



**IV.-D.**

Agenda Item

**County of Hanover**

**Board Meeting: September 23, 2015**

**Subject:** Request for Capital Appropriation and Approval of Purchase Agreements - \$395,000, Cold Harbor Property Purchase  
**Magisterial District: Cold Harbor**

**Summary of  
Agenda Item:**

The Department of Parks and Recreation Master Plan identified the need for a future park in the far eastern portion of Hanover. In accordance with the Plan the County recently acquired the former Hanover Schools property on Cold Harbor Road for potential future park use. Shortly after the acquisition of the Schools property the County was approached by an adjacent property owner offering to sell some of his property.

This offer created a very unique opportunity to add to the potential park property and from a willing seller, which is not often the case. The property also provides the opportunity to establish a second means of access to the park. There are 2 parcels involved. Phase 1 of the purchase involves approximately 15 acres from GPIN 8734-90-7211 for approximately \$254,000. Phase 2 involves the purchase of approximately 5 acres from GPIN 8744-00-0911 for approximately \$79,000 and is contingent upon on a rezoning of the property by the owner. The exact dimensions will be determined upon completion of the boundary survey and the purchase price adjusted accordingly. Additional expenses of up to \$62,000 will be incurred for boundary survey, preparation of plats, title research and environmental review. Total appropriation request is \$395,000 from prior year's balance to the Capital Improvements Fund.

A summary of the proposed purchase agreements is attached along with the agreements.

The Department of Finance and Management Services concurs with the request.

**County  
Administrator's  
Recommended  
Board Motion:**

Approve an appropriation from prior year's balance to the Capital Improvements Fund in the amount of \$395,000 for the purchase of a portion of GPINs 8734-90-7211 and 8744-00-0911 and related expenses and approve the associated purchase agreement.

**BOARD OF SUPERVISORS  
ADMINISTRATOR'S OFFICE**

**WAYNE T. HAZZARD, CHAIRMAN**  
SOUTH ANNA DISTRICT

**AUBREY M. STANLEY, VICE-CHAIRMAN**  
BEAVERDAM DISTRICT

**SEAN M. DAVIS**  
Henry District

**ANGELA KELLY-WIECEK**  
CHICKAHOMINY DISTRICT

**W. CANOVA PETERSON**  
MECHANICSVILLE DISTRICT

**G.E. "Ed" VIA, III**  
ASHLAND DISTRICT

**ELTON J. WADE, SR.**  
COLD HARBOR DISTRICT

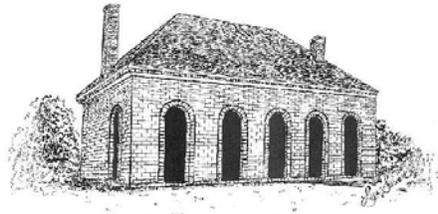
**COUNTY**

**CECIL R. HARRIS, JR.**  
COUNTY ADMINISTRATOR

**JOHN A. BUDESKY**  
DEPUTY COUNTY ADMINISTRATOR

**FRANK W. HARKSEN, JR.**  
DEPUTY COUNTY ADMINISTRATOR

**JAMES P. TAYLOR**  
DEPUTY COUNTY ADMINISTRATOR



*HANOVER COURTHOUSE*

**HANOVER COUNTY**

ESTABLISHED IN 1720

WWW.HANOVERCOUNTY.GOV

P.O. BOX 470, HANOVER, VA 23069  
7516 COUNTY COMPLEX ROAD, HANOVER, VA 23069

PHONE: 804-365-6005  
FAX: 804-365-6234

**Memorandum**

**TO:** Honorable Hanover County Board of Supervisors

**FROM:** Frank W. Harksen, Jr., Deputy County Administrator

**SUBJECT:** Proposed Purchase Agreement, GPINs 8734-90-7211 and 8744-00-0911

**DATE:** September 14, 2015

The Department of Parks and Recreation Master Plan identified the need for a future park in the far eastern portion of Hanover. In accordance with the Plan the County recently acquired the former Hanover Schools property on Cold Harbor Road for potential future park use. Shortly after the acquisition of the Schools property the County was approached by an adjacent property owner offering to sell some of his property.

This offer created a very unique opportunity to add to the potential park property and from a willing seller, which is not often the case. A summary of the provisions contained in the purchase agreement is below. The exact dimensions of the parcels to be purchased will be determined upon completion of the boundary survey and the purchase price adjusted accordingly. Additional expenses will be incurred for boundary survey, preparation of plats, title research and environmental review.

Phase 1 property purchase:

Parcel #1  
GPIN 8734-90-7211  
Owner: Boshier, Lindy Edward, Sr  
Property Address: 5868 Cold Harbor Road  
Zoning: A-1  
22.866 Acres

Phase 2 property purchase:

Parcel #2  
GPIN 8744-00-0911  
Owner: Boshier, Lindy E  
Property Address: 5900 Cold Harbor Road  
Zoning: A-1  
28.991 Acres

Hanover County

- Purchase a total of 20± acres with a portion coming from both parcel #1 and parcel #2 – general configuration shown on Exhibit A
- Pay \$17,500 per acre for up to 10 acres (parcel 1)

- Pay \$15,800 per acre for balance of acquired property
- Total price not to exceed \$333,000
- Commission and fund the survey of the parcels to obtain final configuration
- Undertake and fund the necessary title search
- Purchases would occur in phases, with phase 1 to be the purchase of approximately 15 acres from reconfigured parcel 1, and phase 2 to be the purchase of approximately 5 acres from parcel 2.
- Purchases would be contingent upon satisfactory results from title research and environmental review for each parcel, completion by owner of actions listed below, and approval of the Board of Supervisors. Parcel 2 purchase would be additionally contingent upon rezoning approval by the Board of Supervisors.

Lindy Boshier

- Take the necessary action to subdivide the approximately 5 acres east of Stewart's Retreat Lane from Parcel #2
- Assist with steps to adjust the property boundaries to achieve the configuration shown on Exhibit A
- Remove all debris from property to be acquired by Hanover

## AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT (“Agreement”) dated \_\_\_\_\_, 2015, between **LINDY EDWARD BOSHER, SR.**, whose address is 6990 Stewarts Retreat Lane, Mechanicsville, Virginia 23111 (“Seller”), and **HANOVER COUNTY**, a political subdivision of the Commonwealth of Virginia (“Purchaser”), recites and provides:

### RECITALS

Seller wishes to sell and Purchaser wishes to purchase from Seller a 15± acre parcel of land, being a portion of property located at 5868 Cold Harbor Road, Mechanicsville, Virginia 23111, designated as GPIN 8734-90-7211 in the Hanover County land records, in the Cold Harbor District, Hanover County, Virginia, and generally depicted as “15+/- Reconfigured Acres” on Exhibit A (the “Property”), subject to the terms and conditions set forth herein.

### AGREEMENT

In consideration of their mutual promises hereinafter set forth and other valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the parties agree as follows:

1. Contract. This Agreement shall constitute a binding contract, subject to the terms and conditions set forth herein, for the purchase and sale of all of Seller’s right, title and interest in and to the Property, together with all improvements (if any) and rights in connection therewith, including, without limitation, all appurtenant easements, licenses, privileges and benefits.

2. Conditions Precedent to Obligation of Purchaser. This Agreement and all of Purchaser’s obligations hereunder are further subject to Purchaser determining in its sole and absolute discretion that all of the conditions set forth in this Paragraph have been satisfied or waived by Purchaser. In the event that the Seller is unable to satisfy any of the following conditions, the Purchaser may terminate the Agreement or pursue any legal remedies available to it, including specific performance.

(a) Seller shall convey good and marketable fee simple title to the Property by general warranty deed containing English covenants of title, free of all liens, defects, encumbrances and encroachments, insurable under normal underwriting standards, and subject only to exceptions which will not interfere with the Purchaser’s intended use of the Property, as determined by the Purchaser in its sole discretion.

(b) On or before \_\_\_\_\_, 2015 Seller shall adjust the boundaries of the Property and the adjoining parcel, designated as GPIN 8744-00-0911 in the Hanover County land records (“Adjoining Parcel”), to create a separate parcel of not less than ten acres, in the location generally depicted as “Property Line adjustment to create 10-Acre parcel” on Exhibit A (“10-Acre Parcel”), and shall prepare a deed for the Property reflecting such boundary adjustments.

(c) On or before \_\_\_\_\_, 2015 Seller shall remove from the Property to an appropriate storage facility, landfill, or other appropriate disposal location all contaminants in toxic concentrations or amounts, and all construction debris and demolition waste, including asphalt, concrete and other materials not found in naturally occurring soils, and shall leave the Property in a condition in compliance with the Hanover County Zoning Ordinance and Article I (Erosion and Sediment Control), Chapter 10 (Environmental Management) of the Hanover County Code.

(d) Prior to settlement, the Purchaser will ascertain the suitability of the Property for the Purchaser's requirements, and may conduct survey, geotechnical, environmental and other studies, and the Seller agrees that the Purchaser and its officials, staff and agents shall have access to the Property for those purposes. The Seller will not be responsible for the conduct by the Purchaser and its officials, staff and agents of any activities upon the real estate pursuant to this provision. The Purchaser shall restore the land, following any testing, to as near its former condition as practicable.

(e) The Purchaser shall notify the Seller no later than \_\_\_\_\_, 2015, of any defects in title, site conditions, or other circumstances that render the Property unsuitable for the Purchaser's purposes.

(i) Upon notification from the Purchaser of any defects or conditions described in this Section, the Seller shall immediately correct any such defects or advise the Purchaser of the intention not to do so.

(ii) Should the Seller choose not to correct any such defects, the Purchaser shall have the right to void this Agreement, and the parties shall have no further obligations by reason of this Agreement, or the Purchaser may, in its sole discretion, choose to waive its right to object to the defect.

(iii) At the option of the Purchaser, but subject to agreement by the Seller, the term of this Agreement may be extended for the purpose of curing defects. The Purchaser will provide the services of its attorney to cooperate with the attorney for the Seller in removing objections to title and satisfying any other conditions to settlement.

(iv) Both the Seller and the Purchaser agree that they will use their best efforts in good faith to make closing possible.

(v) In the event such defects or circumstances are not cured, or the parties fail to otherwise agree on a resolution or extension of the term of this Agreement by \_\_\_\_\_, 2015, this Agreement shall terminate and neither party shall have any further obligations.

3. Purchase Price. The purchase price of Two Hundred Fifty-Four Thousand Dollars (\$254,000) shall be adjusted at settlement to an exact purchase price of Seventeen Thousand Five Hundred Dollars (\$17,500) per acre for the first ten acres and Fifteen Thousand Eight Hundred Dollars (\$15,800) per acre for the remaining acreage. The exact area shall be determined by a

physical survey to be made at Purchaser's expense, by a licensed and certified land surveyor. The surveyor shall mark all boundary lines. The plat of survey shall be approved by all appropriate government authorities and recorded with the deed. The Purchaser shall bear the cost of such plat approval. The exact Purchase Price, shall be paid in cash or wired funds at closing.

4. Settlement.

(a) **Settlement Date.** Settlement of the purchase and sale of the Property ("Settlement") shall be made at the offices of Purchaser's attorneys or settlement agent no later than \_\_\_\_\_, 2015.

(b) **Deliveries by Seller at Settlement.** At Settlement, Seller shall execute and deliver the following to Purchaser, in form and substance reasonably satisfactory to Purchaser: (i) marketable title to the Property by general warranty deed in a form and with substance approved by the Purchaser; (ii) an affidavit for the benefit of Purchaser and Title Company from Seller and all contractors and materialmen providing labor or materials in connection with the Property (the "Affidavit"), stating, inter alia, that no right to a mechanic's or materialman's lien has accrued with respect to the Property, and there are no outstanding leases or agreements with regard to, or other parties in or entitled to possession of, the Property; and (iii) a Seller's closing statement; and (iv) evidence reasonably satisfactory to Purchaser and the Title Company of Seller's authority to execute the Deed and perform the obligations of Seller hereunder.

(c) **Deliveries by Purchaser at Settlement.** At Settlement, Purchaser shall pay to Seller the Purchase Price as provided in Paragraph 3 by wire transfer or County check; and shall execute a purchaser's settlement statement.

(d) **Costs and Proration.** Seller shall pay the costs of preparing the Deed and the Grantor's Tax thereon. Purchaser shall pay all costs and expenses incurred in connection with its examination of title to the Property, recording costs (other than the Grantor's tax), the inspections and all premiums charged by the Title Company. Real estate taxes and assessments shall be prorated between Seller and Purchaser as of Settlement, according to the number of days of the year or appropriate billing period, as applicable, which the Property is owned or to be owned by each party and pursuant to statute the taxes for the period following Settlement shall be abated by the Purchaser. Purchaser shall be deemed to own the Property on the date of Settlement. All rollback taxes, if any, shall be paid by Seller at or before Settlement. Each party shall pay its own legal, accounting and other expenses incurred in connection with this Agreement or Settlement hereunder.

5. Risk of Loss. The risk of loss or damage to the Property by fire or other casualty prior to Settlement shall be on Seller. If such loss or damage materially and adversely affects Purchaser's intended use and enjoyment of the Property as of Settlement, Purchaser shall have the option, in its sole discretion to terminate this Agreement by giving Seller written notice, in which event the parties shall have no further obligations or liabilities to one another.

6. Condemnation. If any taking pursuant to the power of eminent domain is proposed or occurs prior to Settlement, as to all or any portion of the Property, or sale occurs in lieu thereof, Purchaser shall be entitled to elect, in its sole discretion, either to (a) terminate this Agreement by giving Seller written notice, or (b) proceed to Settlement, in which event, all proceeds, awards and other payments arising from any such taking or sale shall be assigned and paid to Purchaser. If Purchaser elects to terminate this Agreement, the parties hereto shall have no further obligations or liabilities to one another hereunder.

7. Representations and Warranties of Seller. Seller represents and warrants, as of the date hereof and at Settlement, with respect to the Property the matters hereinafter set forth. Seller represents and warrants to Purchaser with respect to the Property that to the best of Seller's knowledge (i) there are no special tax or assessments to be made for improvements that would affect the Property, (ii) no condemnation of the Property or any portion thereof is pending or has been threatened; and (iii) there are no requirements by any governmental agency that repairs, alterations or corrections be made to any part of the Property, except as may arise in connection with its development. Seller further warrants and represents that there are no leases, tenancies, licenses or other rights of occupancy by any third party affecting all or any portion of the Property, and that Seller has no actual knowledge of hazardous substances, as defined in federal and state environmental protection laws, on the Property.

Seller agrees to hold Purchaser harmless from and against all costs, expenses, liabilities and damages, including, without limitation, court costs and reasonable attorneys' fees, arising out of any of the foregoing representations and warranties being false or materially misleading, which indemnity shall survive Settlement.

8. Default.

(a) If Purchaser defaults under this Agreement, the Seller shall have all the rights afforded him at law or in equity as a result of Purchaser's default.

(b) If Seller defaults hereunder, the Purchaser shall have all rights afforded it at law or in equity as a result of Seller's default.

9. Binding Agreement. This Agreement shall bind and inure to the benefit of the parties and their respective successors and assigns.

10. Notices. Any notice, request or demand required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed sufficiently given if delivered by hand at the address of the intended recipient, or sent prepaid by Federal Express (or a comparable guaranteed next-day overnight delivery service), addressed to the intended recipient, at the intended recipient's address set forth below, or at such other address as the intended recipient may have specified by written notice to the sender given in accordance with the requirements of this Paragraph. Any such notice, request or demand so given shall be deemed given on the first to occur of the day it is (i) received by the recipient, (ii) one day after delivered to Federal Express (or comparable guaranteed overnight delivery service) with charges prepaid.

Mailing Address:

For Seller: Lindy E. Boshier, Sr.  
6990 Stewarts Retreat Lane  
Mechanicsville, Virginia 23111

For Purchaser: County Administrator  
County of Hanover  
P. O. Box 470  
[Physical address: 7516 County Complex Road]  
Hanover, Virginia 23069-0470

11. Applicable Law; Venue. This Agreement shall be construed, performed and enforced in accordance with the laws of the Commonwealth of Virginia. The sole and exclusive venue for any dispute regarding this Agreement or the Property shall be in the court with jurisdiction of the County of Hanover, Virginia.

12. Entire Agreement; Modification. This Agreement contains the entire agreement between the parties hereto relating to the Property and supersedes all prior and contemporaneous negotiations, understandings, letters of intent and agreements, written or oral, between the parties. This Agreement shall not be modified and no waiver of any provision hereof shall be effective unless set forth in a written instrument executed with the same formality as this Agreement.

13. Authority. Each party represents and warrants to the other that it has due authority to execute and deliver this Agreement and to effectuate the transactions contemplated hereunder.

14. Counterparts. This Agreement may be executed in any number of counterpart originals, all of which shall be deemed to be original documents. Any executed counterpart of this Agreement returned by facsimile shall be deemed an original executed counterpart.

15. Advice of Counsel and Constructions. All parties to this Agreement have been represented by counsel or have had an opportunity to be so represented. Accordingly, the rule of construction of language against the drafting party is hereby waived by both parties.

16. Broker: The parties acknowledge that no broker is a party to this transaction. No broker's fees or commissions are due to any party.

IN WITNESS WHEREOF, each of the parties hereto have executed or caused this Agreement to be executed in its name pursuant to due authority as of the dates set forth below.

Approved as to form:

Approved as to substance:

\_\_\_\_\_  
Yvonne S. Gibney  
Deputy County Attorney

\_\_\_\_\_  
W. Frank Harksen  
Deputy County Administrator

**SELLER:**

Lindy E. Boshier, Sr.

Date: \_\_\_\_\_

\_\_\_\_\_

**PURCHASER:**

Hanover County, Virginia, a political  
subdivision of the Commonwealth of  
Virginia

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Cecil R. Harris, Jr.  
County Administrator

## AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT (“Agreement”) dated \_\_\_\_\_, 2015, between **LINDY EDWARD BOSHER, SR.**, whose address is 6990 Stewarts Retreat Lane, Mechanicsville, Virginia 23111 (“Seller”), and **HANOVER COUNTY**, a political subdivision of the Commonwealth of Virginia (“Purchaser”), recites and provides:

### RECITALS

Seller wishes to sell and Purchaser wishes to purchase from Seller a 5± acre parcel of land, being a portion of property located at 5900 Cold Harbor Road, Mechanicsville, Virginia 23111, designated as GPIN 8744-00-0911 in the Hanover County land records, in the Cold Harbor District, Hanover County, Virginia, and generally depicted as “5+/- Reconfigured Acres” on Exhibit A (the “Property”), subject to the terms and conditions set forth herein.

### AGREEMENT

In consideration of their mutual promises hereinafter set forth and other valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the parties agree as follows:

1. Contract. This Agreement shall constitute a binding contract, subject to the terms and conditions set forth herein, for the purchase and sale of all of Seller’s right, title and interest in and to the Property, together with all improvements (if any) and rights in connection therewith, including, without limitation, all appurtenant easements, licenses, privileges and benefits.

2. Conditions Precedent to Obligation of Purchaser. This Agreement and all of Purchaser’s obligations hereunder are further subject to Purchaser determining in its sole and absolute discretion that all of the conditions set forth in this Paragraph have been satisfied or waived by Purchaser. In the event that the Seller is unable to satisfy any of the following conditions, the Purchaser may terminate the Agreement or pursue any legal remedies available to it, including specific performance.

(a) Seller shall convey good and marketable fee simple title to the Property by general warranty deed containing English covenants of title, free of all liens, defects, encumbrances and encroachments, insurable under normal underwriting standards, and subject only to exceptions which will not interfere with the Purchaser’s intended use of the Property, as determined by the Purchaser in its sole discretion.

(b) On or before \_\_\_\_\_, 2015 Seller shall submit an application to Hanover County, along with all applicable fees, to rezone the Property and the Seller’s retained portion of the 28.99 acre parcel of real estate currently designated as GPIN 8744-00-0911, to the AR-6 Agricultural Residential District, subject to the following conditions:

(i) The Seller acknowledges that his submission of a zoning application does not ensure zoning approval;

(ii) The Purchaser represents that Hanover County's zoning staff will support such zoning application and will expedite its administrative processing; and

(iii) The Agreement and all obligations thereunder shall terminate in the event that the Seller's zoning application is denied.

(c) On or before \_\_\_\_\_, 2015 Seller shall cause to be prepared and filed with Hanover County a subdivision plat and deeds for the Property and the Seller's retained portion of the 28.99 acre parcel currently designated as GPIN 8744-00-0911, in conformance with the requirements of this Agreement and the Hanover County Subdivision Ordinance.

(d) On or before \_\_\_\_\_, 2015 Seller shall remove from the Property to an appropriate storage facility, landfill, or other appropriate disposal location all contaminants in toxic concentrations or amounts, and all construction debris and demolition waste, including asphalt, concrete and other materials not found in naturally occurring soils, and shall leave the Property in a condition in compliance with the Hanover County Zoning Ordinance and Article I (Erosion and Sediment Control), Chapter 10 (Environmental Management) of the Hanover County Code.

(e) Prior to settlement, the Purchaser will ascertain the suitability of the Property for the Purchaser's requirements, and may conduct survey, geotechnical, environmental and other studies, and the Seller agrees that the Purchaser and its officials, staff and agents shall have access to the Property for those purposes. The Seller will not be responsible for the conduct by the Purchaser and its officials, staff and agents of any activities upon the real estate pursuant to this provision. The Purchaser shall restore the land, following any testing, to as near its former condition as practicable.

(e) The Purchaser shall notify the Seller no later than \_\_\_\_\_, 2015, of any defects in title, site conditions, or other circumstances that render the Property unsuitable for the Purchaser's purposes.

(i) Upon notification from the Purchaser of any defects or conditions described in this Section, the Seller shall immediately correct any such defects or advise the Purchaser of the intention not to do so.

(ii) Should the Seller choose not to correct any such defects, the Purchaser shall have the right to void this Agreement, and the parties shall have no further obligations by reason of this Agreement, or the Purchaser may, in its sole discretion, choose to waive its right to object to the defect.

(iii) At the option of the Purchaser, but subject to agreement by the Seller, the term of this Agreement may be extended for the purpose of curing defects. The Purchaser will provide the services of its attorney to cooperate with the attorney for the Seller in removing objections to title and satisfying any other conditions to settlement.

(iv) Both the Seller and the Purchaser agree that they will use their best efforts in good faith to make closing possible.

(v) In the event such defects or circumstances are not cured, or the parties fail to otherwise agree on a resolution or extension of the term of this Agreement by \_\_\_\_\_, 2015, this Agreement shall terminate and neither party shall have any further obligations.

3. **Purchase Price.** The purchase price of Seventy Nine Thousand Dollars (\$79,000) shall be adjusted at settlement to an exact purchase price of Fifteen Thousand Eight Hundred Dollars (\$15,800) per acre. The exact area shall be determined by a physical survey to be made at Purchaser's expense, by a licensed and certified land surveyor. The surveyor shall mark all boundary lines. The plat of survey shall be approved by all appropriate government authorities and recorded with the deed. The Purchaser shall bear the cost of such plat approval. The exact Purchase Price, shall be paid in cash or wired funds at closing.

4. **Settlement.**

(a) **Settlement Date.** Settlement of the purchase and sale of the Property ("Settlement") shall be made at the offices of Purchaser's attorneys or settlement agent no later than \_\_\_\_\_, 2015.

(b) **Deliveries by Seller at Settlement.** At Settlement, Seller shall execute and deliver the following to Purchaser, in form and substance reasonably satisfactory to Purchaser: (i) marketable title to the Property by general warranty deed in a form and with substance approved by the Purchaser; (ii) an affidavit for the benefit of Purchaser and Title Company from Seller and all contractors and materialmen providing labor or materials in connection with the Property (the "Affidavit"), stating, inter alia, that no right to a mechanic's or materialman's lien has accrued with respect to the Property, and there are no outstanding leases or agreements with regard to, or other parties in or entitled to possession of, the Property; and (iii) a Seller's closing statement; and (iv) evidence reasonably satisfactory to Purchaser and the Title Company of Seller's authority to execute the Deed and perform the obligations of Seller hereunder.

(c) **Deliveries by Purchaser at Settlement.** At Settlement, Purchaser shall pay to Seller the Purchase Price as provided in Paragraph 3 by wire transfer or County check; and shall execute a purchaser's settlement statement.

(d) **Costs and Proration.** Seller shall pay the costs of preparing the Deed and the Grantor's Tax thereon. Purchaser shall pay all costs and expenses incurred in connection with its examination of title to the Property, recording costs (other than the Grantor's tax), the inspections and all premiums charged by the Title Company. Real estate taxes and assessments shall be prorated between Seller and Purchaser as of Settlement, according to the number of days of the year or appropriate billing period, as applicable, which the Property is owned or to be owned by each party and pursuant to statute the taxes for the period following Settlement shall be abated by the Purchaser.

Purchaser shall be deemed to own the Property on the date of Settlement. All rollback taxes, if any, shall be paid by Seller at or before Settlement. Each party shall pay its own legal, accounting and other expenses incurred in connection with this Agreement or Settlement hereunder.

5. Risk of Loss. The risk of loss or damage to the Property by fire or other casualty prior to Settlement shall be on Seller. If such loss or damage materially and adversely affects Purchaser's intended use and enjoyment of the Property as of Settlement, Purchaser shall have the option, in its sole discretion to terminate this Agreement by giving Seller written notice, in which event the parties shall have no further obligations or liabilities to one another.

6. Condemnation. If any taking pursuant to the power of eminent domain is proposed or occurs prior to Settlement, as to all or any portion of the Property, or sale occurs in lieu thereof, Purchaser shall be entitled to elect, in its sole discretion, either to (a) terminate this Agreement by giving Seller written notice, or (b) proceed to Settlement, in which event, all proceeds, awards and other payments arising from any such taking or sale shall be assigned and paid to Purchaser. If Purchaser elects to terminate this Agreement, the parties hereto shall have no further obligations or liabilities to one another hereunder.

7. Representations and Warranties of Seller. Seller represents and warrants, as of the date hereof and at Settlement, with respect to the Property the matters hereinafter set forth. Seller represents and warrants to Purchaser with respect to the Property that to the best of Seller's knowledge (i) there are no special tax or assessments to be made for improvements that would affect the Property, (ii) no condemnation of the Property or any portion thereof is pending or has been threatened; and (iii) there are no requirements by any governmental agency that repairs, alterations or corrections be made to any part of the Property, except as may arise in connection with its development. Seller further warrants and represents that there are no leases, tenancies, licenses or other rights of occupancy by any third party affecting all or any portion of the Property, and that Seller has no actual knowledge of hazardous substances, as defined in federal and state environmental protection laws, on the Property.

Seller agrees to hold Purchaser harmless from and against all costs, expenses, liabilities and damages, including, without limitation, court costs and reasonable attorneys' fees, arising out of any of the foregoing representations and warranties being false or materially misleading, which indemnity shall survive Settlement.

8. Default.

(a) If Purchaser defaults under this Agreement, the Seller shall have all the rights afforded him at law or in equity as a result of Purchaser's default.

(b) If Seller defaults hereunder, the Purchaser shall have all rights afforded it at law or in equity as a result of Seller's default.

9. Binding Agreement. This Agreement shall bind and inure to the benefit of the parties and their respective successors and assigns.

10. Notices. Any notice, request or demand required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed sufficiently given if delivered by hand at the address of the intended recipient, or sent prepaid by Federal Express (or a comparable guaranteed next-day overnight delivery service), addressed to the intended recipient, at the intended recipient's address set forth below, or at such other address as the intended recipient may have specified by written notice to the sender given in accordance with the requirements of this Paragraph. Any such notice, request or demand so given shall be deemed given on the first to occur of the day it is (i) received by the recipient, (ii) one day after delivered to Federal Express (or comparable guaranteed overnight delivery service) with charges prepaid.

Mailing Address:

For Seller: Lindy E. Boshier, Sr.  
6990 Stewarts Retreat Lane  
Mechanicsville, Virginia 23111

For Purchaser: County Administrator  
County of Hanover  
P. O. Box 470  
[Physical address: 7516 County Complex Road]  
Hanover, Virginia 23069-0470

11. Applicable Law; Venue. This Agreement shall be construed, performed and enforced in accordance with the laws of the Commonwealth of Virginia. The sole and exclusive venue for any dispute regarding this Agreement or the Property shall be in the court with jurisdiction of the County of Hanover, Virginia.

12. Entire Agreement; Modification. This Agreement contains the entire agreement between the parties hereto relating to the Property and supersedes all prior and contemporaneous negotiations, understandings, letters of intent and agreements, written or oral, between the parties. This Agreement shall not be modified and no waiver of any provision hereof shall be effective unless set forth in a written instrument executed with the same formality as this Agreement.

13. Authority. Each party represents and warrants to the other that it has due authority to execute and deliver this Agreement and to effectuate the transactions contemplated hereunder.

14. Counterparts. This Agreement may be executed in any number of counterpart originals, all of which shall be deemed to be original documents. Any executed counterpart of this Agreement returned by facsimile shall be deemed an original executed counterpart.

15. Advice of Counsel and Constructions. All parties to this Agreement have been represented by counsel or have had an opportunity to be so represented. Accordingly, the rule of construction of language against the drafting party is hereby waived by both parties.

16. Broker: The parties acknowledge that no broker is a party to this transaction. No broker's fees or commissions are due to any party.

IN WITNESS WHEREOF, each of the parties hereto have executed or caused this Agreement to be executed in its name pursuant to due authority as of the dates set forth below.

Approved as to form:

Approved as to substance:

\_\_\_\_\_  
Yvonne S. Gibney  
Deputy County Attorney

\_\_\_\_\_  
W. Frank Harksen  
Deputy County Administrator

**SELLER:**

Lindy E. Boshier, Sr.

Date: \_\_\_\_\_

\_\_\_\_\_

**PURCHASER:**

Hanover County, Virginia, a political  
subdivision of the Commonwealth of  
Virginia

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Cecil R. Harris, Jr.  
County Administrator