

ORDINANCE NO. 6547-08

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN AMENDMENT TO THE CONDITIONAL OPTION AGREEMENT BY AND AMONG THE CITY OF NEWPORT NEWS, VIRGINIA, McCALE DEVELOPMENT CORPORATION, CHURCHILL GROUP OF VIRGINIA LLC AND LEWIS A. McMURRAN, III, DATED THE 6TH DAY OF NOVEMBER, 2008.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Amendment to the Conditional Option Agreement by and among the City of Newport News, Virginia, McCale Development Corporation, Churchill Group of Virginia LLC and Lewis A. McMurrans, III, dated the 6th day of November, 2008.

2. That a copy of the said Amendment to Conditional Option Agreement is attached hereto and made a part hereof.

3. That this ordinance shall be in effect from and after the date of its adoption, November 6, 2008.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON NOVEMBER 6, 2008

Mabel V. Washington, CMC
City Clerk

Joe S. Frank
Mayor

A true copy, teste:

City Clerk

AMENDMENT TO THE CONDITIONAL OPTION AGREEMENT

THIS AMENDMENT, made and entered into this 6th day of November, 2008, by and among **THE CITY OF NEWPORT NEWS, VIRGINIA**, a municipal corporation, hereinafter referred to as "CITY"; and **McCALE DEVELOPMENT CORPORATION**, a Virginia corporation, hereinafter referred to as "OPTIONEE,"; **CHURCHILL GROUP OF VIRGINIA LLC**, its proposed "Assignee" and **LEWIS A. McMURRAN, III**, its "Principal".

WHEREAS, by Conditional Option Agreement dated the 20th day of November, 2006, the CITY and OPTIONEE entered into a Conditional Option Agreement whereby the CITY granted OPTIONEE a conditional option to acquire from CITY approximately 73.3875 acres of land formerly located in York County, Virginia, and now located in Newport News, Virginia, conditioned upon a boundary line adjustment occurring between the County and the CITY; and

WHEREAS, the boundary line adjustment occurred, effective July 1, 2007, and the OPTIONEE exercised its option, effective July 30, 2008; and

WHEREAS, the CITY and the OPTIONEE desire to amend paragraph 6(c) and paragraph 8 of the Conditional Option Agreement to permit the OPTIONEE to assign its rights and obligations under the Conditional Option Agreement to CHURCHILL GROUP OF VIRGINIA LLC and to reestablish a settlement date for closing on option for the sale and exchange of real estate exercised by the Optionee and both Churchill Group of Virginia LLC and its principal, Lewis A. McMurrans, III, agree in writing, as part of any such assignment, that they shall be responsible, jointly and severally, for all obligation imposed upon OPTIONEE.

W I T N E S S E T H:

For and in consideration of the following terms, conditions, mutual covenants and other good and valuable considerations, the receipt of which is acknowledged between the parties hereto, it is

mutually agreed as follows:

The Conditional Option Agreement dated November 20, 2006, by and among the **CITY OF NEWPORT NEWS, VIRGINIA**, and **MCCAULE DEVELOPMENT CORPORATION** is hereby amended by changing the paragraphs or subparagraphs indicated below of the aforesaid Conditional Option Agreement, and the Conditional Option Agreement shall be amended to read as follows:

“6. (c) Settlement shall take place within two hundred ten (210) days of the exercise of this Conditional Option Agreement by OPTIONEE in the Office of the City Attorney.”

“8. This Conditional Option Agreement shall be binding upon the parties and shall not be assignable, except that OPTIONEE may assign its interest in this Conditional Option Agreement to the Churchill Group of Virginia LLC, provided that both Churchill Group of Virginia LLC and its principal, Lewis A. McMurrin, III, agree in writing, as part of any such assignment, that they shall be responsible, jointly and severally, for all obligation imposed upon OPTIONEE”.

The terms of this Amendment to the Conditional Option Agreement shall be in effect on and after November 6, 2008. All other terms and conditions of the Conditional Option Agreement dated November 20, 2006, between the parties hereto, shall remain in full force and effect except to the extent they may be modified by the provisions hereof.

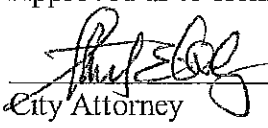
IN WITNESS WHEREOF the parties hereto have caused this Amendment to the Conditional Option Agreement to be executed by their duly authorized officers.

CITY OF NEWPORT NEWS, VIRGINIA

By: _____
City Manager

ATTEST:

City Clerk

Approved as to form:


City Attorney

COMMONWEALTH OF VIRGINIA
City of Newport News, to wit:

The undersigned Notary Public in and for the jurisdiction aforesaid, hereby certifies that Randy W. Hildebrandt and Mabel V. Washington, whose names appear as City Manager and City Clerk, respectively, of the City of Newport News, are signed to the foregoing Amendment to the Conditional Option Agreement bearing date on the 6th day of November, 2008, acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand this _____ day of _____, 2008.

Notary Public

My Commission expires: _____

Registration No.: _____

McCALE DEVELOPMENT CORPORATION

By: _____
Lewis A. McMurrin, III, President

COMMONWEALTH OF VIRGINIA
City of Newport News, to-wit:

The undersigned Notary Public in and for the jurisdiction aforesaid hereby certifies that Lewis A. McMurrin, III, as President of McCale Development Corporation, whose name is signed to the foregoing Amendment to the Conditional Option Agreement bearing date on the 6th day of November, 2008, acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand this _____ day of _____, 2008.

Notary Public

My commission expires: _____

Registration No.: _____

CHURCHILL GROUP OF VIRGINIA INC.

By: _____
Its: _____

COMMONWEALTH OF VIRGINIA
City of Newport News, to-wit:

The undersigned Notary Public in and for the jurisdiction aforesaid hereby certifies that _____, as _____ of **CHURCHILL GROUP OF VIRGINIA INC.**, whose name is signed to the foregoing Amendment to the Conditional Option Agreement bearing date on the 6th day of November, 2008, acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand this _____ day of _____, 2008.

Notary Public

My commission expires: _____

Registration No.: _____

LEWIS A. McMURRAN, III

COMMONWEALTH OF VIRGINIA
City of Newport News, to-wit:

The undersigned Notary Public in and for the jurisdiction aforesaid hereby certifies that Lewis A. McMurrans, III, whose name is signed to the foregoing Amendment to the Conditional Option Agreement bearing date on the 6th day of November, 2008, acknowledged the same before me in my jurisdiction aforesaid.

Given under my hand this _____ day of _____, 2008.

Notary Public

My commission expires: _____

Registration No.: _____

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