Agenda Item
VIII. D.

Meeting Date: February 21, 2017

Office: County Attorney

Issue: **James River Heritage Trail Access**

Board Action: The Board is being asked to adopt Resolution 2017-0007-R and Resolution 2017-0008-R.

Attachments: Resolution 2017-0007-R
Resolution 2017-0008-R

Summary: Resolution 2017-0007-R and Resolution 2017-0008-R provide for the County's acceptance of the conveyance of interests in real property, specifically two right-of-ways, one fifty (50) feet in width, and one hundred (100) feet in width, from the Virginia Public Building Authority and the Virginia Department of Behavioral Health and Development Services, for the purpose of accessing and using the James River Heritage Trail.

Recommendation: That the Board adopt Resolution 2017-0007-R and Resolution 2017-0008-R.

Amherst County Board of Supervisors
County Resolution No. 2017-0007-R

For consideration on February 21, 2017

A RESOLUTION, NO. 2017-0007-R

A resolution, accepting the conveyance of an interest in real property, specifically a right-of-way fifty (50) feet in width, from the Virginia Public Building Authority and the Virginia Department of Behavioral Health and Development Services.

Approved as to form by the County Attorney

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

I. That the Board of Supervisors of Amherst County hereby accepts the conveyance of an interest in real property, specifically a right-of-way fifty (50) feet in width, from the Virginia Public Building Authority and the Virginia Department of Behavioral Health and Development Services ("Grantors"), as follows:

WHEREAS, by Special Warranty Deed from the Commonwealth of Virginia ("Commonwealth"), acting by and through Department of Behavioral Health and Development Services ("DBHDS"), to Virginia Public Building Authority ("VPBA"), dated October 15, 1994, and recorded in the Clerk's Office of the Circuit Court of Amherst, Virginia ("Clerk's Office"), in Deed Book 687, at Page 371 ("1994 Special Warranty Deed"), the Commonwealth conveyed to the VPBA certain real property ("Property"), more fully described in the 1994 Special Warranty Deed, as security for the VPBA's Series 1994 A Bond Issuance; and

WHEREAS, by Easement Agreement dated February 13, 2001, and recorded in Deed Book 834, page 074 in the Clerk's Office, DBHDS conveyed to the County the right, privilege, and easement of right-of-way, fifty (50) feet in width, over, upon, and across the Property ("Original Easement") as shown on that plat entitled "EASEMENT SURVEY FOR AMHERST COUNTY" prepared by Blue Ridge Surveyors Incorporated, dated January 16, 2001, and recorded in the Clerk's Office with the Original Easement in Plat Cabinet 2, slide 2-353C ("Easement Plat"), a copy of which is attached hereto as Exhibit A; and

WHEREAS, the Amherst County Board of Supervisors ("Board") has asked that VPBA convey to Amherst County a permanent easement of right-of-way in the location of the Original Easement; and

WHEREAS, VPBA has agreed to make the requested conveyance, subject to the terms and conditions contained in the Deed of Easement and Quitclaim of Existing Easement ("Deed"), a copy of which is attached hereto as Exhibit B, and in further consideration of Amherst County's quitclaim and release of any and all rights and title the County has to the land under the Original Easement; and

WHEREAS, the Amherst County Attorney has approved the form of the Deed; and

WHEREAS, the Board wishes to accept the conveyance.

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

That the Board does hereby consent to and approve of the conveyance of the interest in real property from the Grantors subject to the terms of the Deed, and Claudia D. Tucker, in her capacity as Chair of the Board, is hereby authorized and directed to execute and deliver the Deed on behalf of the Board.

II. That this resolution shall be in force and effect upon adoption.

Adopted this 21st day of February, 2017.

_____
Claudia D. Tucker, Chair
Amherst County Board of Supervisors

ATTEST:

_____
Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

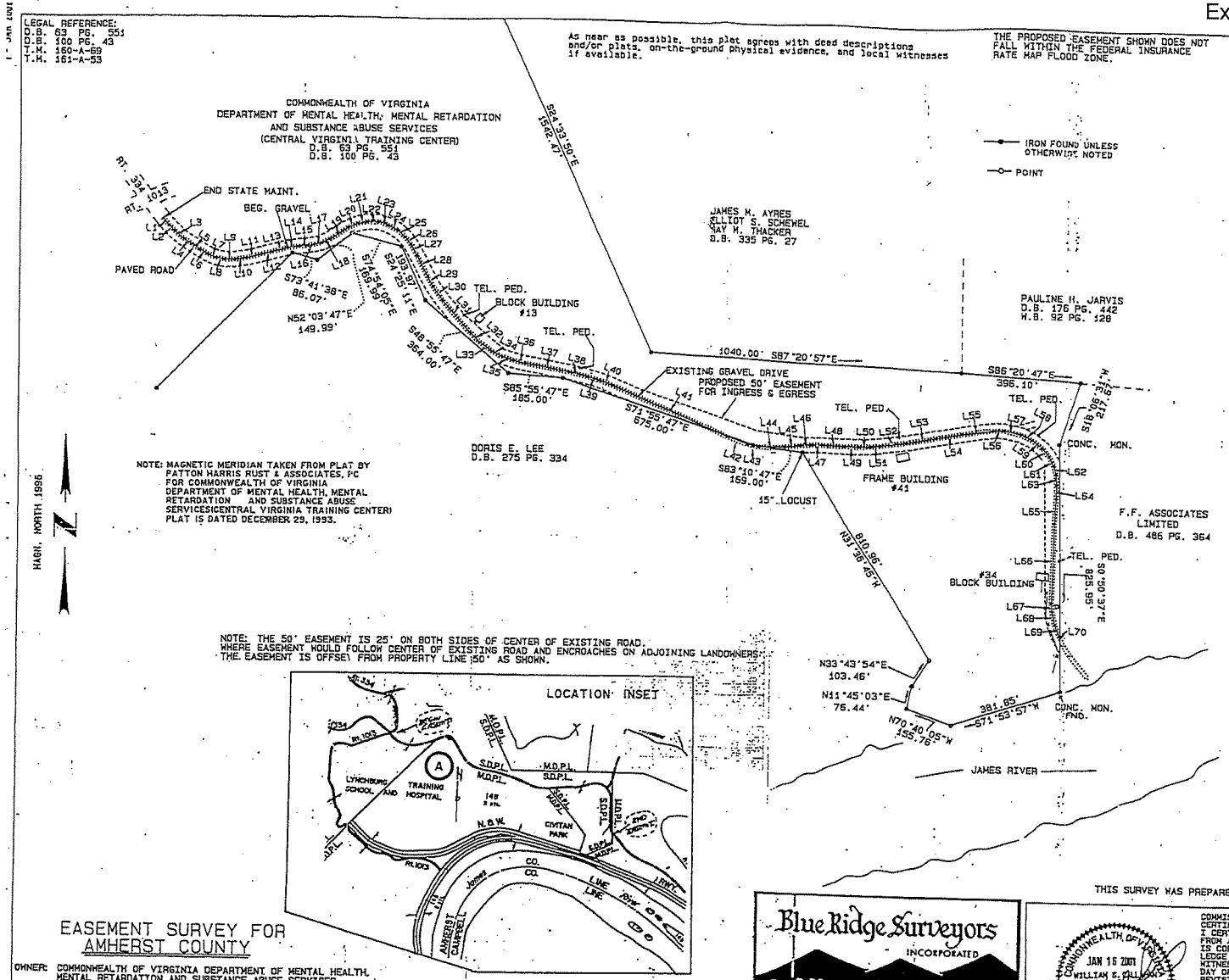
Ayes ____ **Nays**_____ **Abstentions** ____

Resolution 2017-0007-R
Exhibit A

LEGAL REFERENCE:
D.B. 63 PG. 551
D.B. 100 PG. 43
T.M. 160-A-69
T.M. 161-A-53

As near as possible, this plat agrees with deed descriptions and/or plats, on-the-ground physical evidence, and local witnesses if available.

THE PROPOSED EASEMENT SHOWN DOES NOT FALL WITHIN THE FEDERAL INSURANCE RATE MAP FLOOD ZONE.



LINE	BEARING	DISTANCE
L1	S40°50'54"E	27.28'
L2	S44°45'56"E	28.35'
L3	S50°25'47"E	41.19'
L4	S58°30'21"E	34.15'
L5	S56°22'22"E	32.85'
L6	S60°12'37"E	30.60'
L7	S67°55'13"E	30.25'
L8	S78°20'08"E	26.59'
L9	S89°53'11"E	35.72'
L10	N81°03'57"E	37.80'
L11	N75°50'03"E	48.77'
L12	N74°53'14"E	35.97'
L13	N75°32'40"E	55.52'
L14	N82°11'45"E	39.20'
L15	N83°17'30"E	27.26'
L16	N81°55'11"E	22.52'
L17	N76°00'25"E	28.21'
L18	N65°47'31"E	30.29'
L19	N57°20'39"E	73.02'
L20	N69°00'24"E	35.69'
L21	N78°32'40"E	30.35'
L22	S88°53'40"E	38.44'
L23	S72°01'50"E	34.08'
L24	S61°58'13"E	33.28'
L25	S48°53'17"E	34.58'
L26	S37°40'05"E	30.59'
L27	S29°02'56"E	43.99'
L28	S27°01'23"E	77.12'
L29	S28°19'29"E	35.32'
L30	S35°32'15"E	56.45'
L31	S40°35'15"E	139.99'
L32	S45°54'57"E	43.91'
L33	S53°47'08"E	51.85'
L34	S62°00'56"E	36.74'
L35	S72°54'59"E	37.80'
L36	S76°31'44"E	41.95'
L37	S80°08'10"E	150.53'
L38	S76°38'35"E	63.58'
L39	S74°21'27"E	40.90'
L40	S69°08'13"E	46.36'
L41	S67°18'35"E	421.19'
L42	S70°59'20"E	72.78'
L43	S79°41'23"E	39.73'
L44	N89°04'35"E	87.72'
L45	N82°59'41"E	50.23'
L46	N86°41'41"E	38.64'
L47	N89°47'09"E	43.07'
L48	S87°08'12"E	68.73'
L49	S89°23'13"E	49.89'
L50	N87°54'14"E	37.42'
L51	N84°53'44"E	29.50'
L52	N82°38'23"E	85.49'
L53	N79°48'07"E	101.20'
L54	N80°04'58"E	86.96'
L55	N81°58'31"E	107.05'
L56	N88°47'02"E	32.41'
L57	S77°11'08"E	59.77'
L58	S63°34'15"E	40.45'
L59	S52°33'38"E	43.04'
L60	S39°59'12"E	34.70'
L61	S27°24'26"E	36.39'
L62	S15°08'06"E	27.25'
L63	S03°41'05"E	35.93'
L64	S01°20'10"W	44.38'
L65	S03°44'31"W	82.01'
L66	S01°24'39"W	273.34'
L67	S04°38'17"E	26.55'
L68	S12°26'58"E	46.30'
L69	S22°37'15"E	39.27'
L70	S27°28'58"E	6.75'

THIS SURVEY WAS PREPARED WITHOUT A TITLE REPORT.

EASEMENT SURVEY FOR AMHERST COUNTY

OWNER: COMMONWEALTH OF VIRGINIA DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (CENTRAL VIRGINIA TRAINING CENTER)

GRAPHIC SCALE 1"=200'

200 0 200 400 600

MADISON MAGIST. DISTRICT
AMHERST COUNTY, VIRGINIA

Blue Ridge Surveyors INCORPORATED
William S. Callahan
CERTIFIED LAND SURVEYOR
PO BOX 238 AMHERST, VA 24521 804/ 946-5540

COMMONWEALTH OF VIRGINIA
JAN 16 2001
WILLIAM S. CALLAHAN
LAND SURVEYOR

COMMISSION NO. :2001-03
CERTIFICATION-
I CERTIFY THAT THIS PLAT WAS MADE FROM AN ACTUAL FIELD SURVEY AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.
WITNESS MY HAND AND SEAL THIS 15TH DAY OF JANUARY A.D., 2001
REVISION DATE:
DRAWN BY: D.D.B. CHECKED BY: W.S.C.

WILLIAM S. CALLAHAN, C.L.S.
-CERTIFIED LAND SURVEYOR-
BLUE RIDGE SURVEYORS, INC.
P.O. BOX 238
AMHERST VIRGINIA 24521
PH. (804) 946-5540/FAX (804) 946-2506

Resolution 2017-0007-R
Exhibit B

Site No. S001043

This Deed is exempt from (i) recordation taxes pursuant to § 58.1-811(A)(3) and § 58.1-811(C)(4) of the Code of Virginia (1950), as amended, and (ii) the payment of Clerk's fees pursuant to § 17.1-266 and § 17.1-279(E) of the Code of Virginia (1950), as amended.

Tax Parcel Nos. 160-A-69 and 161-A-53
Consideration: $1.00
Actual Value: $1.00
Prepared by: Office of the Attorney General

DEED OF EASEMENT AND QUITCLAIM OF EXISTING EASEMENT

This DEED OF EASEMENT AND QUITCLAIM OF EXISTING EASEMENT (this "Deed of Easement") is dated the ____ day of February, 2017, by and between the **VIRGINIA PUBLIC BUILDING AUTHORITY**, a political subdivision of the Commonwealth of Virginia ("VPBA") hereinafter called "Grantor", and the **BOARD OF SUPERVISORS OF COUNTY OF AMHERST**, a political subdivision of the Commonwealth of Virginia (the "County"), and **AMHERST COUNTY SERVICE AUTHORITY**, a public body politic and corporate and a political subdivision of the Commonwealth of Virginia (the "Authority"), hereinafter each called "Grantee", and collectively, called "Grantees". For indexing purposes, "Grantor" shall also include the **COMMONWEALTH OF VIRGINIA, DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES** ("DBHDS", formerly known as the "Commonwealth of Virginia, Department of Mental Health, Mental Retardation and Substance Abuse Services").

WITNESSETH

WHEREAS, by Special Warranty Deed from the Commonwealth of Virginia (the "Commonwealth"), acting by and through DBHDS, to VPBA, dated October 15, 1994, and recorded in the Clerk's Office of the Circuit Court of the County of Amherst, Virginia (the "Clerk's Office"), in Deed Book 687, at Page 371 (the "1994 Special Warranty Deed"), the Commonwealth conveyed to VPBA certain real property (the "Property"), more fully described in the 1994 Special Warranty Deed, as security for the VPBA's Series 1994 A Bond Issuance;

WHEREAS, by Easement Agreement dated February 13, 2001, and recorded in Deed Book 834, page 074 in the Clerk's Office, DBHDS conveyed to the County the right, privilege, and easement of right-of-way, fifty (50) feet in width, over, upon, and across the Property (the "Original Easement") as shown on that plat entitled "EASEMENT SURVEY FOR AMHERST COUNTY" prepared by Blue Ridge Surveyors Incorporated, dated January 16 ,2001, and recorded in the Clerk's Office with the Original Easement in Plat Cabinet 2, slide 2-353C (the "Easement Plat");

WHEREAS, Grantees desire that Grantor grant, and Grantor agrees to grant to Grantees a permanent easement of right-of-way in the location of the Original Easement subject to the terms and conditions contained herein and in further consideration of the County's quitclaim and release of any and all rights and title the County has to the land under the Original Easement.

NOW, THEREFORE, for the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in accordance with § 2.2-2263(A)(4) of the Code of Virginia (1950), as amended (the "Code of Virginia"), and Chapter 572 of the 2000 Acts of Assembly, Grantor grants unto Grantees, their employees, agents, contractors, and successors and permitted assigns, a perpetual, non-exclusive, right-of-way and easement fifty (50) feet in width upon and across the Property for vehicular and pedestrian ingress and egress to and from (i) that certain easement area one hundred (100) feet in width as shown on that plat entitled "EASEMENT

SURVEY FOR AMHERST COUNTY" prepared by Blue Ridge Surveyors Incorporated, dated January 16, 2001, and recorded in the Clerk's Office in Plat Cabinet 2, slide 2-353H; and (ii) that certain real estate conveyed to the Authority by quitclaim deed dated February ___, 2017, and recorded February ___, 2017, in the Clerk's Office in Deed Book _____, page _____ (the "Easement"), with the area subject to the Easement (the "Easement Area") shown and designated as "PROPOSED 50' EASEMENT FOR INGRESS & EGRESS" on the Easement Plat. This grant of Easement includes the following rights of Grantees within the Easement Area: (A) constructing, installing, operating, maintaining, and repairing a roadway, and (B) laying, storing, and positioning construction equipment and materials, and all accessories and appurtenances necessary in connection therewith (the "Facilities").

THIS DEED FURTHER WITNESSETH, that in further consideration of the grant of the Easement from Grantor to Grantees, the County hereby surrenders, quitclaims, releases, grants, and conveys unto Grantor, its successors and assigns, any and all right, title, and interest the County may possess in and to the Original Easement and the land under the Original Easement.

A. The Easement is subject to all existing easements, rights-of-way, covenants, encumbrances, and restrictions of record, and is further subject to the following conditions:

1. Nothing contained herein shall be construed as dedicating for public use any portion of the Property. No easements except those expressly set forth herein shall be implied by this Deed of Easement.

2. Grantees may lay, erect, construct, install, use, operate, inspect, maintain, repair, replace, rebuild, remove, improve, and make such other changes, alterations, additions to or extensions of the Facilities within the Easement Area as are consistent with the purposes expressed herein. All Facilities and activity occurring within the Easement Area shall comply with all applicable laws, ordinances, codes and regulations. The Facilities constructed or placed within the Easement Area shall remain the property of the Grantees.

3. Grantees shall have the right of ingress to and egress from the Easement Area over the lands of Grantor as may be necessary to exercise Grantees' rights herein; provided, however, Grantees shall, to the greatest extent possible, confine their ingress and egress to the Easement Area. Upon completion of any activity by Grantees upon the Easement Area, Grantees shall restore the lands of Grantor and the Easement Area as nearly to their original condition as practicable, including, but not limited to, backfilling of trenches, repaving, reseeding, or resodding of lands, replacement of Grantor's property, removal of trash and debris, and removal of any of Grantees' equipment, accessories or appurtenances not consistent with the construction, maintenance or operation of the Facilities or the exercise of any right expressed herein. Grantees shall maintain the Facilities in such repair as not to endanger or otherwise limit the enjoyment or use of Grantor's lands and adjacent lands.

4. Grantees shall have the right to trim, cut and remove trees, shrubbery or other natural obstructions on, under or over the Easement Area which interfere with or threaten the efficient and safe operation, construction or maintenance of the Facilities. All trees cut by Grantees shall remain the property of Grantor. All brush, branches, and other debris resulting from any cutting, trimming, or clearing of the Easement Area shall be removed from the lands of Grantor and disposed of by Grantees.

5. Grantees shall exercise any right expressed herein in such manner as shall not occasion injury, damage, or inconvenience to Grantor and as otherwise shall minimize any adverse impact or disturbance to Grantor's lands and property, including any conservation and natural heritage values thereof. Any activity or omission by Grantees, their employees, agents, or contractors that results in injury, damage or adverse impact or disturbance, in Grantor's sole judgment, to Grantor's lands and property, including any conservation and natural heritage values thereof, shall be remedied under prescriptions prepared as directed by Grantor. Grantees shall at Grantor's election pay for or repair any injury, damage or adverse impact or disturbance to any of Grantor's land and property, including any conservation and natural heritage values thereof, caused by any of Grantees, their employees, agents, or contractors. Grantees shall notify Grantor immediately of any such injury, damage, or adverse impact or disturbance and shall make said payment or repair within thirty (30) days after such election by Grantor; provided, however, that if such injury, damage or adverse impact or disturbance results in an on-going hazardous condition or a material loss of use of Grantor's lands or property (such as, by way of illustration and not by limitation, a disruption of any utilities or loss of access to Grantor's lands or property) then Grantees shall immediately remedy the hazardous condition or material loss of use.

6. Grantor may use the Easement Area for any purpose not inconsistent with the rights hereby granted in this Deed of Easement, provided such use does not interfere with the safe and efficient construction, operation, or maintenance of the Facilities, and further provided that such use is not inconsistent with any laws, ordinances, codes, or regulations pertaining to the construction, operation, or maintenance of the Facilities and to which Grantor is subject.

7. Grantees covenant and agree to jointly and severally defend and hold Grantor, its employees and agents, harmless from and against any claims of injury to any persons or property and from and against any other liability of any nature whatsoever to the full extent authorized by Virginia law resulting from the laying, erecting, constructing, installing, using, operating, inspecting, maintaining, repairing, replacing, rebuilding, removing, improving, changing, altering, adding to or extending the Facilities or connecting to other utility facilities on or adjacent to the Easement Area, or in any way arising out of any of Grantees', their employees', agents' or contractors' exercise of any rights herein granted.

8. No person or entity, whether the Grantees, their employees, agents or contractors, including, but not limited to, any general contractor, subcontractor or maintenance contractor, shall commence any activity upon the lands of Grantor unless and until such person or entity has obtained such insurance coverage as may be required from time to time by the Commonwealth of Virginia, Department of General Services pursuant to its guidelines adopted in respect to Code of Virginia § 2.2-1151, as such section may be amended or its successor provisions.

9. If Grantees at any time discontinue use of all or any portion of the Easement Area for a period of one (1) year, all of Grantees' rights and interest in the Easement Area or portion thereof shall immediately terminate and revert to Grantor, its successors and assigns, and Grantees shall at their expense remove the Facilities and restore Grantor's lands and property as nearly to its original condition as practicable and, on written request by Grantor, Grantees shall quitclaim and release the Easement Area, or portion thereof, to Grantor.

10. Grantees shall provide as-built drawings to Grantor showing the location of the Facilities, which as-built drawings shall be in form and substance as directed by and satisfactory to Grantor.

11. Notwithstanding any other provision of this Deed of Easement, neither of the Grantees may itself, nor by sublease, license, or other grant of permission to any third party, utilize the Easement Area for the installation of any equipment or property for purposes other than set forth herein. Neither the Easement nor Grantees' rights hereunder are delegable, transferrable or assignable, and any delegation, transfer, or assignment of the Easement or any portion thereof or Grantees' rights or obligations hereunder without the prior written consent of Grantor shall be null and void and of no effect; provided, however, Grantees' rights hereunder may be assigned without Grantor's approval in accordance with an order of the State Corporation Commission to any municipal utility, utility cooperative or other utility authorized to provide utility service within the Commonwealth.

12. If Grantor at any time deems it necessary or advisable to relocate for Grantor's convenience any of the Facilities, Grantor shall relocate, at the sole cost of Grantor, such Facilities to a place acceptable to Grantor, provided Grantor, for no additional consideration, shall grant unto Grantees such replacement easement as may be necessary to effect such relocation, subject to the same rights, privileges and conditions, as herein set forth. Upon relocation of any of the Facilities from any portion of the Easement Area, the Easement for or over such portion of the Easement Area shall automatically terminate, and all rights, title and interest therein shall revert to Grantor.

B. The parties hereto acknowledge and agree that notwithstanding anything contained in this Deed of Easement to the contrary, so long as the Commonwealth is a party hereto, the following provisions shall control over any conflicting provisions hereof:

1. With respect to tort liability for acts or occurrences with respect to this Deed of Easement, including product liability, the Commonwealth is either constitutionally immune (or partially immune) from suit, judgment or liability, insured, or covered by a financial plan of risk management that is in the nature of self-insurance, all as determined by applicable laws, government policies and practices.

2. No equitable, quasi-contractual, or injunctive remedies, other than those specifically authorized by law, may be used or are effective against the Commonwealth.

3. No liens may be placed against, or shall attach to, any property owned by the Commonwealth.

4. This Deed of Easement shall be governed by, and construed according to, the laws of the Commonwealth, and any legal action against the Commonwealth shall be instituted and maintained only in the state courts of the Commonwealth.

5. No provision, covenant, or agreement contained in this Deed of Easement shall be deemed, in any manner, to be a waiver of the sovereign immunity of the Commonwealth, or any of its boards, agencies, or other political subdivisions, from tort or other liability.

Nothing contained herein shall be deemed to convey any rights to the Grantees in the property of any adjacent landowner which may be required to enjoy access to the property of the Grantees. All obligations of the Grantees herein shall be joint and several. The foregoing Easement shall be perpetual in nature and shall run with the land.

The Authority represents and warrants that it is duly authorized with all requisite power and all governmental authorizations to enter into this Deed of Easement and that the person executing this Deed of Easement on behalf of the Authority is authorized to do so. Further, in compliance with the provisions of § 15.2-1803 of the Code of Virginia, this Deed of Easement has been accepted by the County pursuant to a resolution of the Board of Supervisors of Amherst County duly adopted at a meeting of said Board held on the 7th day of February, 2017. Further, acceptance of this Deed of Easement is evidenced below by the execution of this Deed of Easement on behalf of the County by the undersigned duly authorized official of the County.

[Signature Page to Follow]
[Remainder of the Page Intentionally Left Blank]

Site No. S001043

WITNESS the following signatures and seals.

Grantor: VIRGINIA PUBLIC BUILDING AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Manju Ganeriwala, Secretary/Treasurer

COMMONWEALTH OF VIRGINIA
CITY OF RICHMOND

The foregoing Deed of Easement was acknowledged before me in my jurisdiction aforesaid this _____ day of February, 2017, by Manju Ganeriwala, acting in her capacity as Secretary/Treasurer of the Virginia Public Building Authority, on behalf of the Virginia Public Building Authority.

My Commission expires: _____
Notary Registration No. _____

_____
Notary Public

Grantor: COMMONWEALTH OF VIRGINIA, DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

By: _____
Dr. Jack Barber, Interim Commissioner

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing Deed of Easement was acknowledged before me in my jurisdiction aforesaid this ____ day of February, 2017, by Dr. Jack Barber, acting in his capacity as Interim Commissioner of the Commonwealth of Virginia, Department of Behavioral Health and Developmental Services, on behalf of the agency.

My commission expires: _____
Registration No. _____

_____
Notary Public

Site No. S001043

Grantee: BOARD OF SUPERVISORS OF COUNTY OF AMHERST, a political subdivision of the Commonwealth of Virginia

By: _____
Claudia D. Tucker, Chair

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing Deed of Easement was acknowledged before me in my jurisdiction aforesaid this ____ day of February, 2017, by Claudia D. Tucker, acting in her capacity as Chair of the Board of Supervisors for Amherst County, on behalf of the County.

My commission expires: _____
Registration No. _____

_____
Notary Public

Grantee: AMHERST COUNTY SERVICE AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing Deed of Easement was acknowledged before me in my jurisdiction aforesaid this ____ day of February, 2017, by _____, acting in his/her capacity as _____ of the Amherst County Service Authority, on behalf of the Authority.

My commission expires: _____
Registration No. _____

_____
Notary Public

Site No. S001043

APPROVED AS TO FORM:
OFFICE OF THE ATTORNEY GENERAL

By: _____
Catherine A. Shankles
Assistant Attorney General

APPROVED AS TO FORM:

By: _____
Ellen Bowyer
Amherst County Attorney

RECOMMEND APPROVAL:
DEPARTMENT OF GENERAL SERVICES

By: _____
Christopher L. Beschler, Director

APPROVED BY THE GOVERNOR:

Pursuant to Section 2.2-2263 of the Code of Virginia (1950), as amended, and by the authority vested in me to act for and on behalf of the Governor of Virginia under Executive Order 88 (01), dated December 21, 2001, I hereby approve this easement and the execution of this instrument.

_____
Secretary of Administration Date

Amherst County Board of Supervisors
County Resolution No. 2017-0008-R

For consideration on February 21, 2017

A RESOLUTION, NO. 2017-0008-R

A resolution, accepting the conveyance of an interest in real property, specifically a right-of-way one hundred (100) feet in width, from the Virginia Public Building Authority and the Virginia Department of Behavioral Health and Development Services.

Approved as to form by the County Attorney

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

I. That the Board of Supervisors of Amherst County hereby accepts the conveyance of an interest in real property, specifically a right-of-way one hundred (100) feet in width, from the Virginia Public Building Authority and the Virginia Department of Behavioral Health and Development Services ("Grantors"), as follows:

WHEREAS, by Special Warranty Deed from the Commonwealth of Virginia ("Commonwealth"), acting by and through Department of Behavioral Health and Development Services ("DBHDS"), to Virginia Public Building Authority ("VPBA"), dated October 15, 1994, and recorded in the Clerk's Office of the Circuit Court of Amherst, Virginia ("Clerk's Office"), in Deed Book 687, at Page 371 ("1994 Special Warranty Deed"), the Commonwealth conveyed to the VPBA certain real property ("Property"), more fully described in the 1994 Special Warranty Deed, as security for the VPBA's Series 1994 A Bond Issuance; and

WHEREAS, by Easement Agreement dated February 13, 2001, and recorded in Deed Book 834, page 079 in the Clerk's Office, DBHDS conveyed to the County the right, privilege, and easement of right-of-way, one hundred (100) feet in width, over, upon, and across the Property ("Original Easement") as shown on that plat entitled "EASEMENT SURVEY FOR AMHERST COUNTY" prepared by Blue Ridge Surveyors Incorporated, dated January 16, 2001, and recorded in the Clerk's Office with the Original Easement in Plat Cabinet 2, slide 2-353H ("Easement Plat"), a copy of which is attached hereto as Exhibit A; and

WHEREAS, the Amherst County Board of Supervisors ("Board") has asked that VPBA convey to Amherst County a permanent easement of right-of-way in the location of the Original Easement; and

WHEREAS, VPBA has agreed to make the requested conveyance, subject to the terms and conditions contained in the Deed of Easement and Quitclaim of Existing Easement ("Deed"), a copy of which is attached hereto as Exhibit B, and in further consideration of Amherst County's quitclaim and release of any and all rights and title the County has to the land under the Original Easement; and

WHEREAS, the Amherst County Attorney has approved the form of the Deed; and

WHEREAS, the Board wishes to accept the conveyance.

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

That the Board does hereby consent to and approve of the conveyance of the interest in real property from the Grantors subject to the terms of the Deed, and Claudia D. Tucker, in her capacity as Chair of the Board, is hereby authorized and directed to execute and deliver the Deed on behalf of the Board.

Adopted this 21st day of February, 2017.

_____
Claudia D. Tucker, Chair
Amherst County Board of Supervisors

ATTEST:

_____
Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

Ayes ____ **Nays**_____ **Abstentions** ____

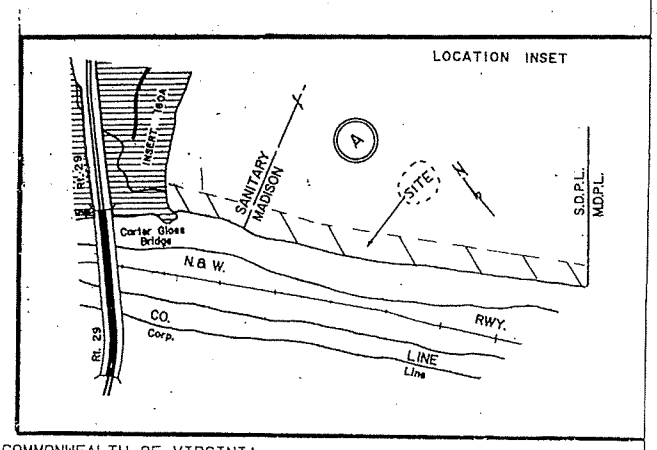
18 JAN 2001

LEGAL REFERENCE:
D.B. 63 PG. 551
D.B. 100 PG. 43
P.B. PG.
T.M. 160-A-69
161-A-53

As near as possible, this plat agrees with deed descriptions and/or plats, on-the-ground physical evidence, and local witnesses if available.

AREA OF EASEMENT 8.825 ACRES

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION
D.B. 784 PG. 145
P.C. 2 PG. 317



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION
AND SUBSTANCE ABUSE SERVICES
(CENTRAL VIRGINIA TRAINING CENTER)
D.B. 63 PG. 551
D.B. 100 PG. 43
T.M. 160-A-69
T.M. 161-A-53

MAGN. NORTH 1996

100' EASEMENT

JAMES RIVER
AMHERST COUNTY
(CITY OF LYNCHBURG)

NOTE: MAGNETIC MERIDIAN TAKEN FROM PLAT BY PATTON HARRIS RUST & ASSOCIATES, PC FOR THE COMMONWEALTH OF VIRGINIA DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (CENTRAL VIRGINIA TRAINING CENTER) PLAT IS DATED DECEMBER 29, 1999.

NOTE: THIS PLAT SHOWS A 100' EASEMENT FOR AMHERST COUNTY ON THE CENTRAL VIRGINIA TRAINING CENTER PROPERTY.

DORIS E. LEE
D.B. 275 PG. 334

48" SYCAMORE ON RIVER BANK

Blue Ridge Surveyors
INCORPORATED
William S. Callahan
CERTIFIED LAND SURVEYOR
P.O.BOX 238 804/ 946-5540
AMHERST, VA 24521

-EASEMENT SURVEY FOR-
AMHERST COUNTY

OWNER: COMMONWEALTH OF VIRGINIA DEPARTMENT OF MENTAL HEALTH MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (CENTRAL VIRGINIA TRAINING CENTER)

GRAPHIC SCALE 1"=200'
200 0 200 400 600

MADISON MAGIST. DISTRICT
AMHERST COUNTY, VIRGINIA

THIS SURVEY WAS PREPARED WITHOUT A TITLE REPORT.

COMMONWEALTH OF VIRGINIA
JAN 16 2001
WILLIAM S. CALLAHAN
No. 1307
LICENSED LAND SURVEYOR

COMMISSION NO. :2001-03A
CERTIFICATION-
I CERTIFY THAT THIS PLAT WAS MADE FROM AN ACTUAL FIELD SURVEY AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.
WITNESS MY HAND AND SEAL THIS 16TH DAY OF JANUARY A.D., 2001
REVISION DATE:
DRAWN BY: D.D.B. CHECKED BY: W.S.C.
WILLIAM S. CALLAHAN C.L.S.
-CERTIFIED LAND SURVEYOR-
BLUE RIDGE SURVEYORS, INC.
P.O. BOX 238
AMHERST, VIRGINIA 24521
PH. (804) 946-5540/FAX (804) 946-2508

Resolution 2017-0008-R
Exhibit B

Site No. S001043

This Deed is exempt from (i) recordation taxes pursuant to § 58.1-811(A)(3) and § 58.1-811(C)(4) of the Code of Virginia (1950), as amended, and (ii) the payment of Clerk's fees pursuant to § 17.1-266 of the Code of Virginia (1950), as amended.

Tax Parcel Nos. 160-A-69 and 161-A-53
Consideration: $1.00
Actual Value: $1.00
Prepared by: Office of the Attorney General

DEED OF EASEMENT AND QUITCLAIM OF EXISTING EASEMENT

This DEED OF EASEMENT AND QUITCLAIM OF EXISTING EASEMENT (this "Deed of Easement") is dated the ____ day of February, 2017, by and between the **VIRGINIA PUBLIC BUILDING AUTHORITY**, a political subdivision of the Commonwealth of Virginia ("VPBA"), hereinafter called "Grantor" and the **BOARD OF SUPERVISORS OF COUNTY OF AMHERST**, a political subdivision of the Commonwealth of Virginia (the "County"), hereinafter called "Grantee". For indexing purposes, "Grantor" shall also include the **COMMONWEALTH OF VIRGINIA, DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES** ("DBHDS", formerly known as the "Commonwealth of Virginia, Department of Mental Health, Mental Retardation and Substance Abuse Services").

WITNESSETH

WHEREAS, by Special Warranty Deed from the Commonwealth of Virginia (the "Commonwealth"), acting by and through DBHDS, to VPBA, dated October 15, 1994, and recorded in the Clerk's Office of the Circuit Court of the County of Amherst, Virginia (the "Clerk's Office"), in Deed Book 687, at Page 371 (the "1994 Special Warranty Deed"), the Commonwealth conveyed to VPBA certain real property (the "Property"), more fully described in the 1994 Special Warranty Deed, as security for the VPBA's Series 1994 A Bond Issuance;

WHEREAS, by Easement Agreement dated February 13, 2001, and recorded in Deed Book 834, page 079 in the Clerk's Office, DBHDS conveyed to the County the right, privilege, and easement of right-of-way, one hundred (100) feet in width, over, upon, and across the Property (the "Original Easement") as shown on that plat entitled "EASEMENT SURVEY FOR AMHERST COUNTY" prepared by Blue Ridge Surveyors Incorporated, dated January 16 ,2001, and recorded in the Clerk's Office with the Original Easement in Plat Cabinet 2, slide 2-353H (the "Easement Plat");

WHEREAS, Grantee desires that Grantor grant, and Grantor agrees to grant to Grantee a permanent easement of right-of-way in the location of the Original Easement subject to the terms and conditions contained herein and in further consideration of the County's quitclaim and release of any and all rights and title the County has to the land under the Original Easement.

NOW, THEREFORE, for the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in accordance with § 2.2-2263(A)(4) of the Code of Virginia (1950), as amended (the "Code of Virginia"), and Chapter 572 of the 2000 Acts of Assembly, Grantor grants unto Grantee, its successors and permitted assigns, a perpetual, non-exclusive, right-of-way and easement one hundred (100) feet in width (the "Easement") to lay, erect, construct, install, operate, maintain and repair a recreational trail and all equipment, accessories, and appurtenances necessary in connection therewith (the "Facilities") for hiking, bicycling, and other uses compatible with the trail structure and composition upon and across the Property, with the area subject to the Easement (the "Easement Area") shown and designated as "100' EASEMENT" on the

Easement Plat.

THIS DEED FURTHER WITNESSETH, that in further consideration of the grant of the Easement from Grantor to Grantee, the County hereby surrenders, quitclaims, releases, grants, and conveys unto Grantor, its successors and assigns, any and all right, title, and interest the County may possess in and to the Original Easement and the land under the Original Easement.

A. The Easement is subject to all existing easements, rights-of-way, covenants, encumbrances, and restrictions of record, and is further subject to the following conditions:

1. Nothing contained herein shall be construed as dedicating for public use any portion of the Property. No easements except those expressly set forth herein shall be implied by this Deed of Easement.

2. Grantee may lay, erect, construct, install, use, operate, inspect, maintain, repair, replace, rebuild, remove, improve, and make such other changes, alterations, additions to or extensions of the Facilities within the Easement Area as are consistent with the purposes expressed herein. All Facilities and activity occurring within the Easement Area shall comply with all applicable laws, ordinances, codes, and regulations. The Facilities constructed or placed within the Easement Area shall remain the property of the Grantee.

3. Grantee shall have the right of ingress to and egress from the Easement Area over the lands of Grantor as may be necessary to exercise Grantee's rights herein; provided, however, Grantee shall, to the greatest extent possible, confine their ingress and egress to the Easement Area. Upon completion of any activity by Grantee upon the Easement Area, Grantee shall restore the lands of Grantor and the Easement Area as nearly to their original condition as practicable, including, but not limited to, backfilling of trenches, repaving, reseeding or resodding of lands, replacement of Grantor's property, removal of trash and debris, and removal of any of Grantee's equipment, accessories, or appurtenances not consistent with the construction, maintenance or operation of the Facilities or the exercise of any right expressed herein. Grantee shall maintain the Facilities in such repair as not to endanger or otherwise limit the enjoyment or use of Grantor's lands and adjacent lands.

4. Grantee shall have the right to trim, cut, and remove trees, shrubbery, or other natural obstructions on, under, or over the Easement Area which interfere with or threaten the efficient and safe operation, construction, or maintenance of the Facilities. All trees cut by Grantee shall remain the property of Grantor. All brush, branches, and other debris resulting from any cutting, trimming, or clearing of the Easement Area shall be removed from the lands of Grantor and disposed of by Grantee.

5. Grantee shall exercise any right expressed herein in such manner as shall not occasion injury, damage, or inconvenience to Grantor and as otherwise shall minimize any adverse impact or disturbance to Grantor's lands and property, including any conservation and natural heritage values thereof. Any activity or omission by Grantee, its employees, agents, or contractors that results in injury, damage or adverse impact or disturbance, in Grantor's sole judgment, to Grantor's lands and property, including any conservation and natural heritage values thereof, shall be remedied under prescriptions prepared as directed by Grantor. Grantee shall at Grantor's election pay for or repair any injury, damage or adverse impact or disturbance to any of Grantor's land and property, including any conservation and natural heritage values thereof, caused by Grantee, its employees,

agents, or contractors. Grantee shall notify Grantor immediately of any such injury, damage or adverse impact or disturbance and shall make said payment or repair within thirty (30) days after such election by Grantor; provided, however, that if such injury, damage, or adverse impact or disturbance results in an on-going hazardous condition or a material loss of use of Grantor's lands or property (such as, by way of illustration and not by limitation, a disruption of any utilities or loss of access to Grantor's lands or property) then Grantee shall immediately remedy the hazardous condition or material loss of use.

6. Grantor may use the Easement Area for any purpose not inconsistent with the rights hereby granted in this Deed of Easement, provided such use does not interfere with the safe and efficient construction, operation, or maintenance of the Facilities, and further provided that such use is not inconsistent with any laws, ordinances, codes, or regulations pertaining to the construction, operation, or maintenance of the Facilities and to which Grantor is subject.

7. Grantee covenants and agrees to defend and hold Grantor, its employees and agents, harmless from and against any claims of injury to any persons or property and from and against any other liability of any nature whatsoever to the full extent authorized by Virginia law resulting from the laying, erecting, constructing, installing, using, operating, inspecting, maintaining, repairing, replacing, rebuilding, removing, improving, changing, altering, adding to or extending the Facilities or connecting to other utility facilities on or adjacent to the Easement Area, or in any way arising out of any of Grantee's, its employees', agents,' or contractors' exercise of any rights herein granted.

8. No person or entity, whether the Grantee, its employees, agents, or contractors, including, but not limited to, any general contractor, subcontractor, or maintenance contractor, shall commence any activity upon the lands of Grantor unless and until such person or entity has obtained such insurance coverage as may be required from time to time by the Commonwealth of Virginia, Department of General Services pursuant to its guidelines adopted in respect to Code of Virginia § 2.2-1151, as such section may be amended, or its successor provisions.

9. If Grantee at any time discontinues use of all or any portion of the Easement Area for a period of one (1) year, all of Grantee's rights and interest in the Easement Area or portion thereof shall immediately terminate and revert to Grantor, its successors and assigns, and Grantee shall at its expense remove the Facilities and restore Grantor's lands and property as nearly to its original condition as practicable and, on written request by Grantor, Grantee shall quitclaim and release the Easement Area, or portion thereof, to Grantor.

10. Grantee shall provide as-built drawings to Grantor showing the location of the Facilities, which as-built drawings shall be in form and substance as directed by and satisfactory to Grantor.

11. Notwithstanding any other provision of this Deed of Easement, neither Grantee may itself, nor by sublease, license, or other grant of permission to any third party, utilize the Easement Area for the installation of any equipment or property for purposes other than set forth herein. Neither the Easement, nor Grantees' rights hereunder are delegable, transferrable, or assignable, and any delegation, transfer, or assignment of the Easement or any portion thereof or Grantee's rights or obligations hereunder without the prior written consent of Grantor shall be null and void and of no effect; provided, however,

Grantee's rights hereunder may be assigned without Grantor's approval in accordance with an order of the State Corporation Commission to any municipal utility, utility cooperative, or other utility authorized to provide utility service within the Commonwealth.

12. If Grantor at any time deems it necessary or advisable to relocate for Grantor's convenience any of the Facilities, Grantor shall relocate, at the sole cost of Grantor, such Facilities to a place acceptable to Grantor, provided Grantor, for no additional consideration, shall grant unto Grantee such replacement easement as may be necessary to effect such relocation, subject to the same rights, privileges and conditions, as herein set forth. Upon relocation of any of the Facilities from any portion of the Easement Area, the Easement for or over such portion of the Easement Area shall automatically terminate, and all rights, title and interest therein shall revert to Grantor.

B. The parties hereto acknowledge and agree that notwithstanding anything contained in this Deed of Easement to the contrary, so long as the Commonwealth is a party hereto, the following provisions shall control over any conflicting provisions hereof:

1. With respect to tort liability for acts or occurrences with respect to this Deed of Easement, including product liability, the Commonwealth is either constitutionally immune (or partially immune) from suit, judgment, or liability, insured, or covered by a financial plan of risk management that is in the nature of self-insurance, all as determined by applicable laws, government policies and practices.

2. No equitable, quasi-contractual, or injunctive remedies, other than those specifically authorized by law, may be used or are effective against the Commonwealth.

3. No liens may be placed against, or shall attach to, any property owned by the Commonwealth.

4. This Deed of Easement shall be governed by, and construed according to, the laws of the Commonwealth, and any legal action against the Commonwealth shall be instituted and maintained only in the state courts of the Commonwealth.

5. No provision, covenant, or agreement contained in this Deed of Easement shall be deemed, in any manner, to be a waiver of the sovereign immunity of the Commonwealth, or any of its boards, agencies, or other political subdivisions, from tort or other liability.

Nothing contained herein shall be deemed to convey any rights to Grantee in the property of any adjacent landowner which may be required to enjoy access to the property of the Grantee. The foregoing Easement shall be perpetual in nature and shall run with the land.

In compliance with the provisions of § 15.2-1803 of the Code of Virginia, this Deed of Easement has been accepted by the County pursuant to a resolution of the Board of Supervisors of Amherst County duly adopted at a meeting of said Board held on the 7th day of February, 2017. Further, acceptance of this Deed of Easement is evidenced below by the execution of this Deed of Easement on behalf of the County by the undersigned duly authorized official of the County.

[Signature Page to Follow]
[Remainder of the Page Intentionally Left Blank]

Site No. S001043

WITNESS the following signatures and seals.

Grantor: VIRGINIA PUBLIC BUILDING AUTHORITY, a political subdivision of the Commonwealth of Virginia

By: _____
Manju Ganeriwala, Secretary/Treasurer

COMMONWEALTH OF VIRGINIA
CITY OF RICHMOND

The foregoing Deed of Easement was acknowledged before me in my jurisdiction aforesaid this _____ day of February, 2017, by Manju Ganeriwala, acting in her capacity as Secretary/Treasurer of the Virginia Public Building Authority, on behalf of the Virginia Public Building Authority.

My Commission expires: _____
Notary Registration No. _____

_____
Notary Public

Grantor: COMMONWEALTH OF VIRGINIA, DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

By: _____
Dr. Jack Barber, Interim Commissioner

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing Deed of Easement was acknowledged before me in my jurisdiction aforesaid this ____ day of February, 2017, by Dr. Jack Barber, acting in his capacity as Interim Commissioner of the Commonwealth of Virginia, Department of Behavioral Health and Developmental Services, on behalf of the agency.

My commission expires: _____
Registration No. _____

_____
Notary Public

Site No. S001043

Grantee: BOARD OF SUPERVISORS OF COUNTY OF AMHERST, a political subdivision of the Commonwealth of Virginia

By: _____
Claudia D. Tucker, Chair

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing Deed of Easement was acknowledged before me in my jurisdiction aforesaid this ____ day of February, 2017, by Claudia D. Tucker, acting in her capacity as Chair of the Board of Supervisors for Amherst County, on behalf of the County.

My commission expires: _____
Registration No. _____

_____
Notary Public

Site No. S001043

APPROVED AS TO FORM:
OFFICE OF THE ATTORNEY GENERAL

By: _____
Catherine A. Shankles
Assistant Attorney General

APPROVED AS TO FORM:

By: _____
Ellen Bowyer
Amherst County Attorney

RECOMMEND APPROVAL:
DEPARTMENT OF GENERAL SERVICES

By: _____
Christopher L. Beschler, Director

APPROVED BY THE GOVERNOR:

Pursuant to Section 2.2-2263 of the Code of Virginia (1950), as amended, and by the authority vested in me to act for and on behalf of the Governor of Virginia under Executive Order 88 (01), dated December 21, 2001, I hereby approve this easement and the execution of this instrument.

_____
Secretary of Administration Date