

AMENDMENT TO AGREEMENT  
OF MARCH 13, 1990

THIS AGREEMENT is made this 25 day of November, 1991, by and between Brown & Root I, Inc., ("Brown & Root") and the Town of Cape Charles, ("Town").

WHEREAS, the parties have entered into an Agreement dated March 13, 1990, in contemplation of the annexation of certain property now owned by Brown & Root; and

WHEREAS, the Commission on Local Government ("Commission"), after due notice, hearings and public comment, has issued a report finding, among other things that the Town had met the requirements of Section 15.1-1041 of the Virginia Code, and further recommended approval of the annexation of the area sought in the Town's Notice of Annexation; and

WHEREAS, the Town and Brown & Root wish to amend their Agreement of March 13, 1990, (hereinafter Prior Agreement) as set forth herein;

THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and in consideration of the mutual promises contained herein, the parties agree to amend and modify the provisions of the Prior Agreement as provided herein:

1. Paragraph ten (10) of the Prior Agreement shall be amended to add the following:

(a) The Town and Brown & Root agree to abide by the "Proposal for Water and Waste Water Treatment Plant Improvements" submitted to the Commission on Local Government and referred to by the

Commission on Local Government in its report on the proposed annexation by the Town of Cape Charles, dated February 1990.

(b) The Town and Brown & Root acknowledge that if subsequent improvements are made by Brown & Root to the Town's Waste Water Treatment Plant as provided in the Prior Agreement, such improvements could result in an increase in the effluent treatment standards from the State Water Control Board (SWCB). Brown & Root agrees that if it expands the Town's Waste Water Treatment Plant as provide in the Prior Agreement, that such expansion may include having to pay for the cost of its share of capacity for increasing the Town's treatment standards to tertiary treatment;

(c) The Town agrees that no industrial waste shall be accepted into the municipal waste water system from Accawmacke Plantation or other businesses or developments to whom such municipal services are offered without pretreatment of such waste or plant modification.

(d) Brown & Root and the Town agree that any reservation of treatment capacity in or from the Town's water or waste water systems, as provided in the Prior Agreement, for the use of Accawmacke Plantation shall be derived from the capacity created by investments in the Town's water and/or waste water systems, made by Brown & Root.

2. Brown & Root agrees to comply with the terms of paragraph four (4) and the attached Schedule A, both of which are a part of that certain agreement, entitled "Agreement", dated November 25, 1991, between Brown & Root and Northampton County,

which Agreement was signed just prior hereto and the terms of the aforesaid paragraph four (4) and Schedule of the Agreement are incorporated herein by reference.

3. In its development of Accawmacke Plantation, Brown & Root shall consider proposals and bids submitted by bondable, local material persons and contractors and shall give good-faith consideration to proposals and bids of local material persons and contractors, but subject to its sole right to select the best qualified bidders. Local Contractors and Local Material Persons shall mean contractors or material persons whose principal residences are in Northampton or Accomack Counties or whose principal places of business are located in one of said Counties or who employs persons at least fifty percent (50%) of whom are residents in said Counties.

4. Brown & Root agrees that its rezoning application, referred to in the Prior Agreement, shall include the following additional Proffers:

(a) The portion of Accawmacke Plantation located outside the Resource Protection Areas (RPA's), as specified by the Chesapeake Bay Local Assistance Board Regulations, which will be disturbed by construction shall be designed in such a manner as to direct runoff of surface water away from Old Plantation Creek and the Chesapeake Bay and into an overall storm water management system, except that waterfront areas (where grade conditions do not permit) may avoid this requirement if the post-development non-point source pollution runoff load does not exceed the pre-development load based upon

average land coverage conditions. Where existing grade conditions permit, waterfront areas shall be designed to feed into an overall storm water management system.

(b) Brown & Root shall utilize Best Management Practices (hereinafter "BMP's) for the retention of storm water runoff. BMP's shall include, but not be limited to, sedimentation ponds, wet ponds, natural swales, and constructed berms to intercept sheet runoff and direct it onto the property. At a minimum, such ponds shall be designed to accommodate water generated by storm event having a twenty-five (25) year frequency.

(c) Brown & Root shall utilize erosion and sediment control measures during all phases of land disturbing activity on Accawmacke Plantation as required by local Erosion and Sediment Control Ordinances. Unless modified by appropriate variances, BMP's shall be utilized in all aspects and phases of the development of Accawmacke Plantation by the developer.

(d) Brown & Root has retained an archaeologist with experience in surveys and excavations of historic sites and with extensive experience on historic sites in the Chesapeake Bay region. Said archaeologist will complete a Phase I Archaeological Survey of the Brown & Root property to be developed as Accawmacke Plantation. As development occurs, sites discovered as a result of the Phase I Survey which are subject to the jurisdiction of Section 106 of the National Historic Preservation Act of 1966 will be preserved or left undisturbed as the archaeologist deems appropriate. All parties agree to use best efforts to prevent any

adverse impacts upon the pace of development of Accawmacke Plantation as a result of compliance with this paragraph.

(e) Brown & Root shall limit the maximum residential density for Accawmacke Plantation to three thousand (3000) residential dwelling units.

5. Except as modified herein all of the terms and conditions of the Agreement of March 13, 1990, are ratified and incorporated herein by reference.

BROWN & ROOT I, INC.

By Jul G. Bates  
VICE PRESIDENT

TOWN OF CAPE CHARLES

By Richard Barton  
Town Manager