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May 24, 2013

VIA U.S. MAIL & ELECTRONIC MAIL

Mr. Edwin Wilmot, Esquire
County Attorney
7400 Justice Drive, 2nd Floor
Post Office Box 1309
Gloucester, Virginia 23061
ewilmot@gloucesterva.info

RE: Tax-Exempt Status of Middle Peninsula Chesapeake Bay Public Access Authority

Dear Mr. Wilmot:

Mr. Lawrence, Executive Director for the Middle Peninsula Chesapeake Bay Public Access Authority (the "Authority"), has indicated that you would like a letter from legal counsel supporting the Authority's position that all of its property is tax exempt. I hope this letter will suffice.

The Authority was created by the General Assembly as a political subdivision of the Commonwealth of Virginia. The legislation establishing the Authority specifically provides that its property will be tax exempt:

[A]s the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, *the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this act*

VA. CODE ANN. § 15.2-6617 (emphasis added).

You have asked whether the property in question is a "facility" under the above-cited provision. In *York County v. Peninsula Airport Commission*, 235 Va. 477, 369 S.E.2d 665 (1988), the Supreme Court of Virginia decided this exact issue. The county argued, *inter alia*, that identical statutory language evidenced a legislative intent not to exempt land from taxation. *Id.* at 482, 369 S.E.2d at 668. The Court rejected that argument and concluded that the Peninsula Airport Commission's "tax exemption extends to all its property necessary to accomplish the

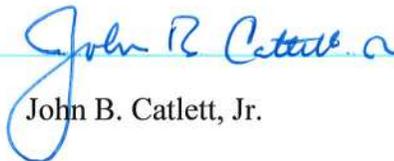
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public purposes for which it was created." *Id.* at 483, 369 S.E.2d at 668. In the instant case, the recently acquired land is necessary to accomplish the public purposes for which the Authority was created. Accordingly, this land is automatically tax-exempt. The Authority need not apply with the county to receive a tax exemption.

I hope this letter answers your questions and resolves this issue. Please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "John B. Catlett, Jr." The signature is written in a cursive style with a large initial 'J' and a trailing flourish.

John B. Catlett, Jr.

cc: Mr. Lewis L. Lawrence