

AGREEMENT AFTER CERTIFICATE
(Resolution No. 11-01-01, adopted January 1, 2011;
property of Howell S. Brown, Jr.)

THIS AGREEMENT is made this 8th day of October, 2014, by and between HOWELL S. BROWN, JR. ("Owner") and the Town Council of the Town of Purcellville, Virginia (the "Town").

WITNESSETH:

THAT WHEREAS, in connection with the Southern Collector Road (the "SCR") project and pursuant to Resolution No. 11-01-01 of the Town Council of the Town of Purcellville, duly adopted at its meeting on January 1, 2011, the Town, in accordance with the provisions of Section 25.1-300, et seq. of the Code of Virginia (1950), as amended, lodged with the Clerk of the Circuit Court of Loudoun County a Certificate of Take as Instrument No. 20110429-0026578 in the amount of Four Hundred Thirty-Two Thousand Twenty-Four and 00/100 Dollars (\$432,024.00) (the "Certificate"), for the benefit of the Owner; and

WHEREAS, the Town has appointed Walton & Adams, P.C. its attorney to institute condemnation proceedings for the purpose of determining the amount to be paid for the property acquired pursuant to the Certificate, or interest therein (the "Property"), and damages to the remainder of Loudoun County Tax Map Parcel 36-51, GPIN No. 454-49-1512-000 (the "Owner's Property"), if any, of the Owner; and

WHEREAS, the parties have now agreed upon the following compensation for the Property and damages to the remainder, if any:

One Million and 00/100 Dollars (\$1,000,000.00) in full for land (allocated \$257,820 for the take and \$742,180 for damages); temporary construction easement; permanent slope maintenance, utility, and drainage easements, all as

more particularly described in the Certificate, as amended pursuant to the following terms; together with all appurtenances and improvements thereon, including all damages.

In addition, the parties agree as follows:

1. The parties shall agree on revised plan sheet(s) substantially in accordance with Exhibit A hereto, whereby the fee taking by the Town in the Certificate shall be reduced by approximately .97 acres without any easements, and by an additional 1.03 acres on which the Town shall retain permanent maintenance, utility, and drainage easements (the "Easements"), which agreement shall be consummated by an agreed Order submitted to the Court for entry granting the Town leave to record the Amended Certificate and revised plan sheet(s).
2. Subject to necessary safety design and subject to approval by the Virginia Department of Transportation, if necessary, the Town agrees that in response to a duly submitted application by the Owner for an entrance permit the Owner will receive an entrance permit onto the SCR between those areas marked by blue lines on Exhibit A.
3. The Owner shall be permitted to install a wire mesh fence no closer than five (5) feet west of the edge of the trail along the west side of the SCR with one gate or opening on either side of Crooked Run to allow the Town access to the Easements for maintenance and construction contemplated by the terms of the Easements.
4. The Owner shall be allowed to plant trees in the Easements.

5. The Town shall plant trees along the east side of the SCR, which plantings shall be staggered each year for the three (3) years next following recordation of the final Order dismissing this action.
6. The Town shall provide a marked crossing for use of the Owner to cross the SCR with farm equipment in connection with the Owner's farming activities on Loudoun County Tax Map No. 36-77, GPIN No. 454-48-9232 (the "45-Acre Parcel"). The Owner shall be permitted to make reasonable use of the trail for farm equipment to access the 45-Acre Parcel and the Town shall make reasonable accommodations to provide a crossing of the ditches on either side of the SCR within the SCR right-of-way for the Owner to employ such crossing and to make such use of the trail. The Town shall grant Owner a permit to cross the Town's land on the east side of the SCR adjacent to the 45-Acre Parcel to access said parcel for Owner's agricultural use. Owner shall indemnify and hold Town harmless for any injuries or damages to Owner or Owner's personal property or equipment and for injuries or damages to third parties caused by Owner while using the Town's property pursuant to the foregoing provisions.
7. On or before November 30, 2014, the Town shall, pursuant to Virginia Code § 15.2-2286(A)(7) and Article 10 of the Town of Purcellville Zoning Ordinance initiate by resolution a rezoning of the Owner's Property (including the land described in the Certificate) to the AC (Agricultural-Commercial) zoning district (the "Rezoning Application"). Owner believes such rezoning will provide reasonable uses of the Owner's Property and agrees not to file any

applications for amendment of the Town's Comprehensive Plan, zoning, or special use permit during the pendency of the Rezoning Application and further agrees not to challenge the Rezoning Application or decisions of the Planning Commission and Town Council with respect to the Rezoning Application. The Rezoning Application shall be processed for review and public hearing in accordance with standard procedures. The Town's resolution to initiate a rezoning of the Owner's Property to the AC zoning district is not indicative of any given outcome of the rezoning process and the Town may approve or disapprove the Rezoning Application.

8. This Agreement is contingent upon final approval by the Town Council of the Rezoning Application. Final approval shall include the expiration of any and all appeal periods provided by law without an appeal or suit having been filed, or, if filed, the dismissal or final resolution of such suit or appeal in favor of the Rezoning Application.
9. Upon final approval of the Rezoning Application, the parties agree to submit for entry to the Loudoun County Circuit Court the dismissal Order attached hereto as Exhibit B and the Town shall diligently undertake the actions contemplated under the foregoing subsections 5 and 6.
10. There have been no other promises, consideration or representations made which are not set forth in this instrument. The consideration hereinabove mentioned represents the value of all estates or interests of the Owner in the Property and the proportionate share of damage to the remainder and is in lieu of any and all claims to compensation and damages by reason of the location,

construction, and maintenance of said transportation improvements, including such drainage facilities as may be necessary. Owner agrees to accept its legally proportionate share of such total consideration for his interests and rights in the Property, and that all proceeds shall be payable to Owner. Owner further agrees to indemnify and to hold Town harmless with regard to any stated allocation of the settlement proceeds.

11. This Agreement is binding upon the parties and their successors in interest.

WITNESS the following signatures and seals:

OWNER:

Howell S. Brown, Jr. (SEAL)
HOWELL S. BROWN, JR.

[Signature]
Witness
Name: C.R. Cranwell

TOWN COUNCIL OF THE TOWN OF
PURCELLVILLE, VIRGINIA

By: [Signature] (SEAL)
Its: Mayor

APPROVED AS TO FORM

[Signature]
Sally Hankins, Town Attorney



LEGEND

- Adjusted RAW Property Area
- Info TM 454-48-1512
- New Easement Line
- New Full Entrance Access Areas
- New Easement Area
- Parcel Boundary

TM 454-48-1512 0.08 Acres +/-
 RAW Conveyance Area 2.0 Acres +/-
 Adjusted TM 454-43-1512 10.00 Acres +/-
 New Easement Area 1.03 Acres +/-
 (Trail, Drainage, Utilities, Maintenance)

727247
 1504123

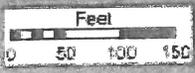


EXHIBIT
 A



VIRGINIA:

IN THE CIRCUIT COURT FOR LOUDOUN COUNTY

TOWN COUNCIL OF THE TOWN)
 OF PURCELLVILLE, VIRGINIA)
)
 Petitioner,)
)
 v.)
)
 TIMOTHY MAHLON BROWN, *et al.*,)
)
 Respondents.)

Case No. 74089

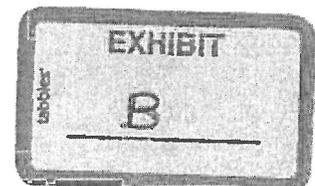
DISMISSAL ORDER ENTERED PURSUANT TO SECTION 25.1-317,
CODE OF VIRGINIA (1950), AS AMENDED

THIS CAUSE came on this day to be heard upon the Motion of the Town Council of the Town of Purcellville, Virginia (the "Town"), by counsel, filed pursuant to Virginia Code Section 25.1-317; and

IT APPEARING to the Court that the Town recorded a Certificate of Take (the "Certificate") relating to the property described therein among the land records of Loudoun County on April 29, 2011, as Instrument No. 20110429-0026578; and

IT FURTHER APPEARING to the Court that the Town simultaneously deposited the amount of Four Hundred Thirty-Two Thousand Twenty-Four and 00/100 Dollars (\$432,024.00) (the "Funds"), with the Court; and

IT FURTHER APPEARING to the Court that subsequent thereto this court did dismiss Timothy Mahlon Brown from this matter pursuant to his Answer denying any ownership rights or interest in these proceedings or the property and/or takings described in the Certificate, and averring therein that any interest or right he may have had in this condemnation matter belonged to Howell S. Brown, Jr. (the "Landowner"); and



IT FURTHER APPEARING to the Court that subsequent thereto, by entry of an agreed Order, the Town recorded an Amended Certificate and revised plan sheet; and

IT FURTHER APPEARING to the Court that the Town and the Landowner have agreed to the sum of One Million and 00/100 Dollars (\$1,000,000.00) as compensation for the property taken in the Amended Certificate, and damages, if any, to the remainder of the Landowner's property, all of which is set forth in an agreement (the "Agreement") duly executed by the Town and the Landowner; and

IT FURTHER APPEARING to the Court that subsequent thereto the Town deposited the additional amount of Five Hundred Sixty Seven Thousand Nine Hundred Seventy-Six and 00/100 Dollars (\$567,976.00) (the "Additional Funds"), with the Court; and

IT FURTHER APPEARING to the Court that no other person, other than those executing the Agreement, are entitled to the funds deposited with the Court; it is therefore,

ORDERED, ADJUDGED, and DECREED that the Clerk shall disburse the sum of One Million and 00/100 Dollars (\$1,000,000.00), together with all interest accumulated thereon, if any, between the time of the Town's deposit of the Funds and the Additional Funds with the Clerk until the Clerk's disbursement of said funds, payable to: Howell S. Brown, Jr., c/o the Landowner's counsel, C. Richard Cranwell, Cranwell & Moore, P.O. Box 11804, Roanoke, Virginia 24022-1804; and it is further

ORDERED, ADJUDGED, and DECREED that absolute and indefeasible title to the property described in the Certificate is hereby confirmed in the Town Council of the Town of Purcellville, Virginia, and this Order shall be spread in the current deed book in the Clerk's office of this Court with reference to be made showing the book and page numbers of recordation on the margin of the page where the Certificate was spread; and it is further

ORDERED, ADJUDGED, and DECREED that the Clerk shall return a conformed copy of this Order to counsel of record in this cause; and it is further

ORDERED, ADJUDGED, and DECREED that the Town and all agents thereof shall be relieved of further obligation by virtue of having filed the Certificate with the Court and having constructed the improvements on the property; and it is further

ORDERED, ADJUDGED, and DECREED that this case shall be, and hereby is, dismissed.

THIS ORDER IS FINAL.

ENTERED THIS ____ DAY OF _____, 201_.

Judge, Loudoun County Circuit Court

WE ASK FOR THIS:

WALTON & ADAMS, P.C.

By:

Jeffrey A. Huber, VSB No. 34792
1925 Isaac Newton Square, Suite 250
Reston, Virginia 20190
Phone: 703-790-8000
Fax: 703-790-8016
jhuber@walton-adams.com

and
Sally Hankins, VSB No. 50989
Town Attorney
Town of Purcellville
221 S. Nursery Avenue
Purcellville, Virginia 20132
Phone: 540-751-2394
shankins@purcellvilleva.gov

Counsel for Petitioner

SEEN AND AGREED:

CRANWELL & MOORE

By:

C. Richard Cranwell, VSB No. 3347
P.O Box 11804
Roanoke, Virginia 24022-1804
Phone: 540-344-1000
Fax: 540-344-7073
crc@cranwellmoorelaw.com

and

Scott A. Surovell, VSB No. 40278
Surovell, Isaacs, Petersen & Levy, PLC
4010 University Drive, Second Floor
Fairfax, Virginia 22030
Phone: 703-277-9750
Fax: 703-591-9285
ssurovell@siplfirm.com

Counsel for Respondents