

ACTIONS
Board of Supervisors Meeting of July 11, 2007

July 12, 2007

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> Meeting was called to order at 9:02 a.m., by the Chairman, Mr. Boyd. All BOS members were present. Also present were Bob Tucker, Larry Davis, Ella Jordan, and Meagan Hoy. 	
<p>4. From the Board: Matters Not Listed on the Agenda.</p> <p><u>David Slutzky:</u></p> <ul style="list-style-type: none"> Inquired about a previous request that the County, City and UVA form a Housing Advisory Committee. Mr. Boyd advised there is a joint meeting of City and County representatives scheduled for July 12th to discuss affordable housing. He will report back to the Board the outcome of that meeting. <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> Handed out a copy of the US Cool Cities Climate Stabilization Declaration. Suggested that the County adopt the declaration or something similar. Handed out a copy of a report from Betty Black of the Community Mobility Committee which outlined specific recommendations regarding transit. Provided a copy to Juan Wade, Transportation Planner, to review the recommendations. Updated the Board on the Jefferson Institute for Life Long Learning (JILL) proposal at Albemarle High School. Mr. Tucker said this item is scheduled for discussion on the Board's August 1, 2007 agenda. <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> Thanked Ann and Dennis Rooker for hosting the dinner for the Italian visitors, and thanked Meagan Hoy, Diane Mullins, and Lee Catlin for their efforts with gifts and coordination. The Italian visitors would like to see more student exchanges and tourism exchanges. The ACE Committee is encouraging Board members to attend the photo exhibit on July 27, 2007. She added that they have more applicants than they have money. <p><u>Lindsay Dorrier:</u></p> <ul style="list-style-type: none"> He met with representatives of IMPACT, and discussed public transit. Mr. Slutzky and Mr. Rooker advised that TJPDC and the MPO are taking a regional look at transit. Mr. Slutzky added that IMPACT's agenda has been focused on in the MPO context. 	
<p>5. From the Public: Matters not Listed on the Agenda.</p> <ul style="list-style-type: none"> Susan Pleiss, of IMPACT, spoke regarding item 6.5 on the consent agenda. She suggested options to use the transit funding. 	

<ul style="list-style-type: none"> • Allison Mitchell, a resident of Gilbert Station Road, asked that VDoT pave the .4 miles of loose gravel road between the two paved sections of Gilbert Station Road, and to consider adding speed limit signage. • Tom Twomey, of IMPACT, said there is a deficit of affordable housing in this community. He asked that UVA, the City and the County work together to develop an affordable housing solution. • Paul Newland, Robert Oversteet, George Ackerman, John Mallard, Greg Kane, Jay Sanderford, Al Dougherty, Steven Meeks, Mimi Tornrose, Jeff Werner, Dominick Hauslack, and Palmer Birtch, spoke concerning the closure of the Advance Mills Bridge. • John Martin, of Free Union, expressed concerns about water and waste water infrastructure. He suggested the four boards come together to discuss the problem. 	
<p>6.2 FY 2007 Budget Appropriations.</p> <ul style="list-style-type: none"> • APPROVED the FY 2007 Appropriations #2007087 and #20070088. 	<p><u>Clerk</u>: Forward copy of signed appropriation forms to OMB, Finance and appropriate individuals.</p>
<p>6.3 FY 2008 Budget Appropriations.</p> <ul style="list-style-type: none"> • APPROVED the FY 2008 Appropriations #2008001, #2008002, #2008003, #2008004 and #2008005. 	<p><u>Clerk</u>: Forward copy of signed appropriation forms to OMB, Finance and appropriate individuals.</p>
<p>6.4 <u>CPA-2007-003, Green Building and Sustainability Amendment.</u></p> <ul style="list-style-type: none"> • ADOPTED CPA-2007-003. 	<p>(Attachment 1)</p> <p><u>Clerk</u>: Set out adopted language.</p>
<p>6.5 Charlottesville Transit Service Recommendation for Use of Additional Transit Funding.</p> <ul style="list-style-type: none"> • APPROVED the use of the additional \$250,000 allocated in the FY07/08 budget for funding 1) Route 2B serving the Fifth Street area, and 2) improving service frequency on Route 5 from every 45 minutes to every 30 minutes between Barracks Road Shopping Center and Wal-Mart; and REQUESTED staff to pursue the Job Access Reverse Commute grant which may enable the County to provide night service later in the year. 	<p><u>Juan Wade/David Benish</u>: Proceed as approved.</p>
<p>6.5 Resolution of the Industrial Development Authority authorizing the issuance of revenue bonds, pursuant to the Industrial Development and Revenue Bond Act, in an amount not to exceed \$18,000,000 for the Jefferson Scholars Foundation.</p> <ul style="list-style-type: none"> • ADOPTED the attached resolution. 	<p>(Attachment 2)</p> <p><u>Clerk</u>: Forward copy of signed resolution to Bond Counsel.</p>
<p>7a. Advance Mill Bridge (Route 743), Replacement Bridge Proposal.</p> <ul style="list-style-type: none"> • DIRECTED VDoT to move forward with pursuing permission to remove the temporary structure, report back to this Board, at which time this Board will make a decision prior to VDoT beginning any work to remove the structure itself. VDoT is also directed to bring back a response from DHR regarding the historical significant and implications. 	<p><u>VDoT</u>: Proceed as directed.</p>

<p>7b. VDOT Monthly Report.</p> <ul style="list-style-type: none"> • RECEIVED. 	
<p>7c. Transportation Matters not Listed on the Agenda.</p> <p><u>Sally Thomas</u></p> <ul style="list-style-type: none"> • Thanked VDOT representatives for the handling of White Mountain Road. VDOT will continue maintenance on the road, and there will be a study to develop possible alternatives. <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> • The pavement on Old Ivy Road is in very bad condition. • As Garth Road is repaved, it would be nice to see extra width added to the shoulder. <p><u>David Slutzky:</u></p> <ul style="list-style-type: none"> • Expressed concerns about the Quarry on Rio Mills Road. Mr. Rooker requested a staff report on the issue. <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> • Said he would like to see Gilbert Station Road improved. Mr. Sumptner said they will study this issue to see what can be done. <p><u>David Wyant:</u></p> <ul style="list-style-type: none"> • Asked VDOT to looking into adding Wesley Chapel, Route 806, to the Rural Rustic Roads Program. 	<p><u>Clerk:</u> Forward comments to VDOT.</p>
<p>8. Presentation: The Wildlife Foundation.</p> <ul style="list-style-type: none"> • RECEIVED. DIRECTED staff to add information to the County Web Page to help promote this area. DIRECTED Pat Mullaney to engage in a conversation with the Foundation so the County can promote the use of the facility. 	<p><u>Lee Catlin/Pat Mullaney:</u> Proceed as directed.</p>
<p>9. Thomas Jefferson Partnership for Economic Development Performance Review.</p> <ul style="list-style-type: none"> • APPROVED joining TJPED for one year; • As part of the Memorandum of Understanding, under the section for “New Businesses, modify Bullet #2 to read: “Encourage the employment of local workers rather than the hiring and relocating people from outside the region <u>with an emphasis on jobs that meet poverty-related needs.</u>” Modify Bullet #5 to read: “Assist County staff in formulating mechanisms that help implement the County’s Comprehensive Plan, as well as its Master Plans, Strategic Plan and traffic management strategies.” • Approval is also contingent upon TJPED not appearing before the Board of Supervisors or the Planning Commission either in person, or in writing, in support or in opposition of any application pending before those bodies. 	<p><u>Susan Stimart:</u> Notify appropriate individuals with TJPED.</p>
<p>10. 2008 Legislative Priorities.</p> <ul style="list-style-type: none"> • APPROVED the proposed 2008 Legislative Priorities for submission to VACo and the TJPDC, adding a reference to funding mandated human services positions. 	<p>(Attachment 3)</p> <p><u>Andy Bowman:</u> Forward to appropriate individuals.</p>
<p>11. Appeal: SDP 2006-071 Gillispie – Preliminary Site Plan – Critical Slopes Waiver/Curb and</p>	<p><u>John Shepherd:</u> Notify applicant.</p>

<p><u>Gutter Request.</u></p> <ul style="list-style-type: none"> • APPROVED, by a vote of 6:0, the requested waiver, with the condition that one of the central units be eliminated from the site plan. 	
<p>12. Closed Session.</p> <ul style="list-style-type: none"> • At 1:02 p.m., the Board went into closed session to consider an administrative evaluation and appointments to Boards, Committees, and Commissions, and to consult with Legal Counsel and staff regarding specific matters requiring legal advice relating to an information technology agreement, and to consult with Legal Counsel and staff regarding pending litigation regarding a law enforcement incident. 	
<p>13. Certify Closed Session.</p> <ul style="list-style-type: none"> • At 2:46 p.m., the Board reconvened into open session and certified the closed session. 	
<p>14. Appointments.</p> <ul style="list-style-type: none"> • APPOINTED Bradford Cogan to the Agricultural and Forestal District Advisory Committee, with said term to expire April 17, 2011. • APPOINTED David Callihan to the Acquisition of Conservation Easements Committee, to fill the unexpired term of Jay Fennell, with said term to expire on August 1, 2009. • APPOINTED Jeff Werner to the Fiscal Impact Advisory Committee, with said term to expire July 8, 2009. • APPOINTED Donald Byers, as the joint City/County appointee to the Jail Authority, with said term to expire June 30, 2010, subject to approval by City Council. • APPOINTED Richard Jennings to the Pantops Community Advisory Council. • REAPPOINTED Edith (Winx) Lawrence to the Commission on Children and Families, as the University of Virginia representative. 	<p><u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, update webpage, and notify appropriate persons.</p>
<p>15. <u>Appeal: SDP-2006-081. Black Cat Road Service Station Preliminary Site Plan Waiver Requests.</u></p> <ul style="list-style-type: none"> • DEFERRED indefinitely the appeal of SDP-2006-081 	<p><u>David Pennock:</u> Notify applicant of deferral date.</p>
<p>16. Amendment to Lewis and Clark Center Lease Agreement.</p> <ul style="list-style-type: none"> • AUTHORIZED the County Executive to sign, on behalf of the County, an amended lease agreement with the Lewis and Clark Exploratory Center substantially in accord with the attached lease agreement and approved by the County Attorney. 	<p>(Attachment 4)</p> <p><u>County Attorney's office:</u> Circulate document for appropriate signatures and provide Clerk's office with copy of fully executed agreement.</p>
<p>17. To consider granting to the City of Charlottesville Gas Division a gas line easement on North Berkshire Road Extended.</p> <ul style="list-style-type: none"> • APPROVED the proposed easement and AUTHORIZED the County Executive to sign the deed of easement on behalf of the County. 	<p>(Attachment 5)</p> <p><u>County Attorney's office:</u> Circulate document for appropriate signatures and provide Clerk's office with copy of fully executed agreement.</p>
<p>18. <u>SP-2007-11. Oak Ridge Church Picnic Pavilion (Sign # 103).</u></p>	<p>(Attachment 6)</p>

	<ul style="list-style-type: none"> • APPROVED SP-2007-11, by a vote of 6:0, subject to five conditions. 	<u>Clerk</u> : Set out conditions of approval.
19.	<p><u>SP-2007-16. Mt. Alto Church Amendment (Sign # 109).</u></p> <ul style="list-style-type: none"> • APPROVED SP-2007-16, by a vote of 6:0, subject to five conditions. 	(Attachment 6) <u>Clerk</u> : Set out conditions of approval.
20.	<p><u>SP-2007-10. Cutright - Development Right (Signs #111, 112).</u></p> <ul style="list-style-type: none"> • DEFERRED indefinitely SP-2007-10, by a vote of 6:0, for further review by the staff and applicant. 	<u>Joan McDowell</u> : Notify Clerk's office when special permit ready to come back before Board.
21.	<p><u>SP-2007-014. The Rocks Subdivision (Lot 1) (Signs #107,108).</u></p> <ul style="list-style-type: none"> • APPROVED SP-2007-14, by a vote of 6:0, subject to the 20 conditions recommended by the Planning Commission. 	(Attachment 6) <u>Clerk</u> : Set out conditions of approval.
22.	<p><u>ZTA-2007-002 – Proffers.</u></p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached Ordinance which will enable the County to accept proffers under Virginia Code Sec 15.2-2303. 	(Attachment 7) <u>Clerk</u> : Forward signed copy of adopted ordinance to County Attorney's office, Zoning and Community Development.
23.	<p><u>AFD-2007-001.</u></p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached Ordinance. 	(Attachment 8) <u>Clerk</u> : Forward signed copy of adopted ordinance to County Attorney's office and Community Development. Prepare letter to new additions in the District.
24.	<p><u>CPA-2005-02. Growth Management Policy Update.</u></p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, CPA-2005-02. 	(Attachment 9) <u>Clerk</u> : Set out adopted language in proposed sections.
25.	<p><u>Work Session:</u> ZMA-2005-17. Biscuit Run.</p> <ul style="list-style-type: none"> • HELD. • SCHEDULED additional work session for the afternoon of August 8, 2007 to continue discussions on proffers and transportation issues. 	<u>Clerk</u> : Schedule work session on August 8 and public hearing on September 12, 2007
26.	<p>From the Board: Committee Reports.</p> <ul style="list-style-type: none"> • ADOPTED Resolution to set FY 2008 Compensation and Benefits for the County Executive. 	
27.	<p>Adjourn.</p> <ul style="list-style-type: none"> • The meeting was adjourned at 7:18 p.m. 	

/ewc

Attachment 1 – CPA-2007-003, Green Building and Sustainability Amendment

Attachment 2 – IDA Resolution - Jefferson Scholars Foundation.

Attachment 3 – 2008 Legislative Priorities

Attachment 4 – Lewis and Clark Center Lease Agreement.

Attachment 5 – Deed of Easement - North Berkshire Road Extended.

Attachment 6 – Conditions on Planning items

Attachment 7 – Ordinance - ZTA-2007-002 – Proffers

Attachment 8 – Ordinance - AFD-2007-001.

Attachment 9 – CPA-2005-02, Growth Management Policy Update.

Sustainable Design in Buildings and Planning

In September 2006, as a response to interest in green building among Board and Planning Commission officials, from citizens, and continued pursuits by staff regarding sustainability, the Board directed Staff to develop strategies to increase sustainability and expand the County's commitment to implementing and supporting the Accords.

Nearly ten years old, the Sustainability Accords increase in relevance with the expanded understanding of the potential local and regional results of global climate change. The Accords are furthered through applying specific green building objectives and strategies to the construction, planning, and renovation of County facilities. Increasingly, green buildings are proving to be ideal learning and productive work environments that generate less airborne carbon associated with climate change. Decreased utility outlays associated with green buildings allow more revenue to be retained each year to further the County's Strategic Plan.

To Implement the Thomas Jefferson Sustainability Council's Statements of Accord, to promote green building and to protect the fiscal and civic health of the community generally, the County establishes the following Objectives and Strategies for green building, site design, innovation, grants and incentives, education, and preparedness.

The Strategies support the County's EnergyStar Courthouse partnership, initiated by the County Executive in 2006, through reducing daily energy use with technology, awareness, and systematic elimination of inefficient facilities and systems.

To achieve a high level of knowledge of green building and environmental issues, the strategies encourage and support citizens and developers toward furthering the Sustainability Accords with educational support and public outreach. An aligned effort seeks to reduce collective demand and dependence on costly conventional energy sources that have negative environmental impacts.

INTERNAL OPERATIONS AND MANAGEMENT

Strategy: *Participate in the EnergyStar Courthouse Campaign (ESCC) to reduce local government's consumption of energy. (Begun 12/06 by County Executive)*

Strategy: *In keeping with (ESCC), create a policy for County buildings and operations to reduce energy consumption by 30% in keeping with EnergyStar guidelines.*

Strategy: *For new County projects, perform energy modeling during the design-development phase to assess long-term economic benefits of green upgrades.*

Strategy: *Achieve LEED basic level certification on new public buildings so long as planning and energy modeling determine that the upfront expense does not unreasonably exceed the long-term savings.*

Strategy: *Develop and adopt criteria (e.g. square footage / project cost) for pursuing LEED certification for new construction.*

Strategy: *Recognize and respond to the significant role that site characteristics play in sustainable design.*

Strategy: *Locate and apply for grants related to improving the energy efficiency and environmental aspects of existing or proposed County facilities. Actively pursue EnergyStar tax credits.*

Strategy: *Investigate and pursue the purchase of energy credits for renewable energy.*

ADVANCE SUSTAINABILITY WITHIN THE DEVELOPMENT COMMUNITY

Strategy: Offer, facilitate, and/or support green building training for builders and provide information on programs and organizations which will help facilitate this strategy.

Strategy: Engage Blue Ridge Home Builders Association and other similar local groups in conjunction with local government legislative issues.

Strategy: Make changes to the Zoning Ordinance to insure it does not create obstacles to green building.

Strategy: Assist developers in locating and applying for EnergyStar tax credits for energy efficient projects..

Strategy: Encourage builders and developers to seek LEED, Earthcraft, EnergyStar or other comparable certifications.

ADVANCE SUSTAINABILITY AMONG RESIDENTS

Strategy: Develop and maintain links and/or pages on the County website that provide information and strategies to help residents reduce their consumption of resources and resulting pollution.

Strategy: Assist residents in locating and applying for EnergyStar tax credits for energy efficient projects.

CONTINUE RESEARCH AND UPDATES TO THE COMPREHENSIVE PLAN

Strategy: Continue investigating aggressive and viable strategies for green building, energy efficiency, and the following:

- Recycling
- Alternative Energy
- Local Food Production
- Protection of Water Resources
- More efficient Wastewater Treatment
- Enhanced Transit, Sidewalks, Bicycle Facilities, Trails and Greenways

**RESOLUTION OF THE
BOARD OF SUPERVISORS OF ALBEMARLE COUNTY, VIRGINIA**

WHEREAS, Jefferson Scholars Foundation (the "Foundation"), a Virginia not-for-profit corporation (the "Foundation"), has requested the Industrial Development Authority of Albemarle County, Virginia (the "Authority"), to issue its revenue bonds (the "Bonds"), pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), in an amount now estimated at \$18,000,000; and

WHEREAS, the proceeds of the Bonds will be used to (1) assist the Foundation in financing or refinancing the acquisition, construction and equipping of its corporate office headquarters and Graduate Fellowship Center (the "Project") to be located at 108, 112, 114 and 124 Maury Avenue and 110 Clarke Court, Charlottesville, Virginia, and (2) pay costs of issuing the Bonds; and

WHEREAS, the Authority, on June 12, 2007, held a public hearing on the issuance of the Bonds; and

WHEREAS, Section 147(f) of the Internal Revenue Code, as amended (the "Code"), and Section 15.2-4906 of the Act require that the governmental unit on behalf of which the Authority will issue the Bonds approve the issuance of such bonds; and

WHEREAS, the Foundation has requested the Board of Supervisors of Albemarle County, Virginia (the "Board"), to approve the issuance of the Bonds to comply with Section 15.2-4906 of the Act and Section 147(f) of the Code; and

WHEREAS, a copy of the Authority's resolution of June 12, 2007, approving issuance of the Bonds, a record of the public hearing and a fiscal impact statement with respect to the issuance of the Bonds have been filed with the Board; and

WHEREAS, the Authority has recommended that the Board approve the issuance of the Bonds to comply with Section 147(f) of the Code and Section 15.2-4906 of the Act.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF ALBEMARLE COUNTY, VIRGINIA:

1. The Board hereby approves the issuance of the Bonds by the Authority for the benefit of the Foundation, as required by Section 147(f) of the Code and Section 15.2-4906 of the Act.
2. The approval of the issuance of the Bonds does not constitute an endorsement of the Bonds or the creditworthiness of the Foundation. The Bonds shall provide that neither Albemarle County, Virginia, nor the Authority shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from revenues and moneys pledged therefor, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, Albemarle County, Virginia, or the Authority shall be pledged thereto.
3. All acts and doings of the officers and members of the Board that are in conformity with the purposes and intent of this resolution shall be, and the same hereby are, in all respects approved and confirmed.
4. This resolution shall take effect immediately upon its adoption.

Albemarle County 2008 Legislative Priorities - Adopted

Growth Management, Land Use and Transportation

- **Local Authority:** Request that the legislature further facilitate the HB 3202 legislation recently signed into law through: 1) Modifying the transportation impact fee authority to allow for its more effective implementation; 2) Strengthening localities' authority by enabling them to utilize adequate public facilities ordinances and other impact fees in addition to transportation; and 3) Not passing legislation that preempts or circumvents existing local authority to regulate land use.
- **Conservation Easements:** Request the legislature support and augment local efforts in natural resource protection through 1) Continuing to fund the Virginia Land Conservation Foundation (VLCF) for locally established and funded Purchase of Development Rights programs (e.g. ACE Program in Albemarle County); 2) Retaining current provisions in transient occupancy tax legislation so that funds can continue to be used to protect open-space and resources of historical, cultural, ecological and scenic value that attract tourism; and 3) Increase incentives for citizens to create conservation easements.
- **Scenic Protection and Tourist Enhancement:** Request enabling legislation for an Albemarle County pilot program to provide for a scenic protection and tourist enhancement overlay district. As the County pursues options to protect the visual quality of land as an aesthetic and economic resource, this legislation would provide the County with a method to ensure full consideration of visual resources and scenic areas when the County or state makes land use decisions in designated areas.
- **Transportation Funding:** Request the legislature 1) Establish stable and consistent state revenues for Virginia's long-term transportation infrastructure needs; 2) direct funding efforts at all transportation modes; 3) Coordinate planning for transportation and land use, being mindful of local Comprehensive and regional Transportation Plans when planning transportation systems within a locality; and 4) Not shift transportation responsibilities, including maintenance, to localities.

Health and Human Services

- **Comprehensive Services Act (CSA):** Request the legislature assist localities' implementation of CSA in a consistent, financially stable manner by: 1) Fully funding the state pool for CSA with allocations based on realistic anticipated levels of need and a cap on local expenditures for serving a child through CSA; 2) Enhancing state funding for grants to localities to create community-based alternatives for children served in CSA; 3) Establishing state contracts with CSA providers to provide for a uniform contract management process, improve vendor accountability and control costs; and 4) Encouraging the state to be proactive in making service providers available and to support local and regional efforts to address areas of cost sharing among localities by procuring services through group negotiation.
- **Child Care for Low Income Working Families:** Request the legislature provide additional funds to local governments to assist low-income working families with childcare costs. This funding helps working-class parents pay for supervised day care facilities and supports efforts for families to become self-sufficient.

Local Government Administration / Laws

- **Full Funding of State Mandates:** Request the state provide full funding for its mandates in all areas of local government including the Standards of Quality (SOQs), positions approved by the Compensation Board, costs related to jails and juvenile detention centers and human services positions.
- **Local Control of Local Revenues:** Request the legislature take no action to restrict or limit the existing local control of local revenues so that local government leaders can take appropriate measures to generate sufficient revenues to sustain and improve services.

- ***Cost to Compete Pay Differential:*** Due to the documented high cost of living in Albemarle County, request the legislature include Albemarle County Schools in the “Cost to Compete Pay Differential” so that the County may reach and maintain competitive compensation to help recruit, develop and retain a highly qualified and diverse teacher workforce.

AMENDED AGREEMENT OF LEASE

THIS AMENDED LEASE AGREEMENT is made as of the ____ day of _____, 2007, by and between the **COUNTY OF ALBEMARLE**, ("the County"), a political subdivision of the Commonwealth of Virginia, and the **CITY OF CHARLOTTESVILLE**, ("the City") a municipal corporation ("County and City") and **THE LEWIS & CLARK EXPLORATORY CENTER OF VIRGINIA, INC.** ("Tenant").

WITNESSETH:

ARTICLE I. FACTUAL BACKGROUND

Section 1.1. The Lewis & Clark Expedition, one of America's greatest adventures, began in Charlottesville-Albemarle at Monticello, where President Thomas Jefferson and Meriwether Lewis planned the trip west.

Section 1.2. Both Thomas Jefferson and Meriwether Lewis are Albemarle natives; William Clark and his family were Central Virginians who had lived in Albemarle, where his older brother and mentor George Rogers Clark was born.

Section 1.3. Jefferson's homeland of Charlottesville-Albemarle County is uniquely suited for visitors to explore and discover the Corps of Discovery and Jefferson, Lewis and Clark, and also the geography, plants, wildlife and Native American cultures that comprised the nation at the beginning of the 19th Century.

Section 1.4. Tenant is a Virginia non-stock corporation.

Section 1.5. The northern end of Darden Towe Park along the Rivanna River, which connects with the George Rogers Clark birthplace, is uniquely situated to provide a premier site for the Facility.

Section 1.6. The property at the northern end of Darden Towe is also located along the Southwest Mountains and historic Route 20, which connect the homes of Thomas Jefferson, James Madison and James Monroe, as well as other early Virginia explorers such as Dr. Thomas Walker.

Section 1.7. The Facility will complement the visitor experience at Monticello, the University of Virginia, Ashlawn-Highland and other important Central Virginia attractions and enhance our communities' connection with the Rivanna River. It will also commemorate both the Lewis & Clark Expedition and George Rogers Clark, the conqueror of the old Northwest Territory.

Section 1.8. The Facility will be designed in a manner that is environmentally and esthetically sensitive and developed in a manner to enhance the natural beauty of both the Rivanna River and Darden Towe Park.

Section 1.9. This Amended Agreement of Lease shall supersede the Agreement of Lease among the parties dated July 1, 2003.

ARTICLE II. PREMISES.

Section 2.1. Premises. In consideration of the rents and covenants herein set forth, the County and City hereby lease to the Tenant, and the Tenant hereby rents from the County and City, the property shown as cross-hatched on **Schedule A** attached hereto and made a part hereof together with any and all improvements thereon (the "Leased Premises").

Section 2.1.1. Lease Boundary Line. The boundary line between the Leased premises and the remainder of Darden Towe Park shall be as shown on **Schedule A**. Through October 31, 2011, the Leased Premises shall include the barn and the area immediately surrounding (the 'Barn Area,' as shown

on the attached **Schedule A**). During such time, the County and the City shall have the continued right to store equipment and materials in the left bay of the barn and at the rear of the barn, and the right to access these areas. Thereafter, the Leased Premises shall no longer include the Barn Area.

Section 2.1.2 Dog Run. Tenant shall, at its expense, relocate and or replace the dog run fencing on the County and City property as approved by the County Director of Parks and Recreation to maintain the same overall square footage should the entrance road require such relocations.

Section 2.2. Tenant Access. Vehicular access to the Leased Premises shall be along and across a new 20-foot wide road as shown on **Schedule A**. Tenant shall be responsible for construction of the new road, as well as any improvements required by the County to be made to the existing road. Tenant's use of the 20-foot road shall be limited to times when Darden Towe Park is open, except as otherwise agreed with the Darden Towe Park staff.

Tenant shall construct and maintain the 20-foot road in its entirety, and any fencing, in compliance with County of Albemarle Special Use Permit No. SP-2004-004. For purposes of this instrument, Tenant's maintenance obligation includes the maintenance of the private streets or alleys, and all curbs, curbs and gutters, drainage facilities, utilities, dams, bridges, and other private street improvements, and the prompt removal of snow, water, debris, or any other obstruction so as to keep the private street or alley reasonably open for usage by all vehicles, including emergency services vehicles. The Tenant shall install between the 20-foot road and any playing field a fence, which shall be a board fence forty-two inches (42") high with evenly spaced horizontal boards each of six inches (6") of nominal width.

Tenant shall also construct all new sections of the relocated cross-country trail on the Leased Premises as shown on **Schedule A** with the final exact location to be approved by County Director of Parks and Recreation.

Section 2.3. County and City access. The Tenant grants to the County and the City reasonable access for ingress and egress across and through the Leased Premises.

Section 2.4. Greenway Trail. The County and City reserve to themselves access to a variable-width strip along the Rivanna River for a pedestrian greenway trail which includes the right to connect such trail to a pedestrian bridge crossing the Rivanna River from the Leased Premises.

Section 2.5. Construction of a State Highway or Other Public Transportation Purpose. The County and City reserve the right to withdraw a portion of the Leased Premises without compensation to the Tenant, as necessary for the construction of a state highway or for any other public transportation purpose. The County and City further reserve the right to withdraw any portion of the Leased Premises not improved as of July 1, 2008, or used in support of then-existing improvements.

Section 2.6. Rivanna Watershed Center The Tenant agrees to provide a portion of the Leased Premises for use by the Rivanna Watershed Center subject to pre approval by the county and city. Any costs associated by said use to be borne by the Rivanna Watershed Center.

Section 2.7 Overflow Parking. Any parking constructed on the leased Premises shall be available for users of Darden Towe Park, unless the Tenant is holding a designated special event or festival for which it may reasonably reserve parking. The County, the City, and the Tenant shall work cooperatively in managing parking issues during a special event or festival.

ARTICLE III. TERM.

The term of this lease shall commence as of 12:01 a.m. on July 1, 2003 (the "Date of Commencement") and shall expire at 12:00 midnight on June 30, 2043, unless sooner terminated or extended as provided herein. The term "Lease Year" as used herein shall mean the period from July 1 of any year to June 30 of the following year.

ARTICLE IV. RENT.

Commencing July 1, 2003, the Tenant agrees to pay to the County and City "Annual Rent" of \$10.00 per lease year payable annually on or about July 1 of each year.

ARTICLE V. USE OF PROPERTY.

Section 5.1. Permitted Use. The Tenant shall have the right to use the Leased Premises as a 'Historical Center' as defined in *Albemarle County Code* §18-5.1.42, and for no other purposes without the County's and City's consent.

Section 5.2. Commercial Promotion and Advertising. The Tenant shall not promote commercial businesses or corporations in outside signage on the Leased Premises or in advertising circulated to the general public except with prior written consent of the County and the City.

ARTICLE VI. DEVELOPMENT, IMPROVEMENTS AND SIGNAGE.

Section 6.1. Development by Tenant. No improvements of any kind, including roadways and parking areas, shall be made to the Leased Premises except with the County and City's prior written consent both as to the improvements and as to the contractors and subcontractors performing the work.

Section 6.2. Compliance with County, State and Federal Law. No improvements shall be undertaken on the Leased Premises unless and until the Tenant shall have obtained any and all local, state and federal governmental approvals and permits, and all such improvement shall be undertaken in strict compliance with all County, state and federal rules, regulations and laws.

Section 6.3 Removal of Improvements. Upon the expiration or sooner termination of this Lease, the County and City shall have the option (exercisable upon sixty (60) days notice to the Tenant except in the case of a termination of this Lease due to a default by the Tenant, in which case no such notice shall be required) to require the Tenant to remove, at Tenant's sole cost and expense, any and all improvements made by the Tenant to the Leased Premises which have not been made with the County and City's consent or approval, in violation of Section 6.1 hereof, or to elect to keep such improvements as the County and City's property. In the event the Tenant is required to remove any improvements, (i) the Tenant shall be responsible for the restoration of the Leased Premises to their prior condition, and (ii) if the Tenant fails to properly restore the Leased Premises, the County and City may perform the same at the Tenant's cost and expense.

Section 6.4 No Liens. The Tenant shall permit no mechanic's liens, materialmen's liens or other statutory liens to attach to the Leased Premises as a result of any alterations, improvements, additions or repairs performed by the Tenant or at the Tenant's direction. If any such lien or notice of lien rights shall be filed with respect to the Leased Premises, the Tenant shall immediately take such steps as may be necessary to have such lien released, and shall permit no further work to be performed at the Leased Premises until such release has been accomplished.

Section 6.5. Bond for Improvements. The County and City may require the Tenant to provide a bond, surety or other security prior to the commencement of any work on any improvements to the Leased Premises to assure that any such improvements are completed in a timely and workmanlike manner.

Section 6.6. Signage. The Tenant shall have the right to place signs on the interior or exterior of the Leased Premises only in conformity with all local regulations and with the prior written approval of the County and City that shall not be unreasonably withheld. Signs in existence on the date of this Lease are approved.

ARTICLE VII. MAINTENANCE OF LEASED PREMISES.

Section 7.1. Maintenance by Tenant. The Tenant shall, at its own cost and expense during the term of this Lease, maintain and keep in good order and repair the entire Leased Premises, whether improved or unimproved, including but not limited to any roadways, trails, and water courses, the exterior and interior of the Facility, including but not limited to, roof, doors, windows, all plumbing fixtures, mechanical

and electrical systems and any additional improvements placed upon the Leased Premises, including the parking lot, and covenants to keep the same in good condition and to return the Leased Premises to the Lessors at the termination of this Lease in as good condition after the improvement thereof by the Tenant, ordinary wear and acts of God not customarily insurable excepted. It is clearly understood and agreed that during the term of this Lease, the Tenant at its own expense shall furnish and maintain to meet its requirements, all fixtures and equipment (including all food service equipment and heating, ventilation and air conditioning equipment) for the Leased Premises. As part of its duty to maintain and keep the premises in good repair, the Tenant shall protect the water pipes in the Leased Premises from freezing and the drain pipes from becoming clogged, and shall bear the cost of repairs arising from the misuse or negligence of those using them, and that it shall replace all glass, including plate glass, broken during said term. The Tenant agrees to abide by any duly-adopted policies, present or future, governing the use of pesticides, cleaners or other products at Darden Towe Park.

Section 7.2. Fire Protection. As part of its maintenance responsibilities, the Tenant agrees to comply fully with any and all City, County and other applicable governmental laws, regulations and ordinances, limiting and regulating the use, occupancy or enjoyment of said Leased Premises; to comply with the Virginia Uniform Statewide Building Codes (BOCA) and the Virginia State Fire Safety regulations; and to maintain appropriate fire extinguishers on the Leased Premises.

Section 7.3. Surrender of Leased Premises. At the expiration of the tenancy hereby created, the Tenant shall surrender the Leased Premises and all keys for the Facility to the County and City at the place then fixed for the payment of rent and shall inform the County and City of all combinations on locks, safes and vaults, if any, which the County and City has granted permission to have left in the Leased Premises. At such time, the Facility shall be broom clean and in good condition and repair, commensurate with its age. If the Tenant leaves any of its personal property in the Leased Premises, the County and City, at their option, may remove and store any or all of such property at the Tenant's expense or may deem the same abandoned and, in such event, the property deemed abandoned shall become the property of the County and City.

Section 7.4. Condition of Premises on Date of Commencement. The Tenant accepts the Leased Premises "as is" on the effective date hereof. The County and City make no representations or indemnities as to the condition of the Leased Premises.

ARTICLE VIII. IMPOSITIONS, UTILITIES AND INSURANCE.

Section 8.1. Impositions. The Tenant shall pay, as additional rent, during the term of this lease, commencing with Tenant's obligation to pay rent hereunder, one hundred percent (100%) of the amount of all Impositions, as hereinafter defined, levied or imposed on the Leased Premises during any Lease Year. The term "Impositions" means all taxes, assessments, and governmental charges, federal, state, county, municipal, district or otherwise, which ordinarily and regularly are levied on or charged against real property and improvements thereto or activities conducted by Tenant thereon. Impositions for any fraction of a tax year at the commencement of the Tenant's obligation to pay rent or the expiration of the term shall be prorated between the parties hereto upon the basis that the number of days in such fractional tax year bears to three hundred sixty-five (365).

Section 8.2. Utilities and Services. The Tenant shall pay for all gas, heat, light, water, sewage service, power, telephone, janitorial, garbage disposal service and all other utilities supplied to the Leased Premises as the same may be reflected on meters at the Leased Premises, and to the extent such services are provided to the Facility at the Leased Premises.

ARTICLE IX. INSURANCE AND INDEMNITY.

Section 9.1. Liability Insurance of Tenant. Tenant covenants and agrees that it will, at all times during the term of this Lease, keep in full force and effect a policy of public liability and property damage insurance with respect to the Leased Premises and the business operated by the Tenant on the Leased Premises in which the limits of public liability for bodily injury and property damage shall not be less than One Million and 00/100 Dollars (\$1,000,000.00) per accident, combined single limit. The policy shall name the County and City and any mortgagees of the County and City as additional insureds. The policy shall provide that the insurance thereunder shall not be canceled without thirty (30) days written notice

thereof to all named insureds, including the County and City. The Tenant shall also obtain a tenant's property insurance policy insuring the Tenant's personal and business property on the Leased Premises.

Section 9.2. Fire and Extended Coverages. The Tenant agrees that it will, during the term of this Lease, insure and keep insured, for the benefit of the County and City and its respective successors in interest, all of the building and improvements on the Leased Premises, or any portion thereof then in being not covered by the fire and extended casualty insurance. Such policy shall contain coverage against loss, damage or destruction by fire and such other hazards as are covered and protected against, at standard rates under policies of insurance commonly referred to and known as "extended coverage," as the same may exist from time to time.

Section 9.3. Evidence of Insurance. Copies of policies of insurance (or certificates of the insurers) for insurance required to be maintained by the Tenant and the County and City pursuant to Sections 9.1 and 9.2 shall be delivered by the Tenant to the County and City, upon the issuance of such insurance and thereafter not less than thirty (30) days prior to the expiration dates thereof.

Section 9.4. Waiver of Subrogation. The County and City and the Tenant each hereby release the others from any and all liability or responsibility to itself or anyone claiming through or under it by way of subrogation or otherwise for any loss or damage to property caused by fire or any of the extended coverage or supplementary contract casualties, even if such fire or other casualty results from the negligence of itself or anyone for whom it may be responsible, provided, however, that this release shall be applicable and in full force and effect only with respect to loss or damage occurring during such time as any such release shall not adversely affect or impair the releasor's policies or insurance or prejudice the right of the releasor to recover thereunder.

ARTICLE X. WASTE, NUISANCE; COMPLIANCE WITH GOVERNMENTAL REGULATIONS.

Section 10.1. Waste and Nuisance. The Tenant shall not commit or suffer to be committed any waste or any nuisance upon the Leased Premises.

Section 10.2. Governmental Regulations. During the term of this Lease, the Tenant shall, at its sole cost and expense, comply with all of the requirements of all City, County, state, federal and other applicable governmental authorities, now in force, pertaining to the Leased Premises or the Tenant's use and occupancy thereof.

ARTICLE XI. FIRE AND OTHER CASUALTY.

If the Facility shall be damaged so as to render 80% or more of the Facility untenable by fire or other casualty, Tenant shall be solely responsible for any repairs and for restoration of the Leased Premises to good condition. If any damage or destruction from any cause whatsoever has not been repaired and such repairs have not commenced within one hundred eighty (180) days of the date thereof, either party may, as its exclusive remedy, terminate this Lease upon thirty (30) days written notice to all other parties.

ARTICLE XII. CONDEMNATION/HIGHWAY CONSTRUCTION.

If the whole or any part of the Leased Premises shall be taken under the power of eminent domain or otherwise for construction of a state highway or any public transportation purpose, then this Lease shall terminate with no compensation due the tenant as to the part so taken on the day when the Tenant is required to yield possession thereof. If the portion of the Leased Premises so taken is such as to impair substantially the usefulness of the Leased Premises for the purposes for which the same are hereby leased, then either party shall have the option to terminate this Lease with no compensation due the tenant as of the date when the Tenant is required to yield possession.

ARTICLE XIII. DEFAULT OF TENANT.

Section 13.1. Insolvency or Bankruptcy, Corporate Dissolution, Loss of Tax Exempt Status.

The occurrence of any of the following shall constitute a material breach of this Lease by the Tenant ("Material Breach"):

- (a) The appointment of a receiver or trustee to take possession of all or substantially all of the assets of the Tenant; or
- (b) A general assignment by the Tenant for the benefit of creditors; or
- (c) Any action or proceeding commenced by or against the Tenant under any insolvency or bankruptcy act, or under any other statute or regulation having as its purpose the protection of creditors and not discharged within ninety (90) days after the date of commencement; shall constitute a breach of this Lease by the Tenant. Upon the happening of any such event, this Lease shall, at the County and City's option terminate ten (10) days after written notice of termination from the County and City to the Tenant; or
- (d) Dissolution of the Tenant's corporate status which continues for ninety (90) days; or
- (e) Loss of Internal Revenue Code Section 501 (c) (3) tax exempt status by the Tenant which loss continues for ninety (90) days; or
- (f) Discontinuation of the Tenant's presence on the Leased Premises for a period exceeding 365 consecutive days, which period commences on or after July 1, 2008, during which period an interpretive historical center opened to the public commemorating the Lewis and Clark Expedition and/or George Rogers Clerk is not in operation.

Section 13.2. Events of Default. Abandonment of the Leased Premises, a default of ten (10) days in payment of rent, or breach of any of the covenants or conditions of this Lease involving any Material Breach continuing for more than fifteen (15) days after notice thereof from the County and City, shall each constitute an event of default hereunder. No failure of the County and City to enforce any remedy available to it as a result thereof shall invalidate such covenant or provision or any other covenant, condition or provision hereof, or affect the right of the County and City to enforce the same in the event of a subsequent breach or default.

Section 13.3. Remedies. Upon the occurrence of any event of default, the County and City shall have the right, at their election, then or any time thereafter while such event of default shall continue, either to give the Tenant written notice of their intention to terminate this lease on the date of such notice or on any later date specified therein, and on the date specified in such notice the Tenant's right to possession of the Leased Premises shall cease, and this Lease shall thereupon be terminated; or without demand or notice, to re-enter and take possession of the Leased Premises or any part thereof, and repossess the same as of the County and City's former estate and expel the Tenant and those claiming through or under the Tenant and remove the effects of both or either, either by summary proceedings, or by action of law or in equity, or otherwise, without being deemed guilty of any manner of trespass and without prejudice to any remedies for arrearages of rent or breach of covenant. If the County and City elect to re-enter, the County and City may terminate this Lease or, from time to time, without terminating this Lease may relet the Leased Premises, or any part thereof, as agent for the Tenant for such term or terms and at such rental or rentals and upon such other terms and conditions as the County and City may deem advisable, with the right to make alterations and repairs to the Leased Premises. No such re-entry or taking of possession of the Leased Premises by County and City shall be construed as an election on the County and City's part to terminate this Lease unless a written notice of such intention is given as aforesaid, or unless the termination thereof be decreed by a court of competent jurisdiction at the instance of the County and City. The Tenant waives any right to the service of any notice of the County and City's intention to re-enter provided for by any present or future law.

ARTICLE XIV. SUCCESSORS

Section 14.1. Successors. All rights and liabilities herein given to, or imposed upon the respective parties hereto, shall extend to and bind the heirs, executors, administrators, successors and permitted assigns of the parties. The County and City shall be automatically released of all liability under this Lease from and after the date of any sale by the County and City of the Leased Premises. All covenants, representations and agreements of the Tenant shall be deemed the covenants, representations and agreements of the occupant or occupants of the Leased Premises.

ARTICLE XV. MISCELLANEOUS

Section 15.1. Waiver. The waiver by the County and City or the Tenant of any breach of any term, covenant or condition contained herein shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant or condition contained herein. The subsequent acceptance of rent hereunder by the County and City respectively shall not be deemed to be a waiver of any breach by the Tenant or the County and City, respectively, of any term, covenant or condition of this Lease regardless of knowledge of such breach at the time of acceptance or payment of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by the Tenant or the County and City unless the waiver be in writing signed by the party to be charged thereby.

Section 15.2 Entire Agreement. This Lease, and the exhibits attached hereto and forming a part of hereof, set forth all the covenants, promises, agreements, conditions and understandings, between the County and City and the Tenant concerning the Leased Premises and there are no covenants, promises, agreements conditions or understandings, either oral or written, between them other than as herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon the County and City or the Tenant unless reduced in writing and signed by them.

Section 15.3. Notices. Any notice, demand, request, or other instrument which may be, or are required to be given under this Lease, shall be in writing and delivered in person or by United States certified mail, return receipt requested, postage prepaid, and shall be addressed as follows:

If to the County:

Larry W. Davis, County Attorney
401 McIntire Road
Charlottesville, Virginia 22902

If to the City:

605 East Main Street
Charlottesville, VA 22902

S. Craig Brown, City Attorney

If to the Tenant:

or at such other address as designated by written notice of a party.

Section 15.4. Captions and Section Numbers. The captions, section numbers, and table of contents appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections of this Lease nor in any way do they affect this Lease.

Section 15.5. Partial Invalidity. If any term, covenant or condition of this Lease, or the application thereof, to any person or circumstance shall to any extent be invalid or unenforceable the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 15.6. Recording. Upon request of any party, a Memorandum of Lease will be executed and recorded. Such Memorandum shall contain any provisions of this Lease that either party requests except for the provisions of Article IV that shall not be included. The cost of recording such Memorandum of Lease or a short form hereof shall be borne by the party requesting such recordation.

Section 15.7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

Section 15.8. Counterparts. This Agreement may be executed simultaneously or in three or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 15.9. Rules and Regulations. The County and City may adopt such rules and regulations as the County and City deem appropriate for the safe and efficient use of the Leased Premises, which rules and regulations shall be effective after five days notice to the Tenant.

ARTICLE XVI. BROKER'S FEES.

The Tenant and the County and City hereby warrant that there are no brokerage commissions due to any person in connection with this Lease.

ARTICLE XVII. NO ASSIGNMENT.

The Tenant shall not assign this Lease or subject all or any portion of the Leased Premises to any sublease, either directly or indirectly, without the prior written consent of the County and City, which consent shall not be unreasonably withheld. A merger, consolidation, sale, transfer or assignment by operation of law or a transfer or sale of, in the aggregate, a majority of the stock of the corporation, if the Tenant is a corporation, or a sale or transfer of any of the partnership interests, if the Tenant is a partnership, shall be considered an assignment for purposes of this section. No assignment, sublease or transfer of this Lease by the Tenant shall (i) be effective unless and until the assignee, subtenant or transferee expressly assumes in writing the Tenant's obligations under this Lease, or (ii) relieve the Tenant of its obligations hereunder, and the Tenant shall thereafter remain liable for its obligations under this Lease whether arising before or after such assignment, sublease or transfer.

ARTICLE XVIII. RESERVATION OF EASEMENTS.

The County and City hereby reserve to themselves, their successors and assigns, while this Lease is in effect, the non-exclusive right and easement to use the supporting structural elements of the Facility for lateral and subjacent support, including party walls and supporting columns, for any adjacent property owned by the County and City.

ARTICLE XIX. INDEMNIFICATION.

The Tenant agrees to indemnify, defend, and save the County and City harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, bodily injury and damage to property caused in whole or in part by any act or omission of the Tenant, its agents, employees, guests or invitees, or arising from or out of any occurrence on or about the Leased Premises or the occupancy thereof by the Tenant. In the event the County and City shall, without fault on its part, be made a party to any litigation commenced by or against the Tenant arising therefrom, then the Tenant shall indemnify, defend and save the County and City harmless and shall pay all costs, expenses and reasonable attorney's fees incurred or paid by the County and City in connection with such litigation.

ARTICLE XX. SUBORDINATION OF LEASE.

This Lease and all rights of the Tenant hereunder are and shall be subject and subordinate in all respects to (1) all mortgages, deeds of trust and building loan agreements affecting the Leased Premises or the property described in Exhibit A, including any and all renewals, replacements, modifications, substitutions, supplements and extensions thereof, and (2) each advance made or to be made thereunder. In confirmation of such subordination, the Tenant shall promptly upon the request of the County and City, execute and deliver an instrument in recordable form satisfactory to the County and City evidencing such subordination; and if the Tenant fails to execute, acknowledge or deliver any such instrument within ten (10) days after request therefore, the Tenant hereby irrevocably constitutes and appoints the County and City as the Tenant's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any such instruments on behalf of the Tenant. The Tenant further agrees that in

the event any such mortgagee or lender requests reasonable modifications to this Lease as a condition of such financing, the Tenant shall not withhold or delay its consent thereto.

ARTICLE XXI. NONRECOURSE.

Notwithstanding any breach by the County and City of any of the terms of this Lease, or any claim by the Tenant arising hereunder, in no event shall the County and City or any of their officers, officials, employees or trustees of the County and City have any personal liability hereunder and the Tenant's only remedy in the event of such breach, default or claim shall be to proceed against the County and City's interest in the Leased Premises.

IN WITNESS WHEREOF, the County and City and the Tenant have signed and sealed this Lease as of the date first above written.

The County and City:
ALBEMARLE COUNTY

By: _____
Robert W. Tucker, Jr., County Executive

CITY OF CHARLOTTESVILLE

By: _____
Gary B. O'Connell, City Manager

The Tenant:
THE LEWIS & CLARK EXPLORATORY
CENTER OF VIRGINIA, INC.

By: _____
Its: _____

Tax Map 60A1 (North Berkshire Road right-of-way)

This deed is exempt from taxation under Virginia Code §§ 58.1-811(A)(3) and 58.1-811(C)(4).

DEED OF EASEMENT

THIS DEED OF EASEMENT, made and entered into on this _____ day of _____, 2007, by and between the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, Grantor, and the **CITY OF CHARLOTTESVILLE, VIRGINIA**, a municipal corporation, Grantee.

WITNESSETH:

That for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid, receipt of which is hereby acknowledged, the Grantor does hereby GRANT and CONVEY with SPECIAL WARRANTY to the Grantee, subject to the terms and conditions set forth herein, the permanent easement of right of way (hereinafter, the "Easement") to construct, maintain, operate, alter, repair, inspect, protect, remove, and replace certain natural gas line improvements, upon and across the public right of way known as North Berkshire Road in Albemarle County, Virginia, and more particularly described as follows:

Permanent natural gas line easement in the public right of way known as North Berkshire road, located off Solomon Road in Albemarle County, Virginia, as shown on the attached plat made by Thomas B. Lincoln Land Surveyor, Inc. dated December 2, 2005, last revised March 15, 2007, and identified as "New 15' Gasline Easement"; said roadway being dedicated to the public by recordation of a plat dated December 1960, of record in the Albemarle County Circuit Court Clerk's Office in Deed Book 373, page 99.

This Easement shall be subject to the following:

1. The Grantee shall install the natural gas line improvements (hereinafter, the "Improvements") within the Easement. The Improvements shall be underground and outside of the travel lanes of North Berkshire Road.
2. The Grantee shall obtain all permits required by the Virginia Department of Transportation (hereinafter, "VDOT") to authorize the Improvements to exist or remain within the North Berkshire Road right-of-way (hereinafter, the "Permits") and shall comply with all applicable requirements of VDOT.
3. Until the Grantee quitclaims its interest in the Easement to VDOT or the Grantor as required in conjunction with VDOT's acceptance of North Berkshire Road into the state system of secondary highways, the Grantee, at its sole expense, shall, promptly alter, change, adjust, relocate or remove the Improvements from the North Berkshire Road right-of-way if VDOT determines that such alteration, change, adjustment, relocation or removal is required in order for VDOT to accept North Berkshire Road into the state system of secondary highways. Neither the Grantor, VDOT, nor any other public entity shall be responsible or liable to the Grantee or its successors or assigns for any costs associated with such alteration, change, adjustment, relocation or removal of the then-existing Improvements. In addition, neither the Grantor, VDOT, nor any other public entity shall be obligated to compensate or reimburse the Grantee or its successors or assigns for any increased or decreased cost or value associated with either the Improvements or North Berkshire Road resulting from such alteration, change, adjustment, relocation or removal.
4. After VDOT has issued the Permits, the Grantee shall be subject to the following conditions, notwithstanding any quitclaim of its interests to VDOT, and these conditions shall be continuing obligations of the Grantee:

a. The Grantee, to the extent authorized by law, shall at all times indemnify and save harmless the Grantor, its employees, agents, officers, assigns, and successors in interest from any claim whatsoever arising from the Grantee's exercise of rights or privileges stated herein.

b. In the event that the Grantor or a public entity other than VDOT (hereinafter, "such other public entity") becomes responsible for the maintenance of North Berkshire Road and the Grantor or such other entity requires, for its purposes, that the Grantee alter, change, adjust, or relocate the Improvements, across or under North Berkshire Road, the cost to alter, change, adjust, or relocate the Improvements shall be the sole responsibility of the Grantee. Neither the Grantor nor such other public entity shall be responsible or liable to the Grantee or its successors or assigns for any costs associated with altering, changing, adjusting or relocating the then-existing Improvements as may be required herein. In addition, neither the Grantor nor such other public entity shall be obligated to compensate or reimburse the Grantee or its successors or assigns for any increased or decreased cost or value associated with either the Improvements resulting from such alteration, change, adjustment or relocation. The requirements of this paragraph 4(b) shall not apply if the Grantor, VDOT, or such other public entity is either required by law to pay for such costs or is authorized and elects to pay for such costs

The Grantor, acting by and through its County Executive, duly authorized by action of the Albemarle County Board of Supervisors on July 11, 2007, does hereby convey the interest in real estate made by this deed.

The Grantee, acting by and through its City Attorney, the City official designated by the City Manager pursuant to authority granted by resolution of the City Council of the City of Charlottesville, does hereby accept the conveyance of this easement, pursuant to Virginia Code § 15.2-1803, as evidenced by the City Attorney's signature hereto and the City's recordation of this deed.

WITNESS the following signatures.

Agenda Item No. 18. **SP-2007-11. Oak Ridge Church Picnic Pavilion (Sign # 103). PROPOSED:** Construction: 20' x 40' picnic pavilion. ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre). SECTION: 10.2.2.35 Church building and adjunct cemetery. LOCATION: 7734 Old Dominion Road, off Green Creek Road, Schuyler. TAX MAP/PARCEL: Tax Map 126, Parcel 21A. MAGISTERIAL DISTRICT: Scottsville.

1. Special Use Permit 2007-11 shall be developed in general accord with the concept application plan and building details, provided by the applicant and received February 26, 2007 (Attachment A). However, the Zoning Administrator may approve revisions to the concept application plan to allow compliance with the Zoning Ordinance;
2. The picnic pavilion shall be limited to eight hundred (800) square feet and shall not include bathroom facilities or vehicular access;
3. The area of assembly shall be limited to a maximum one hundred ninety-five (195) seat sanctuary; occasional church gatherings beyond the normal capacity of the sanctuary shall be permitted;
4. There shall be no day care center or private school on site without approval of a separate special use permit; and
5. Construction of the eight hundred (800) square foot picnic pavilion shall commence within five (5) years or this special use permit shall expire.

19. **SP-2007-16. Mt. Alto Church Amendment (Sign # 109). PROPOSED:** Expansion of church alter area, additional choir space. ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre). SECTION: 10.2.2.35 Church building and adjunct cemetery. LOCATION: 4330 Mt. Alto Road, off Howardsville Turnpike, Esmont. TAX MAP/PARCEL: Tax Map 133, Parcel 16. MAGISTERIAL DISTRICT: Scottsville.

1. Special Use Permit 2007-16 shall be developed in general accord with the concept application plan, provided by the applicant and received February 26, 2007 (Attachment A). However, the Zoning Administrator may approve revisions to the concept application plan to allow compliance with the Zoning Ordinance;
2. The addition shall be limited to three hundred twenty (320) square feet;
3. The area of assembly shall be limited to a maximum one hundred seventy-five (175) seat sanctuary; occasional church gatherings beyond the normal capacity of the sanctuary shall be permitted;
4. There shall be no day care center or private school on site without approval of a separate special use permit; and
5. Construction of the three hundred twenty (320) square foot addition shall commence within five (5) years or this special use permit shall expire.

20. **SP-2007-10. Cutright - Development Right (Signs #111, 112). PROPOSED:** Special Use Permit to acquire two additional development rights. ZONING CATEGORY/GENERAL USAGE: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre). SECTION: 10.2.2 (28) Divisions of land as provided in Section 10.5.2.1 and Section 10.5.2.1 where permitted by Special Use Permit. LOCATION: 3544 Red Hill School Road; southeast corner of Red Hill School Road (RT. 760) and Monacan Trail Road (RT 29) - North Garden. TAX MAP/PARCEL: 88-6A1. MAGISTERIAL DISTRICT: Samuel Miller.

21. **SP-2007-014. The Rocks Subdivision (Lot 1) (Signs #107,108). PROPOSED:** Amend special use permit for Rural Preservation Development with more than 20 development lots to change condition of approval regarding location of development lots in relation to Ivy Creek. Proposed change would prevent development between Ivy Creek and Dick Woods Road. LOCATION: Dick Woods Road (Route 637), approximately 500 feet west of intersection with on-ramp to Route 64 East. TAX MAP/PARCEL: Tax Map 74 Parcel 18D. MAGISTERIAL DISTRICT: Samuel Miller.

1. Except as otherwise provided herein development of The Rocks shall be in accord with the "Special Use Permit Plan..." prepared by Thomas B. Lincoln Land Surveyor, Inc. dated April 2, 2004. For purposes of these conditions the plan shall heretofore be referred to as "The Application Plan;"
2. Except for minor boundary adjustments, (as determined by the Agent), the boundaries of Tax Map 74, Parcels 18C, 18C1, 18C2 and 18C3 may be modified only as shown on "The Application Plan;"
3. Within the boundaries of Revised Lot 1, there shall be allowed a total of four (4) dwelling units or four (4) lots. Before a building permit is issued for a second dwelling unit, or before a subdivision plat is approved creating a new lot(s) within the boundaries of Lot 1, a new application plan shall be reviewed and approved by the Planning Commission authorizing the dwelling units or lots. For purposes of these conditions the term "subdivision" shall also mean family divisions;
4. All subdivisions within the boundaries of Revised Lot 1 shall meet the design standards and special provisions set forth in Section 10.3.3 of the Zoning Ordinance. This includes the requirement that it be demonstrated that the additional lots combined with the other approved lots do not exceed the actual number of lots that could have been achieved by conventional development of the total property;
5. No dwellings or development lots within the boundaries of Lot 1 shall be located in the floodplain of Ivy Creek or between Ivy Creek and Dick Woods Road;
6. All future development lots subdivided from Lot 1 shall be no larger than 3.26 acres in area, shall be located in a manner consistent with, and be integrated into the overall design of the other development lots in The Rocks;
7. A minimum of ten (10) trees per acre shall be provided on the development lots, including those permitted by condition three (3), in accordance with Section 32.7.9.5 of the Zoning Ordinance for the purpose of providing screening from Interstate 64 and Route 637. Trees shall be installed within two (2) planting seasons of the date of issuance of a certificate of occupancy for the dwelling on the lots;
8. Clearing of land shall be limited to the minimum amount necessary for the construction of access roads, dwellings, and septic fields;
9. Building siding and trim shall be of colors and materials that blend with the surrounding natural environment as determined by the Director of Planning. Highly reflective colors or surfaces, or light colored roofs, as determined by the Director of Planning, are prohibited;
10. Concrete driveways visible from off-site shall be darkened to blend with the surrounding natural environment as determined by the Director of Planning;
11. The bridge shall not be constructed until the approvals in conditions twelve (12) through fifteen (15) have been obtained;
12. Department of Engineering issuance of an erosion and sediment control permit;
13. Department of Engineering approval of bridge design;
14. Department of Engineering approval of hydro geologic and hydraulic calculations to ensure compliance with Section 30.3. of the Zoning Ordinance;
15. Department of Engineering approval of private road plans and drainage calculations. Private roads shall be designed to Virginia Department of Transportation mountainous terrain standards. This condition is only applicable to the private roads constructed to access and provide frontage to all the lots in the Rocks development except the Rural Preservation Tract and revised Tax Map 74, Parcels 18C, 18C1, 18C2 and 18C3 as shown on "The Application Plan;"
16. The extension of Newcomb Mountain Lane as a private road is subject to Planning Commission approval. The Planning Commission shall establish the standard of the private road extension at the time of review;
17. The existing road, shown entering from Rocks Farm Drive, parallel to Interstate 64 and meandering through the Preservation Tract shall not be improved or widened except for agricultural and/or forestry purposes. The need for such improvements shall be reviewed by the Public Recreational Facilities Authority. If the Public Recreational Facilities Authority deems that the improvements are warranted, construction shall not commence until a road plan and an erosion and sediment control plan has been reviewed and approved by the County Engineer;
18. Prior to the approval of any plat modifying the boundaries of the Rural Preservation Tract, the rural preservation easement shall be amended to allow the modification; amendment to the easement is subject to the review and approval of the County and the Albemarle County Public Recreational Facilities Authority. Approval of this special use permit in no way implies or

guarantees approval of a modified easement by the County or the Albemarle County Public Recreational Facilities Authority;

19. Prior to the approval of any plat providing access to Newcomb Mountain Lane an amended road maintenance agreement shall be reviewed and approved by the County Attorney. This agreement shall be recorded with the plat; and
20. Provide evidence to the County that the Rosemont Homeowner's Association consents to the Newcomb Mountain Lane extension to serve as access to Tax Map 74, Parcels 18C, 18C1, 18C2 and 18C3.

ORDINANCE NO. 07-18(1)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, AND ARTICLE IV, PROCEDURE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Regulations, and Article IV, Procedure, are hereby amended and reordained as follows:

By Amending:

- Sec. 2.3 Conflicting ordinances
- Sec. 3.1 Definitions
- Sec. 33.3 Proffer of conditions

Chapter 18. Zoning

Article 1. General Provisions

Sec. 2.3 Regulations conflicting with other local or state or federal laws

Whenever provisions within this chapter conflict with any local, state or federal statute or regulation with respect to requirements or standards, the most severe or stringent requirement or standard shall prevail.

For purposes of this section, any proffer heretofore accepted by the board of supervisors in accordance with Virginia Code §§ 15.2-2296 *et seq.*, shall be continued in effect and shall be construed to be a “local regulation” until amended or varied by the board of supervisors in accordance with law, regardless of the repeal of any previous zoning ordinance.

Sec. 3.1 Definitions

...

Proffer: A written condition offered by the owner of land who has applied for a zoning map amendment that imposes a regulation or requirement that is in addition to the regulations otherwise applicable to the land under this chapter. (Added 10-3-01)

...

Article IV. Procedure

Sec. 33.3 Proffer of conditions

Prior to the public hearing before the board of supervisors on a rezoning application required by Virginia Code § 15.2-2285, the owner of the land that is the subject of the rezoning may proffer, in writing, reasonable conditions to be applied to such rezoning as part thereof. Such conditions are authorized by, and shall comply with, Virginia Code § 15.2-2303; provided that the proffering thereof by the owner shall be deemed prima facie evidence of such compliance. (Amended 4-4-90)

ORDINANCE NO. 07-03(1)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Amending:

Sec. 3-215 Hatton Agricultural and Forestal District.

Chapter 3. Agricultural and Forestal Districts

Article II. Districts of Statewide Significance

Division 2. Districts

Sec. 3-215 Hatton Agricultural and Forestal District.

The district known as the "Hatton Agricultural and Forestal District" consists of the following described properties: Tax map 135, parcels 13, 14B, 15, 15A, 17, 18, 19, 22, 22A, 30 (part); tax map 136, parcels 2A, 9B. This district, created on June 29, 1983 for not more than 10 years and last reviewed on June 20, 2001, shall next be reviewed prior to June 29, 2011.

(Code 1988, § 2.1-4(a); Ord. 98-A(1), 8-5-98; Ord. 01-3(1), 6-20-01; Ord. 07-3(1), 7-11-07)

Growth Management

GOAL: Protect and efficiently utilize County resources by:

- A. Protecting the elements that define the Rural Area:
 - 1) Agricultural resources
 - 2) Forestry resources
 - 3) Land preservation
 - 4) Land conservation
 - 5) Water supply resources
 - 6) Natural resources
 - 7) Scenic resources
 - 8) Historical, archaeological, and cultural resources

- B. Promoting the Development Areas as the place where a variety of land uses, facilities, and services exist and are planned to support the County's future growth, with emphasis placed on infill development.

Introduction

(As Amended July 10, 2002)

The County's primary growth management goal directs development into designated areas and conserves the balance of the County for rural areas and resource protection. Resource protection is the basic theme behind the County's growth management approach. This ongoing theme is complemented by an emphasis on intelligent use of Development Areas, public facilities and resources. Thus, planning efforts aim to channel growth into designated areas to facilitate economical service delivery in those areas, to promote a sense of neighborhood-style development as the preferred design in those areas, and to conserve the Rural Areas.

Planning efforts also focus on means to discourage development in the Rural Areas and support activities consistent with the character of the Rural Areas. This is accomplished through education, incentives, and voluntary and regulatory measures. These measures should focus on protecting the "defining principles" of the Rural Areas listed in the Guiding Principles of the Rural Areas Plan. Residential development is inconsistent with the protection of those defining principles and should be prevented where possible. Limited service delivery—prevention of public water and sewer connections, and provision of public services at a rural rather than urban scale—is a key policy for limiting the potential for rural residential development. Where development cannot be avoided, its impacts should be reduced through improved design requirements.

It is important that this and future Comprehensive Plans make adjustments that can influence development patterns to better meet the growth management goals. Such adjustments can include more active County support of Development Areas development, adjustments to location and/or holding capacity, and additional protective or support measures for the Rural Areas. This plan emphasizes the County's role in providing necessary new and amended ordinances, regulations, support services and infrastructure for development, and more efficient use of Development Areas, including more urban and pedestrian oriented development styles. It must be recognized that the desired increased densities in the Development Areas will also require an increased commitment by the County for public infrastructure improvements.

* * * * *

(As amended September 1, 2004)

INTRODUCTION

Community facilities provide a location for necessary and desired services for County residents and are important components in supporting and enhancing the quality of life in Albemarle County. The facilities covered within this plan include police, fire and rescue protection services, schools, libraries, parks and recreation, government administration services, and solid waste facilities. Highway and transportation facilities and sewer and water utilities are not covered in this plan. Separate planning processes are already in place for these facilities.

The provision of community facilities can influence where and when development will occur; therefore, they are important tools for managing growth. The importance of the provision of public services and facilities is recognized in the Facilities Planning section of this Plan:

“Emphasis is placed on providing a level of public service delivery that will support development in, and direct development to, designated Development Areas. To accomplish this, service and facilities will be provided at a much higher level in the Development Areas than in the Rural Areas. Those persons living in the Rural Areas should not anticipate levels of public service delivery equal to services provided in the Development Areas.”

Community facilities are provided to residents in the County in a number of different ways. Some facilities/services are provided entirely by the County (schools, police), some are volunteer stations, while others are a combination of County and volunteer (fire). Some are regional in scope (libraries), while still others are provided jointly by the County and City (solid waste disposal facilities). In the case of Parks and Recreation facilities, separate facilities are provided by the City and County, but are made available for use by all residents in the entire area, including outlying Counties. Some park facilities are also provided jointly by the City and County (Darden Towe Park and Ivy Creek Natural Park).

Because of the high cost involved in providing community facilities and the potential impact to the County's growth pattern, it is important to have a comprehensive and systematic planning process. This process should promote an efficient provision of services and facilities that is consistent with current needs and with the goals of the Comprehensive Plan for future development. This plan will serve as a framework for community facility development decisions. It will permit a better evaluation of service and facility performance and needs, and a more objective review of competing demands for new and expanded facilities so that the resources are used in areas of highest need. It is to be used to assist agency administrators and elected officials in determining the capital project needs and priorities, and timing for facility development. It establishes what the County determines to be the adequate level of service for community facilities. "Level of service" defines what County residents consider as necessary and desirable. To do this, service objectives and standards for provision of facilities are established. This Plan is an element of the County's Comprehensive Plan and, like the Comprehensive Plan, will be reviewed on a regular basis.

The County's Comprehensive Plan emphasizes the County's role in providing necessary new and amended ordinances, regulations, support services and infrastructure for development, and more efficient use of Development Areas, including more urban and pedestrian oriented development styles. It must be recognized that the desired increase in density and more urban model for development recommended in the Development Areas will also require an increased commitment by the County for public infrastructure improvements and community facilities and services.

* * * * *

CHAPTER FOUR THE RURAL AREAS

INTRODUCTION

The Rural Landscape

Albemarle County occupies 726 square miles in the Virginia Piedmont and Blue Ridge Mountains. The designated Rural Areas, about 690 square miles, make up approximately 95 percent of the County, and surround the designated Development Areas and the City of Charlottesville. They border Greene and Orange counties to the north, Louisa and Fluvanna counties to the east, Buckingham County to the south, and Nelson, Augusta, and Rockingham counties to the west.

Agriculture, forestry, and conservation play an important and long-standing role in the environment, heritage, and economy of the County. These uses depend on natural resources that are irreversibly lost when rural land is converted to residential and commercial uses. Protecting rural land uses provides an opportunity to conserve natural, scenic, and historic resources through the maintenance of farmland, forested areas, and other natural areas; and fiscal resources by limiting development and lessening the need to provide public services to wide areas of the County.

The County's topography varies from Piedmont hills in the east and south to the Blue Ridge and its foothills in the west. Altitudes range from 235 feet, where the Rivanna River crosses the County's eastern border, to 3,389 feet on Big Flat Mountain in Shenandoah National Park. There are large areas of steep slopes primarily in the central and western part of the County. The majority of the Rural Areas is in the watershed of the James River, mostly draining through the Rivanna and Hardware rivers. The two largest Rivanna River tributaries in the County are the North Fork and South Fork Rivanna rivers. The South Fork is dammed to form the area's largest drinking water reservoir.

The land cover of the Rural Areas is a complex mosaic. It has been estimated that, as of the early 1990s, nearly 47 percent of the Rural Areas was in deciduous forest, 18 percent was in mixed forest, and 8 percent was in conifer forest. Open areas, including pasture, row crops, barren areas, mowed areas and yards, occupied about 24 percent of the Rural