway: Kent Store Way (Rt 659)

Comprehensive Plan Planning Area: Kents Store Rural Preservation

Buildings/other improvements on this parcel: None

Principal uses of property at present time (list all that apply, e.g., grazing, timber, crops, hunting/fishing, private recreation): Timber, crops, hunting

Existing Buildings and other improvements on each parcel: \_\_\_\_\_

Please describe particular physical features of the property (e.g., historic buildings, cemeteries, streams, unusual topographic features): Unnamed tributary of Venable Creek

**Proposed restrictions to be imposed by this easement:**

1. Please give a summary of the restrictions you propose to apply to this property. If more than one parcel, please indicate if different restrictions are proposed for different parcels: See attached deed

2. Please indicate whether the applicant volunteers to have the property be subject to greater restrictions than those contained in the standard sample deed of easement, and if so, delineate those voluntary, additional restrictions. None

3. Please give a description of the reasons you believe the proposed easement will support the purposes of the Fluvanna County Conservation easements Program: Comprehensive Plan - Natural Environment - Goal 1 and 5

4. Please attach copy of proposed deed of easement.

I/We hereby make application to Fluvanna County for the donation of development rights on the tax parcel(s) identified above on this application form pursuant to Fluvanna County Ordinance Conservation Easements Program. I/We understand and acknowledge that I/we incur no obligation by completing this application, and that Fluvanna County incurs no obligation by its acceptance of this application. I/We hereby certify that, to the best of our knowledge, the information contained in this application and attached materials are true and correct. I/We grant permission to the Conservation Easements Program Administrator or his/her designee to enter the property, after reasonable notice to the owner, for the purposes of evaluating the parcel(s) and verifying required information on the application form. This application form is not a legally binding agreement between the Applicant(s) and Fluvanna County. It is strictly for informational purposes in processing this application.

**ALL OWNERS OF RECORD MUST SIGN AND DATE THIS APPLICATION!**

		
Signature	Print Name	Date

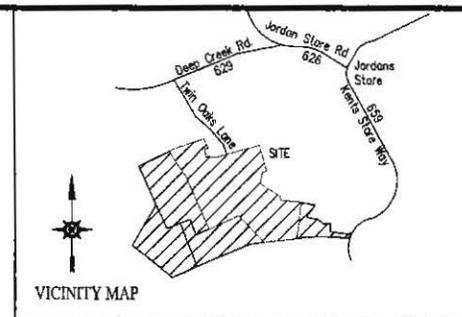
		
Signature	Print Name	Date

Signature	Print Name	Date
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Signature	Print Name	Date
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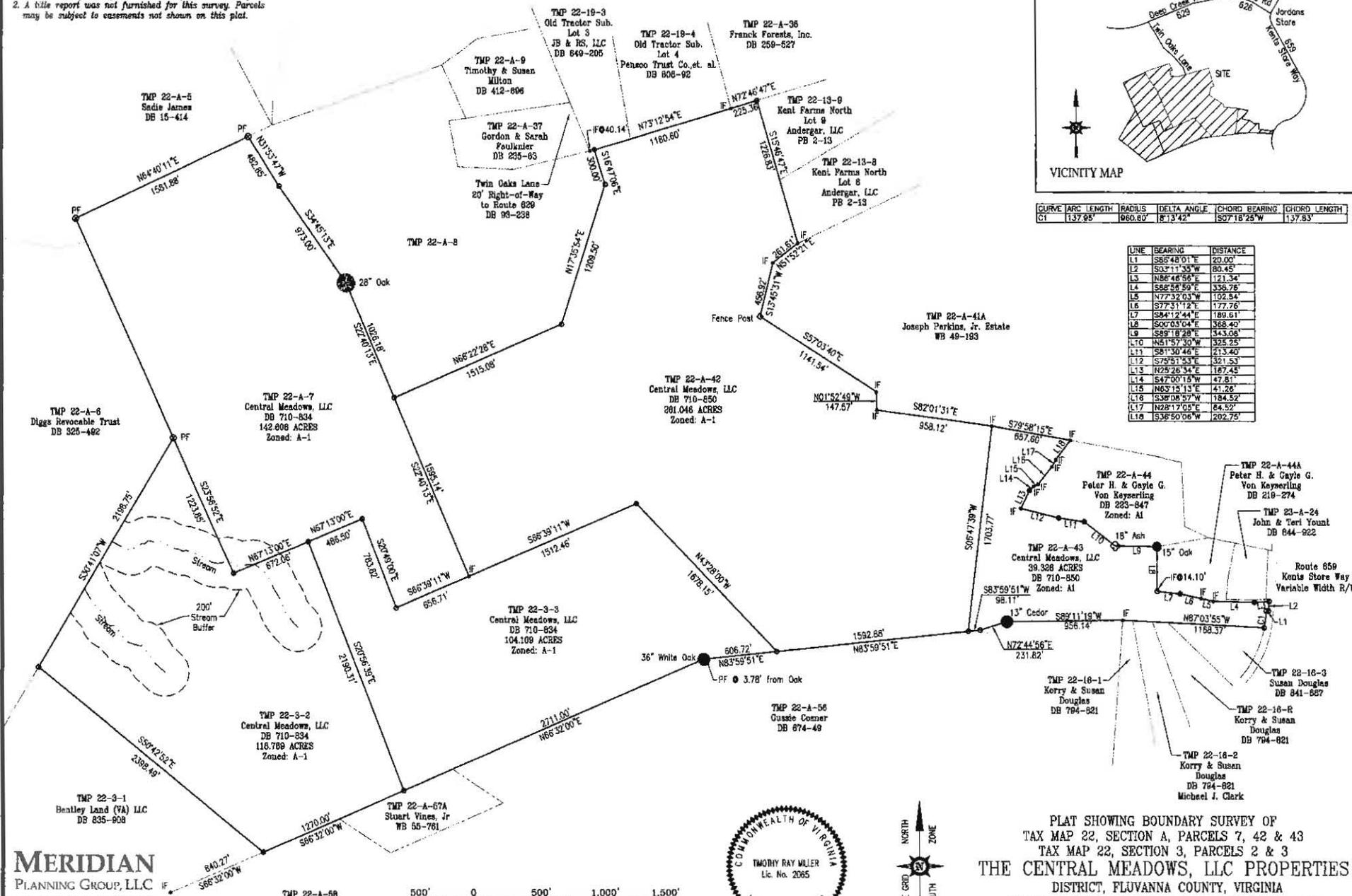
Signature	Print Name	Date
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NOTES:  
 1. This boundary survey is based on a field run survey.  
 2. A title report was not furnished for this survey. Parcels may be subject to easements not shown on this plat.

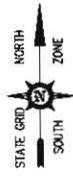
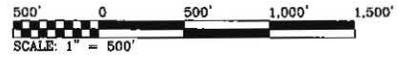


CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	137.95'	960.60'	8°13'42"	S07°18'25"W	137.83'

LINE	BEARING	DISTANCE
L1	S85°48'01"E	20.00'
L2	S03°11'33"W	80.43'
L3	N86°46'56"E	121.34'
L4	S86°58'59"E	336.76'
L5	N77°32'03"W	102.54'
L6	S77°31'12"E	177.76'
L7	S84°12'44"E	189.61'
L8	S00°03'04"E	368.40'
L9	S89°18'28"E	343.06'
L10	N51°57'30"W	325.25'
L11	S81°30'46"E	213.40'
L12	S78°51'23"E	321.53'
L13	N25°28'34"E	167.45'
L14	S47°00'18"W	47.81'
L15	N63°15'13"E	41.26'
L16	S38°08'57"W	184.52'
L17	N28°17'05"E	84.52'
L18	S36°50'06"W	202.75'



**MERIDIAN**  
 PLANNING GROUP, LLC  
 1413 Sachem Place, Suite One  
 Charlottesville, VA 22901  
 (P) 434.882.0121



PLAT SHOWING BOUNDARY SURVEY OF  
 TAX MAP 22, SECTION A, PARCELS 7, 42 & 43  
 TAX MAP 22, SECTION 3, PARCELS 2 & 3  
**THE CENTRAL MEADOWS, LLC PROPERTIES**  
 DISTRICT, PLUVANNA COUNTY, VIRGINIA  
 SHEET: 1 of 1 SCALE: 1" = 500'  
 FILE: 22-42-BNDRY.DWG DATE: AUGUST 19, 2013



# DRAFT

**WHEREAS**, the protection of the Property from intensive development will contribute to the goal of the 2002 Virginia Outdoors Plan to “encourage partnerships through the establishment of private/public conservation easements along designated Scenic Rivers”;

**WHEREAS**, the Property possesses natural, scenic, and open space characteristics of great importance to the Grantor, the people of Fluvanna County, Virginia, and the people of the Commonwealth of Virginia, and these characteristics are described in greater detail herein;

**WHEREAS**, the Property is composed of four (5) parcels of record comprising in the aggregate 665.86 acres, more or less;

**WHEREAS**, the Property possesses significant conservation and open-space values important to the public, including but not limited to those for the scenic enjoyment of the general public; assuring the Property’s availability for agricultural, forestal, or open-space use; protecting natural resources, including but not limited to water resources, and environmentally sensitive lands; and maintaining or enhancing water quality, including those to conserve and protect biodiversity and wildlife and aquatic habitat;

**WHEREAS**, the conveyance of this Deed of Easement over the Property will preserve the characteristics of the Property in perpetuity pursuant to certain clearly delineated state and local governmental conservation policies, and these policies are described in greater detail herein;

**WHEREAS**, this Easement is granted “exclusively for conservation purposes” under IRC §170(h)(1)(C) because it effects “the preservation of open space (including farmland and forest land)” under IRC 170(h)(4)(A)(iii). Specifically the preservation of open-space on the Property is pursuant to clearly delineated state and local governmental conservation policies and will yield a significant public benefit; and

**WHEREAS**, this open-space easement in gross constitutes a restriction granted in perpetuity on the use which may be made of the Property, and is in furtherance of and pursuant to the clearly delineated governmental policies set forth below:

(i) Land conservation policies of the Commonwealth of Virginia as set forth in:

a. Section 1 of Article XI of the Constitution of Virginia, which states that it is the Commonwealth’s policy to protect its atmosphere, lands and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth;

# DRAFT

- b. The Open-Space Land Act cited above;
  - c. Chapter 18, of Title 10.1, *Virginia Code* §§10.1-1800 through 10.1-1804 cited above;
  - d. The Virginia Land Conservation Incentives Act, Chapter 3 of Title 58.1, *Virginia Code* §§ 58.1-510 through 58.1-513, which supplements existing land conservation programs to further encourage the preservation and sustainability of the Commonwealth's unique natural resources, wildlife habitats, open spaces and forest resources;
  - e. Chapter 32, of Title 58.1, *Virginia Code* §§ 58.1-3230 through 58.1-3244, which authorizes special use-value tax assessments for real estate devoted to agricultural, forestal, horticultural and open-space use;
- (ii) the Fluvanna County Comprehensive Plan, as amended on March 18, 2009;
- a. which recognizes, at page 8, that conservation easements are valuable tools for land preservation and conservation, and;
  - b. which has as an element of its first goal, expressed at page 25, *inter alia*, to actively encourage and facilitate conservation easements on land that meets the minimum IRS criteria for easement donation, and:
  - c. which has as an element of its fifth goal, expressed on page 65, to promote the county's conservation easement program;
  - d. the conveyance of this easement on the Property will further these principles and goals of the Fluvanna County Comprehensive Plan and that Plan's strategy to "Actively encourage and facilitate conservation easements";

**WHEREAS**, this Easement is granted "exclusively for conservation purposes" under §170(h)(1)(C) of the IRC.

**WHEREAS**, preservation of the open space characteristics of the Property as provided in this Easement will yield the following significant public benefits, taking into consideration factors suggested in Treas. Reg. §1.170A-14(d)(4)(iv)(A):

- 1) Existing and foreseeable development trends in the vicinity of the Property indicate that development pressure exists and can be expected to increase in the future. Fluvanna County has a history of steady economic and population growth, which should continue into the foreseeable future. This Easement protects the

# DRAFT

Property from intensive residential and commercial development, particularly subdivision into as many as two hundred and eighty (280) residential lots and the construction of roads, homes, and other structures on those lots. Such intensive development would (i) impair the general open space character of the Property; and (ii) cause excessive fragmentation of the plant and wildlife habitat on the Property.

- 2) Because of the Property's susceptibility to more intensive development than is allowed under this Easement, Grantee's opportunities to acquire equally desirable and valuable substitute easements are limited.

**WHEREAS**, the Property is within the Chesapeake Bay watershed and contributes in its undeveloped state to the water quality of the Chesapeake Bay and its watershed and to the goal set by the Governor of the Commonwealth of Virginia and the Administrator of the United States Environmental Protection Agency to conserve 432,535 acres of land in Virginia by the year 2010; in the Chesapeake 2000 Agreement, the Governor of the Commonwealth of Virginia and the Administrator of the United States Environmental Protection Agency acknowledged "that future development will be sustainable only if we protect our natural and rural resource land, limit impervious surfaces and concentrate new growth in existing population centers" and a goal of the Chesapeake 2000 Agreement is to "expand the use of voluntary and market-based mechanisms such as easements...to protect and preserve natural resource lands;"

**WHEREAS**, the Grantor desires to establish an open space easement on the Property for the purpose of preserving such lands as open space in perpetuity in order to protect the values described herein; and

**WHEREAS**, this conveyance is with the full consent of the Grantor and is therefore deemed to be voluntary.

**NOW, THEREFORE**, in consideration of the recitals and the mutual benefits, covenants and terms herein contained, and the acceptance hereof by the Grantee, the Grantor hereby gives, grants, conveys, covenants and agrees as follows:

**1. GRANT AND CONVEYANCE OF EASEMENT; IN PERPETUITY.** The Grantor hereby grants and conveys to the Grantee and its successors and assigns, with SPECIAL

# DRAFT

WARRANTY OF TITLE, an open space easement (the “Easement”) in gross over the Property described below, restricting in perpetuity the use of the Property in the manner set forth herein:

**PARCEL I:**

120 Acres (Tax Map 22-3-2)

All that certain tract or parcel of land lying and being situated in the Columbia Magisterial District, Fluvanna County, Virginia, adjoining the lands now or formerly owned by S. S. Vines, Minor Diggs and others, containing ONE HUNDRED TWENTY (120) acres, more or less, according to a plat of survey made by Carroll Gillispie, C.L.S., S.B.C., dated May 28, 29 and June 19, 1954, designated as Lot No. 2 on said plat, a copy of which plat is attached to and made a part of that certain deed recorded in the aforesaid Clerk’s Office in Deed Book 47, page 380, to which reference is hereby made for a particular description by metes and bounds of the land herein conveyed, being the same property conveyed to Grantor by deed from New Forestry, LLC, dated December 12, 2006 as “Parcel B” recorded in the Clerk’s Office of the Circuit Court of Fluvanna County, Virginia, in Deed Book 710, page 834.

**PARCEL II:**

105 Acres (Tax Map 22-3-3)

All that certain tract or parcel of land lying and being situate in the Columbia Magisterial District, Fluvanna County, Virginia, adjoining the lands now or formerly owned by R. K. Winston, Elbert Bickley Queen and Inez A. Queen and others, containing ONE HUNDRED FIVE (105) acres, more or less, according to a plat of survey made by Carroll Gillispie, C.L.S., S.B.C., dated May 28, 29 and June 19, 1954, designated as Lot No.3 on said plat, a copy of which plat is attached to and made a part of that certain deed recorded in the aforesaid Clerk’s Office in Deed Book 47, page 382, and to which reference is hereby made for a description by metes and bounds of the land herein conveyed, being the same property conveyed to Grantor by deed from New Forestry, LLC, dated December 12, 2006 as “Parcel C” recorded in the Clerk’s Office of the Circuit Court of Fluvanna County, Virginia, in Deed Book 710, page 834.

**PARCEL III:**

143.2 Acres (Tax Map 22-A-7)

All that certain tract or parcel of land lying and being situate in the Columbia Magisterial District, Fluvanna County, Virginia, containing ONE HUNDRED FORTY-THREE AND TWO-TENTHS (143.2) acres, more or less, according to a plat of survey made by Carroll Gillispie, C.L.S., dated July 1 and 2, 1953, which plat is attached to and made a part of that certain deed recorded in the Clerk’s Office of the Circuit Court of Fluvanna County, Virginia, in Deed Book 46, page 163, said land being bounded on the East by the lands now or formerly owned by

# DRAFT

the said Helen Winston, on the South by the lands now or formerly owned by Sam Queen, on the West by the lands now or formerly owned by Minor Diggs and Sam Queen, and on the North by the lands now or formerly owned by Sadie James, being the same property conveyed to Grantor by deed from New Forestry, LLC, dated December 12, 2006 as "Tract Number FV-020" recorded in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, in Deed Book 710, page 834.

## PARCEL IV:

261.046 Acres (Tax Map 22-A-42)

A portion of those three adjoining tracts or parcels of land, with improvements thereon, lying and being situate in Columbia Magisterial District, Fluvanna County, Virginia, containing THREE HUNDRED FIFTY-TWO AND EIGHT THENTHS (352.8) acres, more or less, south of, but not adjoining Virginia State Highway No. 629, bounded on the north by the lands now or formerly belonging to Sadie James, Bruce E. and Janet Nystrom, Eliot and Karen Seigle, and L. N. and Colona E. Dashiell, on the east by L. N. and Colona E. Dashiell, Rudolph H. and Esther R. Bunze, J. H. Perkins, Jr. and Inez R. Phillips, on the south by Cussie E. and Elizabeth S. Cosner and Bear Island Timberlands Co., Inc., and on the west by Bear Island Timberlands Co., Inc., together with a non-exclusive easement of right-of-way 20 feet in width from said lands to Virginia State Highway No. 629. Said portion consisting of 261.046 acres, more or less, according to a plat of survey made by Meridian Planning Group, LLC, dated October 13, 2010, which plat is attached to and made a part of that certain deed recorded in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, in Deed Book \_\_\_\_, page \_\_\_\_.

## PARCEL V:

36.61 Acres (Tax Map 22-A-43)

All that certain tract or parcel of land lying and being situated in the Columbia Magisterial District of Fluvanna County, Virginia on the west side of and adjoining Virginia State Route 659, containing THIRTY-SIX AND SIXTY-ONE ONE HUNDREDTHS (36.61) acres, more or less, being more particularly described as Fluvanna County Tax Map Parcel No. 22-A-43. Being the same property conveyed to Michael J. Clark, by deed from Mavis P. Cosner, Harold F. Phillips, Jr., Shelley P. Sledge and Stephen S. Phillips, dated May 3, 2006, recorded in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, in Deed Book 683, page 534. Being the same property conveyed to Grantor, by deed from Michael J. Clark, dated December 14, 2006, recorded in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, in Deed Book 710, page 853.

- EASEMENT TERMS.** The above-described property is shown as Tax Map and parcel numbers: 22-3-2, 22-3-3, 22-A-7, 22-A-43, and 22-A-42 among the land records of Fluvanna

# DRAFT

County and total 665.86 acres in the aggregate. The restrictions and covenants of this easement shall apply to the Property as a whole. Restrictions are hereby imposed on use of the Property pursuant to the public policies set forth above. The acts that the Grantor covenants to do and not to do upon the Property, and the Restrictions that the Grantee is hereby entitled to enforce, are and shall be as follows:

A. TRASH. Accumulation or dumping of trash, refuse, or junk is not permitted on the Property. This restriction shall not prevent generally accepted agricultural or wildlife management practices, such as creation of brush piles, composting or the storage of farm machinery, organic matter, agricultural products or agricultural byproducts on the Property, as long as such practices are conducted in accordance with applicable laws and regulations.

B. SIGNS. Display of billboards, signs, or other advertisements that are visible from outside the Property is not permitted on or over the Property except to: (i) state the name and/or address of the owners or Property, (ii) advertise the sale or lease of the Property, (iii) advertise the sale of goods or services produced incidentally to a permitted use of the Property, (iv) provide notice necessary for the protection of the Property (including, but not necessarily limited to, no trespassing and other “posted” signs), (v) give directions to visitors, or (vi) recognize historic status or participation in a conservation program. No such sign shall exceed nine square feet in size.

C. DIVISION. The Property shall not be divided or subdivided into, or separately conveyed as more than 6 parcels. Boundary line adjustments with adjoining parcels of land are permitted, subject to the express prior approval of the Grantee to ensure compliance with the purposes of Chapter 5.5 of the County Code, and shall not be considered a prohibited division of the Property, provided that the Grantee is made party to the deed creating the boundary line adjustment; that any property added to the Property shall be made expressly subject to the Restrictions set forth herein; and that no additional parcels shall be created by such boundary line adjustment.

D. MANAGEMENT OF FOREST. The primary objectives of the forest stewardship plan shall be to improve wildlife habitat, maintain the health of the forest, maintain a scenic forest, protect uncommon biological communities or natural areas, conserve soil and water, and preserve historic and cultural resources.

# DRAFT

E. GRADING, BLASTING, MINING. Grading, blasting or earth removal shall not materially alter the topography of the Property except for dam construction to create private ponds, or as required in the construction of permitted buildings, structures, connecting private roads, and utilities as described in Paragraph F. Generally accepted agricultural activities shall not constitute any such material alteration. Best Management Practices, in accordance with the Virginia Erosion and Sediment Control Law, shall be used to control erosion and protect water quality in the construction of permitted buildings and private roads. Notwithstanding the foregoing, no grading, blasting, or earth removal is permitted on the Property if it will materially diminish or impair the Open Space Values of the Property. Mining on the Property by surface mining or any other method is prohibited.

F. BUILDINGS AND STRUCTURES. No permanent or temporary building or structure may be built or maintained on the Property other than:

- i. One single family dwelling and non-residential outbuildings or structures commonly and appropriately incidental thereto;
- ii. Not more than two secondary dwelling units, (including, *e.g.* barn or garage apartment) not to exceed 2,000 square feet of livable space each if more than one) and non-residential outbuildings or structures commonly and appropriately incidental thereto; and
- iii. farm buildings or structures; for the purposes of this subparagraph, a farm building or structure shall mean a building or structure originally constructed and used for the activities specified in paragraph G(i).

Private roads and utilities that serve permitted buildings or structures in this Paragraph F may be constructed. In the event of subdivision of the Property as provided in Paragraph C above, permitted dwellings shall be allocated among the parcels in the instrument creating the subdivision, and private roads and utilities may be constructed on each parcel.

G. INDUSTRIAL OR COMMERCIAL ACTIVITIES. Industrial or commercial activities other than the following are prohibited: (i) agriculture, viticulture, aquaculture, silviculture, horticulture, hunting, fishing and equine activities, (ii) temporary or seasonal outdoor activities that do not permanently alter the physical appearance of the Property,

# DRAFT

and that do not diminish the conservation values herein protected, and (iii) activities that can be and in fact are conducted within permitted buildings without material alteration to the external appearance thereof. Notwithstanding the foregoing, any commercial recreational use of the Property is permitted only to the extent such use would otherwise be permitted under Section 2031(c)(8)(B) of the Internal Revenue Code of 1986 as amended, and all uses shall comply with the Fluvanna County zoning ordinance.

### 3. MISCELLANEOUS PROVISIONS

A. No public right of access to Property. This Easement does not create, and shall not be construed to create, any right of the public to enter upon or to use the Property or any portion thereof, except as the Grantor may otherwise allow.

B. Easement applies to the whole Property and runs with the land. This Easement shall apply to the Property as a whole rather than to individual parcels, and shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs.

C. Enforcement. The parties shall have the following rights and obligations regarding the monitoring of the Property and the enforcement of this Easement:

1. Monitoring. Representatives of the Grantee may enter the Property from time to time for the purpose of inspection and enforcement of the terms of this Easement after permission from or reasonable notice to the Grantor or the Grantor's representative.

2. Restoration. Upon any breach of any term of this Easement by the Grantor, the Grantee may require by written demand to the Grantor that the Property be restored promptly to its condition at the time the Easement was granted. An act of God shall not constitute a breach of this Easement requiring restoration.

3. Baseline report. A copy of the Baseline Report is retained in the offices of the Grantee that describes the condition and character of the Property at the time this Easement was granted. This documentation may be used to determine compliance with and enforcement of the terms of this Easement. However, neither the Grantor nor the Grantee are precluded from using other relevant evidence or information to assist in that determination.

4. Legal proceedings. The Grantee may enforce the terms of this Easement by appropriate legal proceedings, including but not limited to, the right to require the restoration

# DRAFT

of the Property to its condition at the time this Easement was granted. In addition, it is conclusively presumed that an action at law seeking a monetary remedy is an inadequate remedy for any breach or violation, or any attempted breach or violation, of any term of this Easement.

5. Failure to enforce does not waive right to enforce. The failure of the Grantee to enforce any term of this Easement shall not be deemed a waiver of the right to do so thereafter, nor discharge nor relieve the Grantor from thereafter complying with any such term.

5. No third party right of enforcement. Nothing in this Easement shall create any right in the public or any third party to maintain any suit or action against any party hereto.

D. No buy-back option. The Grantor shall not have the option to reacquire any property rights relinquished by this Easement.

E. Notice of proposed transfer or sale. The Grantor shall notify the Grantee in writing at the time of closing on any transfer or sale of the Property. In any deed conveying all or any part of the Property, this Easement shall be referenced by deed book and page number in the deed of conveyance and shall state that this Easement is binding upon all successors in interest in the Property in perpetuity.

F. Relation to applicable laws. This Easement does not replace, abrogate or otherwise supersede any federal, state or local laws applicable to the Property.

G. Reference to existing laws. All references to existing laws shall include such laws as they may be hereafter amended or recodified, whether they are referenced herein or not.

H. Severability. If any provision of this Easement is determined to be invalid by a court of competent jurisdiction, the remainder of this Easement shall not be affected thereby.

I. Recordation. Upon execution by the parties, this Easement shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia.

J. Authority to convey easement. The Grantor covenants that it is vested with good title to the Property and may convey this Easement.

K. Authority to accept easement. The Grantee is authorized to accept this Easement pursuant to *Virginia Code* § 10.1-1800 *et seq.*

L. Transfer of easement by grantee. Neither the Grantee nor its successors and assigns may convey or lease this Easement, whether or not for consideration, unless the conveyance or lease is conditioned as follows: (1) the conveyance or lease instrument requires

# DRAFT

that the conservation purposes that the Easement was originally intended to advance will continue to be carried out, in perpetuity; and (2) the transferee is an organization then qualifying as an eligible donee as defined by section 170-(h)(3) of the Internal Revenue Code of 1986, as amended, and 26 C.F.R. § 1.170A-14(c)(1)).

M. Extinguishment. The Grantor and the Grantee intend that this Easement be perpetual and not be extinguished, and extinguishment of this Easement is not permitted under the Open-Space Land Act, *Virginia Code* § 10.1-1700 *et seq.* Restrictions set forth in the Easement can be extinguished only by judicial proceeding and only if such extinguishment also complies with the requirements of *Virginia Code* § 10.1-1704. In any sale or exchange of the Property subsequent to such extinguishment, the Grantee shall be entitled to a portion of the proceeds at least equal to the proportionate value of the perpetual conservation restriction computed as set forth below, but not to be less than the proportionate value that the perpetual conservation restriction at the time of the extinguishment bears to the then value of the Property as a whole. The Grantor agrees that the donation of the perpetual conservation restriction in this Easement gives rise to a property right, immediately vested in the Grantee with a fair market value that is at least equal to the proportionate value that the perpetual conservation restriction at the time of the gift bears to the value of the Property as a whole at that time. The Grantee shall use all its share of the proceeds from the sale of the Property in a manner consistent with the conservation purposes of this Easement and of the Open-Space Land Act. No part of the Property may be converted or diverted from open space uses as herein defined except in accordance with *Virginia Code* § 10.1-1704.

N. Qualification for charitable gift. The parties hereto agree and understand that any value of this Easement claimed for tax purposes as a charitable gift must be fully and accurately substantiated by an appraisal from a qualified appraiser as defined in Internal Revenue Service regulations (see 26 C.F.R. § 1.170A-13(c)(5)), and that the appraisal is subject to review, audit and challenge by all appropriate tax authorities. The Grantee makes no express or implied warranties regarding whether any tax benefits will be available to the Grantor from this Easement, whether any such tax benefits might be transferable, or whether there will be any market for any tax benefits that might be transferable. The parties hereto intend that the easement conveyed herein shall be a qualified conservation contribution within the meaning of Section 170(h) of the Internal Revenue Code of 1986, as amended, and the

# DRAFT

restrictions and other provisions of this instrument shall be construed and applied in a manner that will not prevent this easement from being a qualified conservation contribution. By its execution hereof, the Grantee acknowledges and confirms receipt of the Easement and further acknowledges that the Grantee has not provided any goods or services to the Grantor in consideration of the grant of the Easement.

O. Construction. This Easement shall be construed to promote the purposes of this Easement and the Open-Space Land Act.

P. NOTICES TO GRANTEE. The Grantor shall notify the Grantee in writing at, or prior to, closing on any *inter vivos* transfer or sale of the Property. This deed of easement shall be referenced by deed book and page number, or instrument number, in any deed conveying any interest in the Property.

Q. SUCCESSORS IN INTEREST. The covenants, terms, conditions and restrictions contained in this easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

R. ENTIRE AGREEMENT. This instrument sets forth the entire agreement of the parties with respect to the easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the easement. This easement shall not be construed to permit any use of the Property which is otherwise prohibited by federal, state, or local law or regulation.

S. Consent of trustee and beneficiary to lien. Owner is maker of a note dated December 14, 2006 secured by, among other things, a deed of trust dated December 14, 2006, from Owner to John A. Nere, Jr., and Union Service Corporation, as Trustee, either of whom may act, recorded in the Office of the Clerk of the Circuit Court of Fluvanna County, Virginia, in Deed Book 710, page 838 (the "Deed of Trust"). Pursuant to the authorization of the Beneficiary, as evidenced by its signature hereto, Union Service Corporation, Trustee, joins in this deed to subordinate the lien of such Deed of Trust to the easement conveyed hereby.

**WITNESS** the following signatures and seals.

# DRAFT

GRANTOR

CENTRAL MEADOWS, LLC

BY \_\_\_\_\_  
Michael Clark, Managing Partner

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY \_\_\_\_\_:

The foregoing *Deed of Easement* was signed, sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by Michael Clark, Managing Partner, Central Meadows, LLC, Grantor.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_  
Notary Registration No. \_\_\_\_\_

# DRAFT

## COUNTY OF FLUVANNA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF \_\_\_\_\_:

The foregoing *Deed of Easement* was signed, sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013 by \_\_\_\_\_, \_\_\_\_\_, on behalf of the County of Fluvanna, a political subdivision of the COMMONWEALTH OF VIRGINIA, Grantee.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_  
Notary Registration No. \_\_\_\_\_

# DRAFT

**TRUSTEE  
UNION SERVICE CORPORATION**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_:

The foregoing *Deed of Easement* was signed, sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by \_\_\_\_\_, \_\_\_\_\_, on behalf of Union Service Corporation.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

Notary Registration No. \_\_\_\_\_

**AN ORDINANCE ENACTED PURSUANT TO VIRGINIA CODE § 10.1-1700,  
FF., TO ESTABLISH A COUNTY CONSERVATION EASEMENTS PROGRAM**

BE IT ORDAINED by the Fluvanna County Board of Supervisors that the Fluvanna County Code be, and it is hereby, amended by adding a Chapter 5.5, as follows:

1. The text of the said amendment shall be as follows:

Chapter 5.5  
**CONSERVATION EASEMENTS PROGRAM**

**Sec. 5.5-1. Short title.**

This Chapter shall be known and may be cited as the “conservation easements program” or “the Program”, as the context may require.

**Sec. 5.5-2. Purpose.**

The board of supervisors finds that a substantial area of rural land in the County has been converted to uses not consistent with or conducive to agriculture, forestry or other traditional rural uses; that regulatory land-use planning tools may not, in themselves, be sufficient to inhibit the conversion of farm and forest land to other uses; and that farm and forest land, clean water and airsheds, biological diversity, scenic vistas and rural character have a public value as well as a private value. Therefore, the board of supervisors has determined that it is advisable to establish a program, pursuant to Virginia Code Sec. 10.1-1700, *et seq.*, by which the County can acquire conservation easements voluntarily offered by owners to serve as one means of assuring that the County’s resources are protected and efficiently used; to help in preserving open-space and the rural character of the County by (a) preserving farm and forest lands; (b) conserving and protecting water resources and environmentally sensitive lands, waters and other natural resources; (c) conserving and protecting biodiversity and wildlife and aquatic habitat; (d) improving the quality of life for the inhabitants of the county; (e) assuring availability of lands for agricultural, forestal, recreational, or open-space use; and (f) promoting tourism through the preservation of scenic resources.

**Sec. 5.5-3. Applicability.**

The Program shall be available for all lands in the County, except those lands under the ownership or control of the United States of America, the Commonwealth of Virginia, or an agency or instrumentality thereof. Any conservation easement acquired under the Program shall be voluntarily offered by the owner. Each such easement shall be subject to the approval of the board of supervisors in determining that the acceptance of such easement shall further the purposes of this Chapter in accordance with Sec. 5.5-6.

**Sec. 5.5-4. Definitions and construction.**

A. The following definitions shall apply in the interpretation and implementation of the Program:

(1) Conservation easement. The term "conservation easement" means a nonpossessory interest of the County in real property, whether easement appurtenant or in gross, acquired through gift, purchase, devise, or bequest imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural or open-space values of real property, assuring its availability for agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property.

(2) Program administrator. The term "Program administrator" means the director of the department of planning and development.

(3) Parcel. The term "parcel" means a lot or tract of land, lawfully recorded in the clerk's office of the circuit court of the County, or any lawfully described portion of such lot or tract.

B. Construction. Because a conservation easement may contain one or more parcels, for purposes of the Program the term "parcel" shall include all parcels covered by, or proposed to be covered by, a particular conservation easement.

**Sec. 5.5-5. Designation of Program administrator; powers and duties.**

A. Designation. The director of the department of planning and development is hereby designated as the Program administrator.

B. Powers and duties. The Program administrator, or his designee, shall administer the Program and shall have the powers and duties to:

1. Establish reasonable and standard procedures and forms for the proper administration and implementation of the Program.

2. Promote the Program by providing educational materials to the public, conducting informational meetings and otherwise.

3. Investigate and pursue state, federal and other programs available to maximize private participation.

4. Evaluate all applications to determine their eligibility and make recommendations thereon to the board of supervisors.

5. Provide educational materials regarding other land protection programs to the public.

6. For each conservation easement, assure that the terms and conditions of the deed of easement are monitored and complied with by coordinating a monitoring program with each easement holder, and if the other easement holders are either unable or unwilling to do so, monitor and assure compliance with the terms and conditions of the deed of easement.

**Sec. 5.5-6. Eligibility criteria.**

In determining whether to accept a proposed conservation easement, the board of supervisors shall consider the following criteria:

(i) the use of the parcel subject to the conservation easement shall be consistent with the comprehensive plan as in effect at the time of the proposed dedication; (ii) the proposed terms of the conservation deed of easement shall be consistent with the minimum terms and conditions set forth in Sec. 5.5-7; and (iii) the acceptance of the proposed conservation is consistent with the purposes of this Chapter.

**Sec. 5.5-7. Easement terms and conditions.**

Each conservation easement shall conform with the requirements of the Open-Space Land Act of 1966 (Virginia Code § 10.1-1700 et seq.) and of this Chapter. The deed of easement shall be in a form approved by the county attorney, and shall contain, at a minimum, the following provisions:

A. Restriction on division. No parcel shall be divided so as to create any parcel containing less than one hundred (100) acres.

B. No buy-back option. The owner shall not have the option to reacquire any property rights relinquished under the conservation easement.

C. Other restrictions. The parcel also shall be subject to standard restrictions contained in conservation easements pertaining to uses and activities allowed on the parcel. These standard restrictions shall be delineated in the deed of easement and shall include, but not necessarily be limited to, restrictions pertaining to: (i) the accumulation of trash and junk; (ii) the display of billboards, signs and advertisements; (iii) the management of forest resources; (iv) grading, blasting or earth removal; (v) the number and size of residential outbuildings and farm buildings or structures; (vi) the conduct of industrial or commercial activities on the parcel; and (vii) monitoring of the easement.

**Sec. 5.5-8. Application and evaluation procedure.**

Each application for a conservation easement shall be processed as follows:

A. Application materials to be provided to owner. The application materials provided by the Program administrator to an owner shall include, at a minimum, a standard application form, a sample deed of easement, and information about the Program.

B. Application form. Each application shall be submitted on a standard form prepared by the Program administrator. The application form shall require, at a minimum, that the owner: (i) provide the name of all owners of the parcel, the address of each owner, the acreage of the parcel, the County tax map and parcel number, the zoning designation of the parcel, and permission for the Program administrator to enter the property after reasonable notice to the owner to evaluate the parcel. The application form shall also include a space for an owner to indicate whether he volunteers to have the parcel be subject to greater restrictions than those contained in the standard sample deed of easement, and to delineate those voluntary, additional restrictions.

C. Additional application information required by Program administrator. The Program administrator may require an owner to provide additional information deemed necessary to determine whether the proposed easement can be recommended for acceptance.

D. Submittal of application. Applications shall be submitted to the office of the Program administrator. An application may be submitted at any time.

E. Evaluation by Program administrator. The Program administrator shall evaluate each application received and determine within fifteen (15) days whether the application is complete. If the application is incomplete, the Program administrator shall inform the owner in writing of the information that must be submitted in order for the application to be deemed complete. When an application is deemed complete, the Program administrator shall determine whether, in his judgment, the proposed easement satisfies the eligibility criteria set forth in Sec. 5.5-6.

F. Evaluation by board of supervisors. The board of supervisors shall review the proposed easement and determine whether or not the same should be accepted. The determination as to whether or not a particular easement should be accepted shall be in the sole discretion of the board of supervisors, and nothing in this Chapter shall obligate the board to accept a particular conservation easement.

G. Reapplication. An owner whose proposed conservation easement is not accepted may reapply at a later time.

H. Easement established. A conservation easement shall be deemed to be accepted when all the owners of the subject parcel shall have signed the deed of easement; such deed of easement shall have been approved in writing as to form by the county attorney; and the same shall have been accepted by an authorized agent of the board of supervisors on its behalf. The deed shall be recorded in the office of the clerk of the circuit court of the County at the expense of the applicant. A single conservation easement may be established for more than one parcel under the same ownership.

I. Costs. The applicant shall be solely responsible for the cost of preparing and recording each such easement, including, but not necessarily limited to, environmental site assessments, surveys, recording costs and other charges associated with closing; and shall

pay to the County a fee sufficient to defray the actual and reasonable expenses of the County's review of the application and the proposed deed of easement. The amount of such fee shall be established from time to time by resolution of the board of supervisors. The County shall not pay fees incurred for independent appraisals, legal, financial, or other advice, or fees in connection with the release and subordination of liens to the easement conveyed to the County.

**Sec. 5.5-9. Program non-exclusivity.**

This Chapter shall not be construed in any way as a limitation upon the County's authority to acquire land for public purposes, nor shall this Chapter be construed to prohibit the holding of easements for conservation of resources by entities other than, or in conjunction with, the County.

2. The foregoing amendment shall be effective as of July 1, 2006.



09/09/2013 09:48



09/09/2013 09:48



09/09/2013 09:49

## BOARD OF SUPERVISORS AGENDA ITEM

Meeting Date: September 18, 2013

<b>SUBJECT:</b>	Adoption of the Fluvanna County Board of Supervisors regular meeting minutes.
<b>MOTION(s):</b>	<b>I move the regular meeting minutes of the Fluvanna County Board of Supervisors for Wednesday, September 4, 2013 be adopted.</b>
<b>STAFF CONTACT:</b>	Mary L. Weaver, Clerk to the Board of Supervisors
<b>RECOMMENDATION:</b>	Approval
<b>TIMING:</b>	Routine
<b>DISCUSSION:</b>	None
<b>FISCAL IMPLICATIONS:</b>	N/A
<b>POLICY IMPLICATIONS:</b>	N/A
<b>LEGISLATIVE HISTORY:</b>	None
<b>ENCLOSURES:</b>	Draft minutes for September 4, 2013

**FLUVANNA COUNTY BOARD OF SUPERVISORS  
REGULAR MEETING MINUTES  
Circuit Court Room  
September 4, 2013, 2:00 pm, Regular Meeting**

**MEMBERS PRESENT:** Shaun V. Kenney, Chairman  
Bob Ullenbruch, Vice-Chairman  
Donald W. Weaver  
Mozell H. Booker

**MEMBERS ABSENT:** Joe Chesser

**ALSO PRESENT:** Steven M. Nichols, County Administrator  
Fred Payne, County Attorney  
Mary Weaver, Clerk to the Board of Supervisors

**CALL TO ORDER/PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE**

Chairman Kenney called the meeting of Wednesday, September 4, 2013, to order at 2:00 p.m., in the Circuit Courtroom in Palmyra, Virginia; and the Pledge of Allegiance was recited, after which, Chairman Kenney called for a moment of silence.

**COUNTY ADMINISTRATOR'S REPORT**

Mr. Nichols reported on the following topics:

- Interjurisdictional Agreement between Fluvanna and Louisa moved to the BOS Agenda for Wednesday, September 18, 2013.
- Requested to add Pleasant Grove House Renovation Update to New Business.
- Fluvanna Fire Company 1 (Palmyra) achieved an Insurance Service Office (ISO) higher rating of 8B.
- Annual Staff Recognition Picnic – Thursday, September 19 at 5pm at Pleasant Grove.
- 9/11 Ceremonies – Flag Dedication at 11:30am @ flagpole by Sheriff's Office and Commemoration at the Community 9/11 Memorial, 10 Slice Road at 6pm.
- Thanks to Public Works and Parks and Rec for helping Library move large, donated display units.
- 25 players signed up for U12 Football.
- CVRJ Community Inmate Work Force began August 19<sup>th</sup>.
- Going Live on Munis version 10.3 on Saturday, September 14<sup>th</sup>.
- Dirt Pile at Jefferson Centre – build out not complete, can stay there until building is finished.
- Senior Services Planning through Parks & Recreation is underway.
- Voluntary Contributions Update – On website, delay with online payments, should be resolved shortly.
- Fire/Rescue Ordinance Update – briefed Fire and Rescue Association, agreement on goals and direction, working to finalize acceptable language.
- Collaboration with School Administration regarding Playground Inspections.
- Working on potential collaborations with FCPS for discussion during FY15 budget cycle (Vehicle Maintenance and Wastewater treatment Plants).
- Assessment of Carysbrook Wells should be completed by September 30, 2013.
- Schools Brief to BOS – November 6<sup>th</sup>, 2013, with a budget work session planned for second meeting in January 2014.
- UVA EMS Contract support expected to start on Monday, September 9, 2013.
- LMVFRS received a State Farm Neighborhood Assist Grant to “recruit, train and retain rescue and fire volunteers county-wide.” Emergency Services Coordinator working with ad hoc group to best utilize the funds.

- Proposed BOS Work Session for 6:00 pm, Oct 2, to discuss FUSD, Department of Public Utilities, and Service Districts.
- 2014 BOS Organizational Meeting for January 1<sup>st</sup> falls on holiday, BOS will reschedule to Wednesday, January 8<sup>th</sup>.
- County Administrator on Vacation, Sep 7-14; Barbara Horlacher will be Acting.

### **PUBLIC COMMENTS #1**

Chairman Kenney opened the floor for the first round of public comments.

- Jack Ruch, Rivanna District – addressed the Board in regards to his opposition to the Interjurisdictional Agreement Regarding the James River Water Pipeline.
- James Gibson, Columbia District – addressed the Board in regards to his opposition to the Interjurisdictional Agreement Regarding the James River Water Pipeline and the Aqua Virginia PPEA Proposal.
- Kathryn Neeley, General Manager of LMOA, speaking on behalf of President of Board of Directors and to represent 4600+ property owners of Lake Monticello - would like to request the Board hold public hearings before the Interjurisdictional Agreement is signed.
- Leonard Gardner, Rivanna District – addressed the Board in regards to the three different plans for water at Zion Crossroads, JRWA is the most forward thinking plan.

With no one else wishing to speak, Chairman Kenney closed the first round of public comments.

### **PUBLIC HEARING**

None

Board moved four presentations to front of agenda.

### **PRESENTATIONS**

VDOT Report – Mr. Joel DeNunzio, Charlottesville Residency Administrator, reviewed with the Board the Rural Rustic Program, Preliminary Engineering, Construction Activities and Traffic Engineering Studies. Mrs. Booker asked to look into speed at curve in Fork Union by the Family Dollar. Mr. Kenney followed up on his previous request for a speed study on Route 6 near Columbia just before you get to bridge.

Fork Union Military Academy Update – Admiral Scott Burhoe, 10<sup>th</sup> president of the Fork Union Military Academy, reviewed with the Board the current participation of cadets, values, Academy construction and renovation projects, and future plans.

TJPD Regional Legislative Program – Mr. David Blount, Acting Executive Director/Legislative Liaison, reviewed with the Board legislative focus areas including: State Mandates & Funding Obligations, Transportation Funding and Devolution, Education Funding, Land Use and Growth management and CSA. Requested input from Board for the TJPD Regional Legislative Draft and will present to Board in November.

Economic Development Authority Update – Shelley Murphy, Secretary of EDA, Scott Marshall, Chairman, EDA, reviewed with the Board what the Fluvanna EDA is, their mission, key facts, authority granted by the Commonwealth of Virginia, what they are doing, and what they can do.

### **ACTION MATTERS**

Interjurisdictional Agreement Regarding the James River Water Pipeline – Mr. Steve Nichols, County Administrator, discussed with the Board the purpose and provisions of this agreement with Louisa to run a water pipeline from a point on the James River near the Town of Columbia to a point in Louisa County. Mr. Nichols also discussed the proposed route and the parcels (76) that would be affected along with the potential costs. The Board discussed this request in depth. This request has been moved to the BOS Agenda for September 18, 2013.

Professional Engineering Term Contracts – Mr. Joe Rodish, Purchasing Officer, reviewed with the Board this request to approve a Professional Engineering Term Contract to retain three firms (Bowman Consulting Group, LTD, Draper Aden Associates, Inc, and Rummel, Klepper & Kahl, LLP) on contract to use when needed.

MOTION:

Mrs. Booker moved to approve the Professional Engineering Term Contracts for a term on One (1) year and authorize the County Administrator to execute the agreements. Mr. Ullenbruch seconded. The motion carried, with a vote of 4-0. AYES: Kenney, Booker, Ullenbruch and Weaver. NAYS: None. ABSENT: Mr. Chesser.

Courthouse Security & Surveillance Contract – Sheriff Ryant Washington addressed the Board on this request to replace the existing security and camera equipment that was damaged and is unable to be repaired, adding additional equipment that will aid in enhanced surveillance capabilities.

MOTION:

Mr. Weaver moved to approve the Courthouse Security & Surveillance contract and authorized the County Administrator to execute the attached agreement with total cost being \$181,705 with \$65,000 to come from insurance proceeds, approximately \$116,705 from the FY13 Budget and E911 Project, and approximately \$3,900 from the FY13 Budget for contract contingency. Mr. Ullenbruch seconded. The motion carried, with a vote of 4-0. AYES: Kenney, Booker, Ullenbruch and Weaver. NAYS: None. ABSENT: Mr. Chesser.

Initiate Amendments to the Fluvanna County Comprehensive Plan Regarding Extension of Public Utilities – Mr. Jay Lindsey, Long Range Planner addressed with the Board this request to initiate amendments to the Fluvanna County Comprehensive Plan and Zoning Ordinance that could be needed if a water pipeline agreement is approved. Mr. Lindsey reviewed some cases where this was done in other counties. This request was moved to the BOS Agenda for September 18, 2013.

FY13 to FY14 Carryover Requests - Mr. Eric Dahl, Budget Analyst, addressed with the Board this request to carryover the below funds from FY13 to the FY14 budget.

MOTION:

Mr. Ullenbruch moved to approve the FY13 to FY14 carryover requests for:

- A. Board of Supervisors – Davenport Legal Costs \$20,000
- B. Sheriff – CIP Courthouse Security System \$99,726
- C. E911 – CIP Courthouse Security System \$20,326
- D. Animal Control – Deputizing/Training \$15,000
- E. Correction & Detention – BRJDC Debt Payment \$19,000
- F. County Attorney – Legal Costs \$62,000
- G. Emergency Management - EMS Staffing Services Contract \$30,000
- H. Registrar – Voting Equipment \$10,560

reappropriating those FY13 remaining budgets to the FY14 budget. Mrs. Booker seconded. The motion carried, with a vote of 4-0. AYES: Kenney, Booker, Ullenbruch and Weaver. NAYS: None. ABSENT: Mr. Chesser.

Real Property Reassessment Plan – Mr. Mel Sheridan, Commissioner of the Revenue, addressed with the Board this request to consider a scheduled reassessment cycle.

MOTION:

Mr. Ullenbruch moved to authorize staff to prepare a Request for Proposals (RFP) for the conduct of two general reassessments of the real property and improvements within the County with intent that the first become effective as of January 1<sup>st</sup>, 2015 and the second to become effective on January 1<sup>st</sup>, 2017. It is intended by this directive that the 2015

reassessment serve as an administrative review of all property focusing on both sales data and any new construction. The 2017 reassessment would return to a full general reassessment with all properties, both existing and new, viewed and photographed. Mrs. Booker seconded. The motion carried, with a vote of 4-0. AYES: Kenney, Booker, Ullenbruch and Weaver. NAYS: None. ABSENT: Mr. Chesser.

### **PRESENTATIONS (Continued)**

*Hybrid Disability Plan* – Ms. Gail Parrish, Human Resource Manager, reviewed with the Board a third VRS Retirement Plan that was passed by the General Assembly and the options that are available. The Board discussed and Ms. Parrish will bring this request back to the Board for action.

### **EXTEND MEETING**

#### **MOTION:**

Mr. Weaver moved to extend the Board of Supervisors meeting to 8:00 p.m. Mr. Ullenbruch seconded. The motion carried with a vote of 4-0. AYES: Kenney, Ullenbruch, Booker and Weaver. NAYS: None. ABSENT: Chesser.

*FY15 Budget Calendar* – Mrs. Barbara Horlacher, Finance Director, reviewed with the Board the proposed Budget Calendar for the FY15 Budget meetings.

### **CONSENT AGENDA**

The following items were approved under the consent agenda:

#### **MOTION:**

Mr. Weaver moved to approve the consent agenda, which consisted of:

- Minutes from August 7, 2013 as presented.
- Accounts Payable Report.
- FY13 4<sup>th</sup> Quarter Budget Report.
- Revision to the Blue Ridge Juvenile Detention Center Agreement.
- FY14 School Budget Supplement.
- FY14 Clerk of the Circuit Court Budget Supplement.
- FY14 Library State Aid Budget Supplement.
- DMV US DOT Highway Safety Funds Grant Award, Ratify and Accept.

Mr. Ullenbruch seconded. The motion carried, with a vote of 4-0. AYES: Kenney, Booker, Ullenbruch and Weaver. NAYS: None. ABSENT: Chesser.

### **UNFINISHED BUSINESS**

None

### **NEW BUSINESS**

*Pleasant Grove Renovation Update* – Mr. Wayne Stephens, Public Works Director, updated the Board on the Pleasant Grove Renovation progress and addressed a possible shortfall of funds. Mr. Kenney requested staff contact Ms. Pat Groot at TJPDC for her comments on possible actions to mitigate the additional costs.

### **PUBLIC COMMENTS #2**

Chairman Kenney opened the floor for the second round of public comments.

- Mr. Dennis Holder, Columbia District – addressed the Board in regards to the postponing of the Interjurisdictional Agreement Regarding the James River Water Pipeline, the Palmyra Wastewater Treatment Plant, and the lack of real numbers in the ROI.
- Mr. Bill Sullivan, Palmyra District – addressed the Board in regards to education, the need for water and rebalancing that tax base. Invest in growth and move forward.

- Mr. James Tew, Fork Union District – addressed the Board in regards to need of water and Personal Property rates are too high.
- Mr. Jack Ruch, Rivanna District – addressed the Board in regards to the water agreements being zero advantage for Fluvanna.
- Mr. Tony O'Brien, Rivanna District – addressed the Board in regards to the importance of water, Economic Development and forward thinking.

With no one else wishing to speak, Chairman Kenney closed the second round of public comments.

### **CLOSED SESSION**

#### **MOTION TO ENTER INTO A CLOSED MEETING:**

At 6:36 p.m., Mr. Weaver moved the Fluvanna County Board of Supervisors enter into a closed session, pursuant to the Virginia Code Section 2.2-3711 A.1, 2.2-3711A.5 and 2.2-3711A.7 for discussion of Personnel Matters, Property Investment and Legal Matters. Mrs. Booker seconded. The motion carried, with a vote of 4-0. AYES: Kenney, Ullenbruch, Weaver and Booker. NAYS: None. ABSENT: Chesser.

#### **MOTION TO EXIT A CLOSED MEETING & RECONVENE IN OPEN SESSION:**

At 7:55 p.m., Mr. Weaver moved the closed meeting be adjourned and the Fluvanna County Board of Supervisors reconvene again in open session. Mrs. Booker seconded. The motion carried, with a vote of 4-0. AYES: Kenney, Ullenbruch, Weaver and Booker. NAYS: None. ABSENT: Chesser.

#### **MOTION:**

At 7:56 p.m., the following resolution was adopted by the Fluvanna County Board of Supervisors, following a closed meeting held Wednesday, September 4, 2013, on motion of Mr. Weaver, seconded by Mrs. Booker, and carried by the following vote of 4-0. AYES: Kenney, Ullenbruch, Weaver and Booker. NAYS: None. ABSENT: Chesser.

**“BE IT RESOLVED** to the best of my knowledge (i) only public business matters lawfully exempted from open meeting requirements under Section 2.2-3711-A of the Code of Virginia, 1950, as amended, and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting.”

### **ADJOURN**

#### **MOTION:**

At 7:58 p.m., Mr. Ullenbruch moved to adjourn the meeting of Wednesday, September 4, 2013. Mrs. Booker seconded. The motion carried, with a vote of 4-0. AYES: Kenney, Booker, Ullenbruch and Weaver. NAYS: None. ABSENT: Chesser.

ATTEST:

FLUVANNA COUNTY BOARD OF SUPERVISORS

\_\_\_\_\_  
Mary L. Weaver, Clerk

\_\_\_\_\_  
Shaun V. Kenney, Chairman

**A RESOLUTION  
TO AMEND AND READOPT SECTIONS 3.7 AND 4.1 OF THE SERVICE  
AGREEMENT FOR  
THE BLUE RIDGE JUVENILE DETENTION COMMISSION**

WHEREAS, the Counties of Albemarle, Culpeper, Fluvanna and Greene and the City of Charlottesville (the “Member Jurisdictions”) have previously created the Blue Ridge Juvenile Detention Commission (“BRJDC” or the “Commission) and adopted an agreement dated July 1, 1999, and amended July 2, 2007 (the “Service Agreement”) that established their respective rights and obligations regarding the juvenile detention center financed, constructed and operated by BRJDC; and

WHEREAS, the method prescribed by the Service Agreement for allocation of the operating costs of the detention center has required each Member Jurisdiction to prepay a share of those costs at the beginning of each Fiscal Year based on its usage in the preceding year, with that payment then being adjusted at the end of the Fiscal Year to reflect the percentage actually used by each member; and

WHEREAS, each year that method has caused some Member Jurisdictions to have to make supplemental year-end appropriations to cover their obligations to BRJDC; and

WHEREAS, declining numbers of juvenile offenders detained at BRJDC have caused the numbers detained from the Member Jurisdictions to fluctuate more from year to year, making budgeting more difficult and increasing the likelihood that some Member Jurisdictions will have to make such supplemental appropriations; and

WHEREAS, viewed over a longer time the relative usage of the Member Jurisdictions tends to be more stable; and

WHEREAS, the Member Jurisdictions wish to amend the Service Agreement to base the Member Jurisdictions’ relative annual contribution to operating costs in future fiscal years on their respective aggregate percentages of usage during the preceding three years, without making subsequent annual year-end adjustments based on actual usage, now therefore, be it

**Resolved by the Blue Ridge Juvenile Detention Commission, the Boards of Supervisors of Albemarle, Culpeper, Fluvanna and Greene Counties and the Council of the City of Charlottesville that:**

1. The Service Agreement is amended by amending existing Section 3.7 and 4.1, as follows:

**Section 3.7 Annual Budget** On or before each December 1, the Commission shall provide to each Member Jurisdiction the Commission’s Annual Budget for the next Fiscal Year, including any proposed capital projects. For each Fiscal Year in which the Detention Center will be in operation, or in which Obligations will be outstanding, such Annual Budget shall set forth the Annual Member Operating Charge, for each Member Jurisdiction, which shall be based upon that Member

Jurisdiction's respective percentage of the total usage of BRJDC by all Member Jurisdictions during the preceding three Fiscal Years. The Commission agrees to set such Annual Member Charges, that are sufficient to generate revenue adequate to pay Net Expenses and to fund any required reserves attributable to the care, maintenance and subsistence of Detainees. The Commission further agrees to revise such Annual Member charges as necessary to offset any non-payment by a Member Jurisdiction or unanticipated material decrease in revenue from the Commonwealth. The Commission also agrees to set, and to revise immediately as necessary to reflect any failure of a Member Jurisdiction to pay in accordance with the provisions of Section 4.1, Annual Member Debt Service Charges for Culpeper, Fluvanna and Greene, likewise based on their respective shares of all Members' total usage of BRJDC during the three immediately preceding Fiscal Years in amounts sufficient to repay their respective shares of the debt service prepaid by Albemarle and Charlottesville on the Commission's outstanding Obligations as described in Section 4.1 (a) below.

Within ten days of any revision Annual Member Charges the Commission shall notify each Member Jurisdiction of such revision. Any such revision to the Annual Member Charges will be based on factors affecting BRJDC's revenues or expenditures, including but not limited to changes in assumed or actual occupancy levels, operating expenses, State operating or capital cost reimbursement, and any nonpayment of Annual Member Charges by any Member Jurisdiction or other jurisdiction housing Detainees at the Detention Center. The Commission shall promptly provide copies of any amendments to its Annual Budget to each Member Jurisdiction.

**Section 4.1. Payments from Member Jurisdictions.**

(a) The objective of this Agreement is to provide the Commission, in each Fiscal Year in which the Detention Center is in operation, with sufficient revenues to fund fully the Commission's Expenses for such year. The Member Jurisdictions have agreed that the operating cost portion of such Expenses will be shared among them in proportion to their respective three prior Fiscal Years' usage of the Detention Center, and to that end have agreed to pay the Annual Member Operating and Debt Service Charges, as described in Sections 3.7 and 4.1(c), for the detainees they commit to the Commission's custody. The Member Jurisdictions have further agreed that the debt service portion of the Commission's expenses will be allocated among the Member Jurisdictions except Albemarle and Charlottesville by billing Culpeper, Fluvanna and Greene the Annual Member Debt Service Charge based on their respective percentages of all Members' total usage during the immediately preceding three Fiscal Years. Albemarle and Charlottesville agree, however, that their share of the debt service will be calculated by applying the payments of Culpeper, Fluvanna and Greene as credits against the debt service Albemarle and Charlottesville have prepaid as set forth in the next paragraph below, crediting 50% to Albemarle and 50% to Charlottesville. Notwithstanding the foregoing, no locality's Annual Member Debt Service Charge shall be less than five percent of total debt service, (the equivalent of usage of 5% of BRJDC's rated capacity of 40 beds.)

To facilitate issuance of the Commission's obligations at the most favorable interest rate, Albemarle and Charlottesville have further agreed to prepay 100% of each Commission debt service payment (divided equally between them) before it becomes due, and thereafter to receive credits, also applied equally, for the Annual Member Debt Service Charges received from other Member Jurisdictions, all in the manner described in Section 4.1(e) below. The net result shall be that Albemarle and Charlottesville each shall pay 50% of the debt service on the Commission's obligations not paid by the other Member Jurisdictions. This Agreement with respect to debt service allocation shall apply to all obligations issued to fund pre-opening and financing expenses, capitalized interest, required initial reserves for operations and debt service, land acquisition, design, construction and equipment of the Detention Center.

(b) Beginning July 1 2014, the Commission shall establish in its Annual Budget for the Fiscal Year, Annual Member Operating Charges for the care, maintenance, transportation and subsistence of Detainees from Member Jurisdictions equal in the aggregate to the Commission's Projected Net Expenses. shall be determined by multiplying Projected Net Expenses (excluding debt service and related payments on Obligations, but including any required deposits to a repair or replacement reserve fund related to such Obligations) for such Fiscal Year by the ratio of each Member Jurisdiction's Detainee Days to the Commission's total Member Jurisdiction Detainee Days during the preceding Three Fiscal Years). The Debt Service Component shall be determined as set forth in paragraph 4.1(a) above.

(c) The Annual Member Operating Charges shall be collected in quarterly installments in advance of each quarter of each Fiscal Year. Such amounts shall be invoiced by the Commission to each Member Jurisdiction by the first day of each quarter of each Fiscal Year and shall be payable no later than the last day of the first month of each quarter..

(d) The Annual Member Debt Sere Charges shall be collected in advance for each quarter of each Fiscal Year. Such amounts shall be invoiced by the Commission to each Member Jurisdiction by the first day of each quarter of each Fiscal Year and shall be payable no later than the last day of the first month of each quarter. Such advance payments shall be subject to annual adjustments based upon actual usage after the end of each Fiscal Year, as described in Section 4.1(e) below.

(e) Notwithstanding the foregoing paragraph, the prepayments due from Albemarle and Charlottesville in each quarter shall be calculated to total in the aggregate 100% of one quarter of the Commission's annual debt service, allocated 50% to Albemarle and 50% to Charlottesville. The quarterly payments received by the Commission in each quarter from Culpeper, Fluvanna and Greene shall be applied equally against the next quarterly payments due from Albemarle and Charlottesville.

(f) Except for the payment of the Annual Member Operating and Debt Service Charges attributable to the Detainees whom it has actually committed to the Commission, the obligation of each Member Jurisdiction to pay Charges shall be

subject to and contingent upon appropriations being made for such purposes by the governing body of such member. Those governing bodies hereby direct their respective chief executive officers to include in their annual budget and appropriation requests to the governing bodies funds sufficient to pay such Charges expected to come due during the Fiscal Year for which such budgets are applicable.

(g) The Commission shall notify all Member Jurisdictions not later than 30 days after any payment due date if a Member Jurisdiction fails to pay any charge when due, and shall pursue with diligence the collection of such past due amount. If not paid when due, the charge shall bear interest at a rate determined by the Commission until paid; however, that this provision shall not apply in instances where Applicable Law prescribes some other due date or late payment charge. The notice shall include a statement of the Commission's intention to adjust the remaining payments due during the Fiscal Year (and thereafter if such default is not cured) from all non-defaulting Members and shall state the amount of the adjusted charge. The adjustment shall be based upon a reallocation of Annual Member Charges to all non-defaulting Members. Upon payment in full of the amount in arrears by the defaulting Member Jurisdiction, the Commission shall readjust Annual Member Charges to pre-default levels and credit all non-defaulting Members in the appropriate amount for any excess payments previously made at the default adjusted rate. The Commission shall make other adjustments as may be necessary to the Annual Member Charges during the Fiscal Year to meet Expenses and to comply with any covenants entered into in connection with any Obligations.

2. These amended sections shall be effective for the Fiscal Year beginning July 1, 2014.

**BOARD OF SUPERVISORS AGENDA ITEM**

**Meeting Date:** September 18, 2013

<b>SUBJECT:</b>	Virginia Information Technologies Agency FY15 Wireless E-911 PSAP Grant.
<b>MOTION(s):</b>	<ol style="list-style-type: none"><li>1) I move to ratify the application and accept the Wireless E-911 PSAP Grant Program award from the Virginia E-911 Services Board in the amount of \$150,000 to fund replacement of voice logging software, and other E-911 related equipment.</li><li>2) Further, I move to authorize the County Administrator to execute contracts and agreements associated with this grant, subject as to form by the County Attorney; and authorize a supplemental appropriation for FY15 E-911 in the amount of \$150,000 to revenue and expenditure accounts assigned by Finance.</li></ol>
<b>STAFF CONTACT:</b>	Lt. Andrea Gaines, Sheriff's Office Staff; Sheriff Ryant Washington, Sheriff
<b>RECOMMENDATION:</b>	Ratify and accept the Virginia Information Technologies Agency FY15 Wireless E-911 PSAP Grant.
<b>TIMING:</b>	July 1, 2014
<b>DISCUSSION:</b>	<ul style="list-style-type: none"><li>• Grant funds will be used to replace the current voice logging software, and other equipment related to E-911.</li><li>• Voice logging software is used to monitor and verify communications and interactions; it allows dispatchers to rapidly and proactively listen in and instantly review any call.</li></ul>
<b>FISCAL IMPLICATIONS:</b>	<ul style="list-style-type: none"><li>• State grant award of \$150,000.</li><li>• This state grant award is to be used to replace the outdated voice logging software in the E-911 Center. The current vendor will no longer support the current product after July 2014.</li><li>• Award period: July 1, 2014 to June 30, 2015.</li><li>• No additional match funding is required.</li><li>• No extensions are allowed.</li></ul>
<b>POLICY IMPLICATIONS:</b>	<p>An example of a necessary replacement cost would be for the current voice logging equipment that will reach the end of support in July 2014.</p> <p>If this hardware is not replaced, then we will have more frequent and longer outages compromising public safety. With this recording and playback equipment, we will be able to process and dispatch for emergency aid quickly and accurately.</p> <p>Replacing and/or updating additional equipment within the E-911 Center will support the strategic goals for emergency response service to the public and continuously meet the public expectations.</p>
<b>LEGISLATIVE HISTORY:</b>	This grant was previously awarded to the E-911 Center in FY13 and FY14.
<b>ENCLOSURES:</b>	None.

**BOARD OF SUPERVISORS AGENDA ITEM**

**Meeting Date:** September 18, 2013

<b>SUBJECT:</b>	Virginia Information Technologies Agency FY15 Wireless E-911 PSAP Education Program Grant
<b>MOTION(s):</b>	<ol style="list-style-type: none"><li>1) I move to ratify the application and accept the Virginia Information Technologies Agency (VITA) FY15 Wireless E-911 PSAP Education Program grant award in the amount of \$2,000 to fund educational training for the Sheriff's Office E911 Center staff.</li><li>2) Further, I move to authorize the County Administrator to execute contracts and agreements associated with this grant, subject as to form by the County Attorney; and authorize a supplemental appropriation for the FY15 E 911 in the amount of \$2,000 to revenue and expenditure accounts assigned by Finance.</li></ol>
<b>STAFF CONTACT:</b>	Lt. Andrea Gaines, Sheriff's Office Staff; Sheriff Ryant Washington, Sheriff
<b>RECOMMENDATION:</b>	Ratify and accept the Virginia Information Technologies Agency FY15 Wireless E-911 PSAP Education Program grant.
<b>TIMING:</b>	July 1, 2014
<b>DISCUSSION:</b>	<ul style="list-style-type: none"><li>• Grant funds will be used for education/training that is specific to 911/public safety communications.</li><li>• Grant funds may include conferences and/or coursework.</li></ul>
<b>FISCAL IMPLICATIONS:</b>	<ul style="list-style-type: none"><li>• State grant award of \$2,000.</li><li>• This state grant award is to be used by the E-911 Center for lodging, registration, and meal costs associated with training for E-911 staff.</li><li>• Award period: July 1, 2014 to June 30, 2015.</li><li>• No additional match funding is required.</li><li>• No extensions are allowed.</li></ul>
<b>POLICY IMPLICATIONS:</b>	Training will enhance the skill set of the E-911 staff.
<b>LEGISLATIVE HISTORY:</b>	This grant was previously awarded to the E-911 Center in FY13 and FY14
<b>ENCLOSURES:</b>	None.



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# COUNTY OF FLUVANNA

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## MEMORANDUM

TO: Board of Supervisors  
FROM: Eric Dahl, Management Analyst  
SUBJECT: FY14 Contingency Balance  
DATE: September 10, 2013

The balance for the BOS Contingency line for FY14 is as follows:

Board of Supervisors Contingency:

Beginning Budget:	\$100,000.00
LESS: U12 Youth Football 6.19.13	-\$19,965.00
Available:	\$80,035.00

Total Available Budget: Board of Supervisors Contingency Line

**\$80,035.00**



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## MEMORANDUM

TO: Board of Supervisors  
FROM: Eric Dahl, Management Analyst  
SUBJECT: FY14 Capital Reserve Balance  
DATE: September 10, 2013

The balance for the Capital Reserve for County and Schools in FY14 is as follows:

County Capital Reserve:

FY14 Beginning Budget:	\$171,575.00
<b>Available:</b>	<b>\$171,575.00</b>

Schools Capital Reserve:

FY14 Beginning Budget:	\$200,580.00
LESS: Abrams building datacenter infrastructure and generator 07.03.13	-\$40,000.00
LESS: Central Elementary intercom and phone system split 07.03.13	-\$8,500.00
<b>Available:</b>	<b>\$152,080.00</b>