

JAMES P. GEORGE ENDOWMENT AGREEMENT

June 5, 2015
Amended October 6, 2015

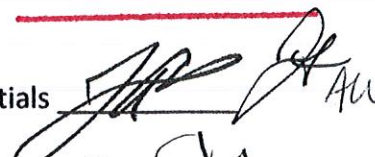
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Deputy/Assistant Register of Deeds pwoodall

THIS ENDOWMENT AGREEMENT IS BETWEEN James P. George (Donor) and The Town of Smithfield, North Carolina. The donor wishes to establish an endowment of approximately Twenty Five thousand dollars (\$25,000) in value as of June 5, 2015 as well as an agreement which the Town of Smithfield shall administer. All persons and organizations making contributions to this endowment fund, and those WHO ADMINISTER is shall be bound by the terms of this Agreement.

Terms of Agreement:

1. **Name of Fund:** The endowment fund hereby created shall be known as the “J.P. George Tree Lined Street Fund” herein referred to as J.P. George Fund or as the FUND.
2. **Investment and Expenditure of Principal and Earnings:** It is the intent and purpose of the parties to this Agreement that the principal of approximately Twenty Five thousand dollars (\$25,000) as of June 5, 2015, and any following “subsequent additions” as such will be maintained in perpetuity as a permanent endowment fund to support tree projects undertaken by and at the direction of the Town of Smithfield consistent with the provisions of this Agreement. Only the “Town” shall be responsible for the investment of the fund, security and the disbursement of the earnings from the endowment.
3. **Investment Account:** The Town accepts the Twenty-Five Thousand Dollars (\$25,000) as invested at the time of acceptance by the Town, which is an investment account likely including bonds and securities with more market exposure than the Town usually allows for its invested funds. The Local Government Commission has advised the Town that it may leave the funds in the current account. The Donor has requested that the Town keep the funds in the current investment account that the Donor has chosen at the time of the gift. Therefore, the Town will for some time agree to retain the funds in the current investment account and will likewise retain any addition thereto but that Town reserves the tight to transfer the funds at any time without notice to anyone to the more conservative investment options allowed Town fund generally.

SCANNED

Handwritten signatures and initials in black ink, including a large signature and the initials 'AW'.

4. **Purpose and uses of the Fund:** The Fund is to be used to support individual tree projects undertaken by the Town of Smithfield to beautify "neighborhood streets", Market Street, Bright Leaf Boulevard and other through fares within the town's contiguous limits. Also this includes "seed money" for establishing a Town Nursery for an inventory of permitted trees to be planted. Any Smithfield home owner or citizen who want trees on his/her street shall be given consideration (See Exhibit A). Any income that is not spent by the end of the fiscal year CAN be carried over to the following fiscal year(s) for future projects. The term "fiscal year" shall mean the Town of Smithfield's fiscal year. This Fund is an "ADDITION", not to supplant any other funds or Town expenditures for trees. This is **not a tree removal** fund. The Endowment Fund principal will **NOT** be spent.

5. **Types of Projects:** The type of projects on which the earned income may be expended in this Agreement are as follows:

a. The planting of deciduous trees, evergreen trees, Italian Cypress trees, and (shrubs, flowers and mulch) around these tree plantings areas. **CREPE MYRTLES ARE NOT TO BE PLANTED WITH THESE FUNDS.** The cost of non-Town labor, materials (fertilizer, stakes, wire, dirt), transportation and other site preparation expenses (including cutting down trees and grinding up its stump for replacement only of another tree) are permissible. If a tree dies or is missing then it should be replaced within a couple of years with this fund's income.

b. Any items **NOT LISTED** in section (a.) are **FORBIDDEN** as qualified expense.

c. These funds **CANNOT** be used for salaries or pay of town employees, which includes administrative, clerical, manual, supervision OR any legal expenses OR consultation fees. The Town of Smithfield will assume responsibility for future maintenance of the projects upon completion. This includes regular pruning, watering and other necessary actions to maintain the trees in their original condition.

d. This Agreement **MUST** be posted in its entirety (including exhibits) on the Town Website in the Appearance Commission section (LEGAL NOTICES).

6. **Annual Report:** Within thirty (30) days from the end of the Town's fiscal year, the Public Works Director or Town Manager or his designate **SHALL** issue a detail annual summary of the income, projects, expenditures from the J.P. George Fund for that fiscal year just ended. This **annual report** (See Exhibit B) shall also contain mandatory photos. This annual report is a public document under N.C. General Statute 132-1 and shall be given to the Town Manager, Mayor, Town Council and **posted** on the Town's Internet Web site in the Appearance Commission section. This report shall be archive in the Appearance section on the Town web site. The J.P. George Fund shall also be included as a **separate** identity in the annual Town financial statement of the Town of Smithfield, and a separate listing of the **FUND** in the annual audit report. Copies of all reports shall be made available to the public upon request.

Handwritten initials and signatures in black ink, including a large signature and the word "All" written next to it.

7. **Amendments:** This Agreement may be amended in part or in total with the agreement of the Town Council and the Donor.

8. **Language:** This Agreement will be printed and posted in the Town reports and on Town web site in **ENGLISH ONLY (Legal Notice)**.

9. **Smithfield Citizens:** Any lawful resident of the Town of Smithfield shall have standing to enforce the compliance of the provisions of this Agreement and is entitled to reasonable legal fees if he or she proves that monies from the J.P. George Endowment Fund were spent contrary to the terms of this Agreement.

10. **Matching Funds:** The Town can use matching funds from other governmental funds, individuals and business community, etc. for more compressive tree projects.

11. **Reimbursement:** The Town shall **reimburse** the "J.P. George Endowment Fund" for misappropriations or expenditures of this Fund not approved in accordance with the provisions of this Agreement.

12. **Null and Void:** If any part of this Agreement is found to be null and void by the judicial system then the other sections shall remain legally binding upon the parties.

13. **Documents:** The documents that make up this Agreement consist of the following:

- (a) The terms and conditions as contain herein above;
- (b) Exhibit A (Page 6) Request Form for Street Tree Planting
- (c) Exhibit B (Page 7) The Annual Report and mandatory photos given to the Town Manager, Mayor, and Town Council and posted on the Town Web site under the Appearance section.
- (d) Explanation (Page 8)

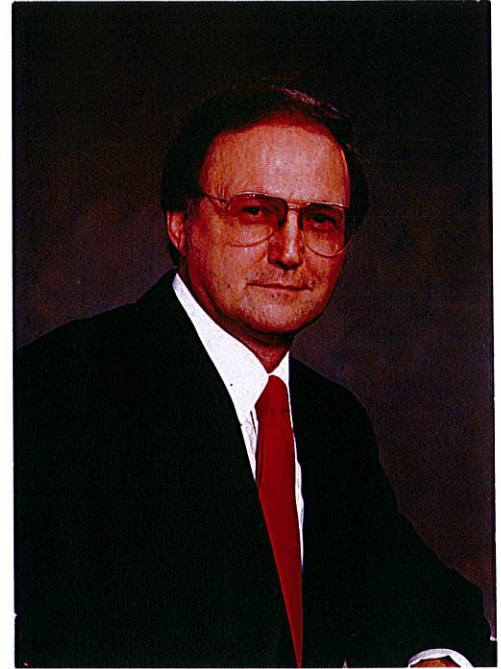
14. **Entire Agreement.** This instruments constitutes the entire agreement between the parties and supersedes any and all prior agreements, arrangements and understandings, whether oral or written, between the parties. All negotiations, correspondences and memorandums passed between the parties hereto are merged herein and this agreement cancels and supersedes all prior agreements between the parties with reference hereto. No modification of this instrument shall be binding unless in writing, attached hereto, and signed by the party against whom or which it is sought to be enforced.

Initials 

IN TESTIMONY WHERE OF, said party have hereunto set his hand and seal this day and year.

Date: 11-19-2015

By the First Party
James P. George
James P. George (Donor)



02/15/1990

And By Parties of the Second Part:

John H. Lampe II
John H. Lampe II, Town Mayor 11/12/15

Jim Freeman
Jim Freeman, Interim Town Manager 11/18/15

Anita Liverman
Anita Liverman, Appearance Commission Chairperson 11/17/15

Attested by:

Shannan Williams
Shannan Williams, Town Clerk



This instrument has been preaudited in the manner
Required by the Local Government Budget and
Fiscal Control Act.

Gregory Siler
Gregory Siler, Finance Officer

Initials JP George
JH Lampe
Jim Freeman

North Carolina, Johnston County

I, the undersigned, a Notary Public, do hereby certify that Shannan Williams personally came before me this day and acknowledged that she is the Town Clerk of the Town of Smithfield, a North Carolina municipal corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its Town Manager, sealed with its corporate seal and attested by her as its clerk.

Witness my hand and official seal this the 19th day of November, 2015.



Veronica T Hardaway
Notary Public

My Commission Expires 1-14-18

North Carolina, Johnston County

I, the undersigned, a Notary Public, certify that James P. George, personally appeared before me this day and acknowledged the execution if the foregoing instrument.

Witness my hand and official seal this the 19th day of November, 2015.



Shannan L. Williams
Shannan L. Williams, Notary Public

My Commission Expires 5-20-2017

Initials JPG AW
JPG

Exhibit A

(Sample Format)

REQUEST FORM FOR NEIGHBORHOOD TREE PLANTING

I would like to request that _____ trees be planted in the
(PREFERENCE if any)

_____ Block of _____ Street or Highway or Avenue etc. I

understand that this is just a request and **does not** guarantee planting! This request is to be
submitted before June 30th of this year.

Name

Home Address

Date

I can best be contacted at my home address OR

By telephone _____ OR

Email Address _____ OR

Other _____.

Mail to: Town of Smithfield
350 East Market St.
P.O. Box 761
Smithfield, NC 27577
Attn: Public Works Director
Telephone: 919-934-2116
Fax: 919-934-1134
Email: lenny.branch@smithfield-nc.com

Initials *JA* *J Fall*
JK

Exhibit B

ANNUAL REPORT

The Annual report to the Mayor, Town Council and Town Manager **MUST** contain the following information. The Endowment Balance; earned annual income; expenditures, projects, carry over income, and photos. This report will be posted on the Town Website with **PHOTOS**.

Format Wording

Mayor and Town Council
Town Manager

Dear Councilmen,

This ANNUAL REPORT is to inform you of action by the Town regarding the "J.P. George Tree Lined Street Fund" for the fiscal year July 1, 2__ to June 30, 2__.

The Endowment Principal ending on July 1, 2__ was \$_____.

The annual earned income for the year through June 30, 2__ was \$_____ plus carry over income from the last fiscal year of \$_____ for a total available income of \$_____.

There were no projects/expenditures/disbursement during the year; therefore, the earned income of \$_____ will be carried over to the following year for other projects.

(OR)

There were expenditures (\$_____) for Cherry trees on College Road and (\$_____) for Dogwood trees on Bright Leaf Boulevard. Unspent income \$_____ will be carried over to the following year for other projects.

This Annual report will be posted on the Town's Website with the enclosed photos of completed projects. If you need any more information please contact me.

Sincerely,

Public Works Director
(919-934-2116)
Enc: Photos

Handwritten initials and signature in black ink, appearing to be 'J.P. George' and 'J.P. George'.

Exhibit C

There are three (3) reasons why I do not want to plant Crepe Myrtle trees utilizing these monies from this Fund.

First, the Town (Public Works Director) has Town funds to plant these trees.

Second, The Appearance Commission has set up a tree fund for individuals to contribute towards planting only Crepe Myrtle Trees (Donate-A-Tree Project)

Third, the Josephine B. George Beautification Fund (has any type of) trees listed FIRST that can Be planted.

Initials  The image shows handwritten initials in black ink. There are two sets of initials. The top set appears to be 'JH' and 'HALL'. The bottom set appears to be 'JH' and 'HALL'.