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AGENDA

NEWPORT NEWS CITY COUNCIL  
REGULAR CITY COUNCIL MEETING

OCTOBER 25, 2016

City Council Chambers

**7:00 p.m.**

**A. Call to Order**

**B. Invocation**

- Pastor Fred Michaux, City Life Church

**C. Pledge of Allegiance to the Flag of the United States of America**

**D. Presentations - None**

**E. Public Hearings**

1. Ordinance Authorizing and Directing the City Manager to Execute A Deed of Easement for a 15-foot Easement Across City-owned Property Located at 15402 Warwick Boulevard
2. Ordinance Authorizing Zoning Text Amendment ZT-16-383, to City of Newport News Regarding Real Estate Ownership Disclosure for Change of Zoning, Conditional Use Permit, Special Exception and Variance Applications
3. Ordinance Authorizing Zoning Text Amendment ZT-16-384, to City of Newport News Redesignating Amusement Arcade as Amusement Establishment and Amending the Permitted Uses in the Oyster Point Urban Core Overlay District
4. Ordinance Authorizing the City Manager to Make Offers to Acquire by Purchase or Condemnation, Portions of Property for the Atkinson Boulevard Extension Project, to Provide Funds for this Purpose, and to Execute All Documents Necessary to Effect the Purchase
5. Ordinance Authorizing the City Manager to Make Offers to Acquire by

Purchase or Condemnation, Portions of Property for the Newport News Transportation Center Project (NNTC) Multimodal Station, to Provide Funds for this Purpose, and to Execute All Documents Necessary to Effect the Purchase

6. Ordinance Authorizing the City Manager to Execute Any and All Documents Necessary to Effectuate the Conveyance of Eight (8) City-Owned Properties to Newport News Redevelopment and Housing Authority (NNRHA)
7. Ordinance Amending City Code, Chapter 13, Building Regulations; by Adding New Article XII., Identification and Inspection of Rental Dwelling Units
8. Resolution of the Council of the City of Newport News, Virginia Authorizing an Application for a Boundary Amendment of Virginia Enterprise Zone No. 3

**F. Consent Agenda**

1. Minutes of the Work Session of October 11, 2016
2. Minutes of the Special Meeting of October 11, 2016
3. Minutes of the Regular Meeting of October 11, 2016
4. Resolution in Memoriam: Arnold Ron Coates, II
5. Resolution Confirming, Ratifying and Terminating the Declaration of a Local Emergency Made Necessary by Hurricane Matthew

**G. Other City Council Actions**

1. Resolution Approving and Adopting the City of Newport News, Virginia Legislative Program for the 2017 Virginia General Assembly
2. Item 1 of 2: Resolution Authorizing the City Manager to Execute Any and All Agreements or Documents Necessary to Obtain Grant Funding from the Virginia Department of Environmental Quality (DEQ) for the Deep Creek Shoreline Restoration at Menchville Marina Project
3. Item 2 of 2: Resolution Appropriating \$324,000 from the Virginia Department of Environmental Quality (DEQ) Water Quality Improvements Fund (\$162,000) and the FY 2016 Bond Authorization, Stormwater Drainage Category (\$162,000) for the Design and Construction of the Deep Creek Shoreline Restoration at Menchville Marina Project
4. Item 1 of 2: Resolution Authorizing the City Manager to Execute Any and All Agreements or Documents Necessary to Obtain Grant Funding from the Virginia Department of Environmental Quality (DEQ) for the Richneck Area Regional Water Quality and Flood Control BMP, Phase 1 Project
5. Item 2 of 2: Resolution Appropriating \$1,848,300 from the Virginia Department of Environmental Quality Water Quality Improvements Fund (WQIF) (\$568,240) and from Private Developer Contributions (\$1,280,060)

for the Richneck Area Regional Water Quality and Flood Control BMP,  
Phase 1 Project

**H. Appropriations**

1. None Submitted

**I. Citizen Comments on Matters Germane to the Business of City Council**

**J. \*New Business and Councilmember Comments**

1. City Manager
2. City Attorney
3. City Clerk
4. Vick
5. Woodbury
6. Bateman
7. Cherry
8. Harris
9. Price
10. Scott

**K. Adjourn**

**\*THE BUSINESS PORTION OF THE MEETING WILL BE CONCLUDED NO LATER  
THAN 10:00 P.M. TO ALLOW PERSONS TO ADDRESS CITY COUNCIL UNDER  
"CITIZEN COMMENTS ON MATTERS GERMANE TO THE BUSINESS OF CITY  
COUNCIL."**

A. Call to Order

B. Invocation - Pastor Fred Michaux, City Life Church

C. Pledge of Allegiance to the Flag of the United States of America

D. Presentations

## E. Public Hearings

### 1. Ordinance Authorizing and Directing the City Manager to Execute A Deed of Easement for a 15-foot Easement Across City-owned Property Located at 15402 Warwick Boulevard

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE A DEED OF EASEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA AND VIRGINIA ELECTRIC AND POWER COMPANY, D/B/A DOMINION VIRGINIA POWER FOR A 15-FOOT EASEMENT ACROSS CITY-OWNED PROPERTY LOCATED AT 15402 WARWICK BOULEVARD.

**BACKGROUND:**

- This easement request will accommodate improvements as part of a larger project to provide the Atkinson Boulevard and Bridge Project.
- A request to receive bids was properly advertised in the *Daily Press* on September 26, 2016 and October 3, 2016.
- City Council received bids for this easement at its October 11, 2016 meeting.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

#### **ATTACHMENTS:**

##### Description

CM Memo re Easement at 15402 Warwick Blvd

Attachment Location Map Receipt of Bids for Easement Warwick Boulevard

sdm14683 Authorizing Deed of Easement between City and Va Power

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

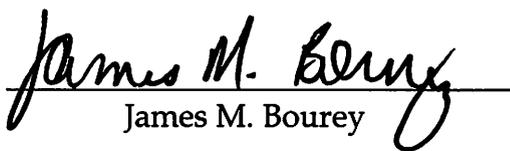
October 19, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Award of Bid - Easement at 15402 Warwick Boulevard

City Council is requested to adopt an ordinance that will grant an 8,000 square-foot easement on City-owned property located at 15402 Warwick Boulevard. The easement lies at the intersection of Atkinson Way and Warwick Boulevard.

As part of the project, the City has requested utility companies underground and relocate their equipment in support of the Atkinson Boulevard and Bridge Project.

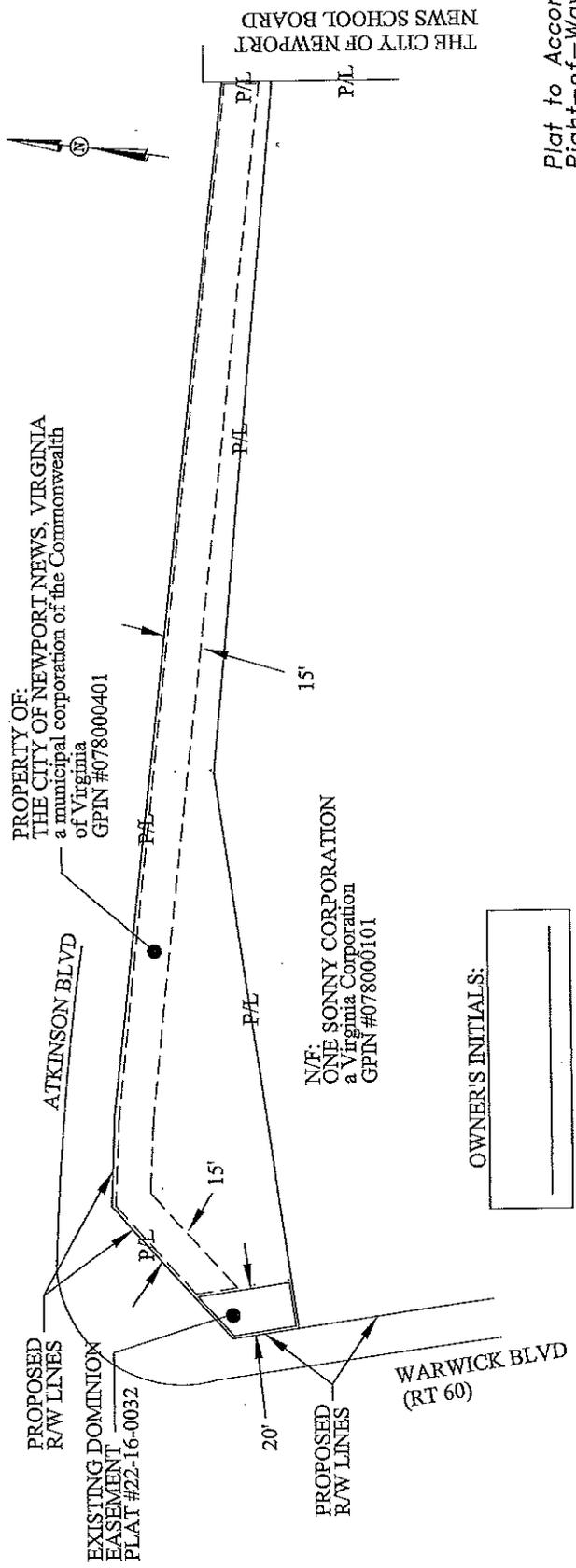
A request to receive bids was properly advertised in the *Daily Press* on September 26, 2016 and on October 3, 2016. At the October 11, 2016 meeting, City Council received one bid from Dominion Virginia Power for this easement. A public hearing has been advertised for the October 25, 2016 City Council meeting for consideration of the ordinance that will grant the easement to Dominion Virginia Power.

  
James M. Bourey

JMB/DEM/plw

Attachment

cc: Everett Skipper, Director, Department of Engineering



PROPERTY OF:  
 THE CITY OF NEWPORT NEWS, VIRGINIA  
 a municipal corporation of the Commonwealth  
 of Virginia  
 GPIN #078000401

N/F:  
 ONE SONNY CORPORATION  
 a Virginia Corporation  
 GPIN #078000101

OWNER'S INITIALS:

**Plat to Accompany  
 Right-of-Way Agreement**

VIRGINIA ELECTRIC AND POWER COMPANY  
 doing business as  
 Dominion Virginia Power UG  
 District

PENINSULA County-City State  
 District-Township-Borough NEWPORT NEWS VA  
 Deribagh Plot Number  
 Office

EASTERN REGION 22-16-0086  
 Estimate Number Grid Number  
 1002263 M2231  
 9-20-16 By O'BEIRNE/ROUNTREE

- Legend**
- Location of Boundary Lines of Right of Way
  - - - - - FIFTEEN FT (15') NTS
  - ==== Indicates Property Line is Right-of-Way Boundary

ORDINANCE NO. \_\_\_\_\_

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 DEED OF EASEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND VIRGINIA ELECTRIC AND POWER COMPANY, D/B/A DOMINION VIRGINIA POWER, DATED THE 25<sup>TH</sup> DAY OF OCTOBER, 2016, FOR AN EASEMENT ACROSS CITY-OWNED PROPERTY LOCATED AT 15402 WARWICK BOULEVARD, NEWPORT NEWS, VIRGINIA.

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

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 Deed of Easement by and between the City of Newport News, Virginia, and Virginia Electric and Power Company, d/b/a Dominion Virginia Power, dated the 25<sup>th</sup> day of October, 2016, for an easement across City-owned property located at 15402 Warwick Boulevard, Newport News, Virginia.
2. That a copy of the said Deed of Easement is attached hereto and made a part hereof.

**Easement Across Portion of  
Parcel #078.0004-01  
15402 Warwick Boulevard**

**Consideration: \$0**

**Prepared By:  
City Attorney's Office  
2400 Washington Avenue  
Newport News, VA 23607  
Tel: (757) 926-8416  
Fax: (757) 926-8549**

**Exemption Claimed Under Section  
58.1-811.C.4. For Taxes Imposed by  
Section 58.1-802 on a Conveyance by  
a Virginia City.**

**Title Insurance: Unknown**

**THIS DEED OF EASEMENT**, made this 25<sup>th</sup> day of October, 2016, between the **CITY OF NEWPORT NEWS**, a municipal corporation of the Commonwealth of Virginia, hereinafter called "GRANTOR" and **VIRGINIA ELECTRIC AND POWER COMPANY, D/B/A DOMINION VIRGINIA POWER**, hereinafter called "GRANTEE," whose mailing address is 902 G. Street, Hampton, Virginia 23661.

NOTICE TO LANDOWNER: YOU ARE CONVEYING RIGHTS TO A PUBLIC SERVICE CORPORATION. A PUBLIC SERVICE CORPORATION MAY HAVE THE RIGHT TO OBTAIN SOME OR ALL OF THESE RIGHTS THROUGH EXERCISE OF EMINENT DOMAIN. TO THE EXTENT THAT ANY OF THE RIGHTS BEING CONVEYED ARE NOT SUBJECT TO EMINENT DOMAIN, YOU HAVE THE RIGHT TO CHOOSE NOT TO CONVEY THOSE RIGHTS AND YOU COULD NOT BE COMPELLED TO DO SO. YOU HAVE THE RIGHT TO NEGOTIATE COMPENSATION FOR ANY RIGHTS THAT YOU ARE VOLUNTARILY CONVEYING.

**WITNESSETH:**

That for the sum of One Dollar (\$1.00), cash in hand paid, and other valuable consideration, the receipt whereof is hereby acknowledged, GRANTOR grants unto GRANTEE, its successors and assigns, for a period of forty (40) years from the date of recordation of this deed of easement, the non-exclusive right, privilege and easement, approximately fifteen (15) feet in width, to construct, operate and maintain one or more underground lines, and one or more lighting supports and lighting fixtures, as GRANTEE may from time to time deem expedient or advisable, located on the easement

hereinafter described, for the purpose of transmitting and distributing electric power by one or more circuits to GRANTOR, for provision of electric power to its facilities and for lighting and such other purposes as requested by GRANTOR; together with all wires, cables, transformers, transformer enclosures, concrete pads, manholes, handholes, connection boxes, ground connections, meters, attachments, equipment, accessories and appurtenances desirable in connection therewith (hereinafter referred to as "facilities").

The said rights, privilege and easement extends over, under, through and across certain lands of GRANTOR, situated in the City of Newport News, Virginia, as shown on Plat No. 22-16-0086 attached hereto and made a part of this Deed of Easement; the location of said easement being shown in broken lines on said Plat, to which plat reference is made for a more particular and accurate description of the easement.

The facilities constructed hereunder shall remain the property of GRANTEE. GRANTEE shall have the right to inspect, rebuild, remove, repair, improve, relocate on the easement, and make such changes, alterations, substitutions, additions to or extensions of its facilities as GRANTEE may from time to time deem advisable.

GRANTEE shall at all times have the right to keep the easement clear of all buildings, structures, and other obstructions (except fences), trees, roots and undergrowth. All trees and limbs cut by GRANTEE shall, except as hereinafter provided, remain the property of GRANTOR. Trees cut by GRANTEE with merchantable trunks six (6) inches or more in diameter will be cut into lengths of not less than four (4) feet when requested by GRANTOR and will be placed in piles separate from other trees, limbs, and undergrowth cut by GRANTEE. All trees, limbs, roots and

other growth removed during the periodic maintenance of the easement by GRANTEE shall be disposed of by GRANTEE, and after which GRANTEE shall restore the surface area affected by the removal to a level grade safe for pedestrian travel.

For the purpose of constructing, inspecting, maintaining or operating its facilities on the easement on the property of GRANTOR or on its easement on any other property, GRANTEE shall have the right of ingress and egress over, upon and along such easement. If GRANTEE is unable reasonably to exercise the right of ingress and egress over, upon and along the easement on the property of GRANTOR, GRANTEE shall have such right of ingress and egress over the property of GRANTOR adjacent to the easement. GRANTEE shall have the further right of ingress to and egress from the easement over such private roads as may now or hereafter exist on the property of GRANTOR. The right, however, is reserved to GRANTOR to shift, relocate, close or abandon such private roads at any time. If there are no public or private roads reasonably convenient to the easement, GRANTEE shall have such right of ingress and egress over the lands of GRANTOR adjacent to the easement and lying between public and private roads and the easement in such manner as shall occasion the least practicable damage and inconvenience to GRANTOR.

GRANTEE shall repair damage to roads, fences or other improvements and shall pay GRANTOR for other damage done in the process of the construction, inspection, or maintenance of GRANTEE's facilities, or in the exercise of its right of ingress and egress; GRANTEE shall be liable for all damages resulting from its exercise of the right of ingress and egress across such adjacent lands, provided GRANTOR gives written notice thereof to GRANTEE within sixty (60) days after any property damage occurs.

GRANTOR, its successors and assigns, may use the easement for any purpose not

inconsistent with the rights hereby granted, provided such use does not interfere with or endanger the construction, operation and maintenance of GRANTEE's facilities and provided that no buildings, structures or other obstructions (except fences) may be constructed on the easement.

In the event that GRANTOR sells or conveys the property on which the easement is located, GRANTOR shall provide that such sale or conveyance be conditioned upon the purchaser granting to GRANTEE a suitable easement across such property for GRANTEE's facilities.

In the event that GRANTEE fails or ceases to use the entire easement for a continuous period of two (2) or more years, then all rights and privileges hereby granted to GRANTEE shall forever cease and revert to GRANTOR by operation of law.

The rights, privileges, and easement conveyed pursuant to this Deed of Easement are in addition to, and not in substitution of, any other rights which may be available to GRANTEE to install its facilities on the property.

GRANTOR covenants that it is seized of and has the right to convey the said easement, rights and privileges; that GRANTEE shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement, rights and privileges; and that GRANTOR shall execute such further assurances thereof as may be required.

**IN WITNESS WHEREOF**, GRANTOR has caused its corporate name to be signed hereto by its City Manager and its corporate seal to be hereunto affixed and attested by its City Clerk.

CITY OF NEWPORT NEWS

ATTEST:

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
City Clerk

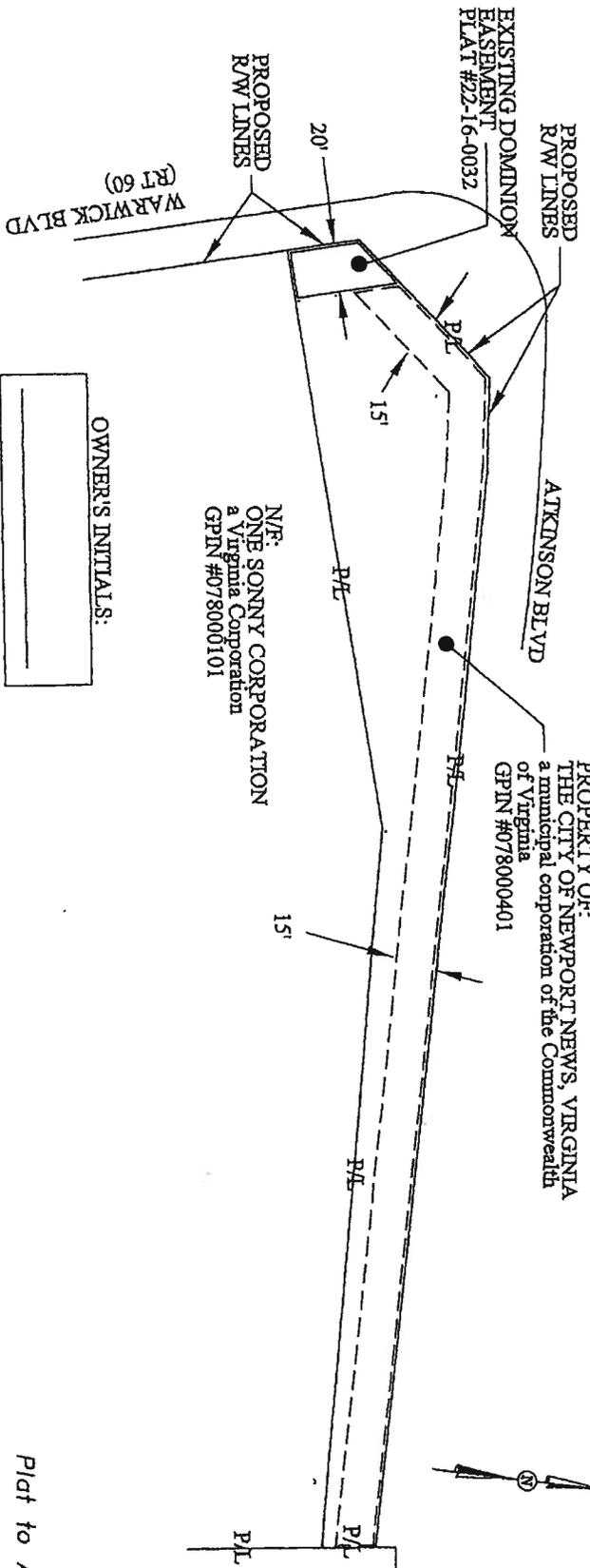
COMMONWEALTH OF VIRGINIA  
City of Newport News, to wit:

I, \_\_\_\_\_, a Notary Public in and for the City and Commonwealth aforesaid, whose commission expires on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, do hereby certify that the CITY OF NEWPORT NEWS, by James M. Bourey, its City Manager, and attested by Mabel Washington Jenkins, its City Clerk, whose names are signed to the foregoing writing, hereto annexed, have each acknowledged the same before me in my City and Commonwealth aforesaid.

GIVEN under my hand this \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public  
Registration No.: \_\_\_\_\_

sdm14684



OWNER'S INITIALS:

**Legend**  
 - - - - - Location of Boundary Lines of Easement  
 FIFTEEN FT (15') NTS  
 Indicates Property Line is Easement  
 Boundary

THE CITY OF NEWPORT NEWS SCHOOL BOARD

*Plat to Accompany*  
**DEED OF EASEMENT**

VIRGINIA ELECTRIC AND POWER COMPANY  
 doing business as  
**Dominion Virginia Power** UG

PENNSULA County—City State  
 District—Township—Borough  
 Denbigh NEWPORT NEWS VA  
 Office Plat Number

EASTERN REGION 22-16-0086  
 Estimate Number Grid Number  
 10022263 M2231  
 9-20-16 By O'BERNE/ROUNTREE

## E. Public Hearings

### 2. Ordinance Authorizing Zoning Text Amendment ZT-16-383, to City of Newport News Regarding Real Estate Ownership Disclosure for Change of Zoning, Conditional Use Permit, Special Exception and Variance Applications

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING ZONING TEXT AMENDMENT NO. ZT-16-383 TO THE CITY OF NEWPORT NEWS, AMENDING CITY CODE, CHAPTER 45 ZONING ORDINANCE, ARTICLE XXVII., CONDITIONAL USE PERMITS, SECTION 45-2703, APPLICATION REQUIREMENTS; ARTICLE XXXII., BOARD OF ZONING APPEALS, SECTION 45-3203, PROCEDURE FOR REVIEW AND APPROVAL OF VARIANCES; SECTION 45-3204, PROCEDURE FOR REVIEW AND APPROVAL OF SPECIAL EXCEPTIONS; AND ARTICLE XXXIV., CHANGE OF REGULATIONS, SECTION 45-3404, PROCEDURE.

**BACKGROUND:**

- This amendment will require applicants of a change of zoning, conditional use permit, special exception or variance to disclose all owners in interest of the property in question.
- Full disclosure will enable appointed and elected officials to clearly determine conflicts of interest.
- On October 5, 2016, the City Planning Commission voted unanimously 7:0 to recommend approval of this request.

**Vote on Roll Call**

**For:** Carpenter, Fox, Groce, Jones, Maxwell, Mulvaney, Willis

**Against:** None

**Abstention:** None

- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

**ATTACHMENTS:**

Description

CM Memo re ZT-16-383

Staff Report and CPC Minute Excerpts

sdm14646 ZT-16-383 Amending Secs. 45-2703, 45-3203, 45-3204 and 45-3404

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

October 19, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** ZT-16-383 City of Newport News

This amendment will require the applicant of a change of zoning, conditional use permit, special exception or variance to disclose all owners in interest of a property in question. Members of the Planning Commission, Board of Zoning Appeals and/or City Council must abstain from voting on matters presented to them if they have a financial or business interest with the applicant and/or owner involved in a case.

This amendment will enable appointed and elected officials to clearly determine conflicts of interest.

On October 5, 2016, the City Planning Commission voted unanimously 7:0 to recommend approval of the zoning text amendment.

I concur with Planning Commission's recommendation.

  
James M. Bourey

JMB:ckc

Attachment

# ZONING TEXT AMENDMENT NO. ZT-16-383

## CITY OF NEWPORT NEWS

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### BACKGROUND

The request is to amend Article XXVII., Conditional Use Permits, Section 45-2703, Application Requirements; Article XXXII., Board of Zoning Appeals, Section 45-3203, Procedure for Review and Approval of Variances; Section 45-3204, Procedure for Review and Approval of Special Exceptions; and Article XXXIV., Change of Regulations, Section 45-3404, Procedure.

Members of the Planning Commission, Board of Zoning Appeals and City Council must abstain from voting on matters presented to them if they have a financial or business interest with the applicant and/or owner involved in the case. The City Attorney requests this text amendment to require the applicant of a change of zoning, conditional use permit, special exception or variance to disclose all owners in interest of the property in question. For many years, the Code of Virginia, Section 15.2-2289, has given localities the authority to require an applicant to make complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the name of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 stockholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

By requiring full disclosure of ownership, this amendment will enable appointed and elected officials to clearly determine conflicts of interest.

On September 21, 2016, the Regulations Committee reviewed and recommends approval of the above referenced amendment.

### STAFF RECOMMENDATION

**It is recommended that the City Planning Commission recommend to City Council adoption of the Zoning Ordinance text amendment ZT-16-383.**

### CPC RECOMMENDATION

**On October 5, 2016, the City Planning Commission voted unanimously (7:0) to recommend adoption of the zoning text amendment to the City Council.**

## **APPENDIX**

- A-1 ARTICLE XXVII., CONDITIONAL USE PERMITS, SECTION 45-2703, APPLICATION REQUIREMENTS; ARTICLE XXXII., BOARD OF ZONING APPEALS, SECTION 45-3203, PROCEDURE FOR REVIEW AND APPROVAL OF VARIANCES; SECTION 45-3204, PROCEDURE FOR REVIEW AND APPROVAL OF SPECIAL EXCEPTIONS; AND ARTICLEXXXIV., CHANGE OF REGULATIONS, SECTION 45-3404**
  
- A-2 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF OCTOBER 5, 2016**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXVII., CONDITIONAL USE PERMITS, SECTION 45-2703, APPLICATION REQUIREMENTS; ARTICLE XXXII., BOARD OF ZONING APPEALS, SECTION 45-3203, PROCEDURE FOR REVIEW AND APPROVAL OF VARIANCES; SECTION 45-3204, PROCEDURE FOR REVIEW AND APPROVAL OF SPECIAL EXCEPTIONS; AND ARTICLE XXXIV., CHANGE OF REGULATIONS, SECTION 45-3404, PROCEDURE.

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

That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XXVII., Conditional Use Permits, Section 45-2703, Application requirements; Article XXXII., Board of Zoning Appeals, Section 45-3203, Procedure for review and approval of variances; Section 45-3204, Procedure for review and approval of special exception and Article XXXIV., Change of Regulations, Section 45-3404, Procedure, be, and the same hereby is, amended and reordained as follows:

**CHAPTER 45**

**ZONING ORDINANCE**

**ARTICLE XXVII. CONDITIONAL USE PERMITS**

**Sec. 45-2703. Application requirements.**

Applications for a conditional use permit shall meet the following requirements:

- (1) An application for a conditional use permit shall be filed with the director of planning.
- (2) Such applications shall be made in the name of, and signed by, the owner of the property or a person having power of attorney from the owner.
- (3) Such applications shall completely disclose the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500

shareholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

- (34) The application shall be accompanied by:
  - a. A written description of the nature and extent of the specific use for which a conditional use permit is being requested and a written explanation of how the conditions of section 45-2702 have been satisfied in order to warrant approval of the requested permit.
  - b. A legal description of the property for which the conditional use is requested.
  - c. Ten (10) copies and one (1) eight and one-half (8 ½) inch by eleven (11) inch reproducible copy of a site plan including a drawing or drawings of the proposed conditional use; such drawing shall be drawn to scale and in such manner as to show clearly the following information:
    - 1. The actual dimensions and shape of the property;
    - 2. The exact size and location on the property of existing and proposed structures;
    - 3. The existing and proposed uses of all structures and open areas;
    - 4. The name of the owner, as well as the name of any other person preparing the plan, together with the north point, scale and number of sheets of the plan;
    - 5. Such additional supporting information as may be deemed necessary by the director of planning to perform the evaluations required herein, including but not limited to: topography, ingress and egress, traffic impact, vegetation, surrounding land uses, proposed connections to existing or proposed water, sewer and drainage facilities, and landscaping.
  
- (45) Applications shall not be processed unless the applicant provides satisfactory evidence that any delinquent real estate taxes owed to the city which have been properly assessed against the subject property have been paid.

## ARTICLE XXXII. BOARD OF ZONING APPEALS

### Sec. 45-3203. Procedure for review and approval of variances.

(a) An application for a variance may be made by any property owner, tenant, government official, department, board or bureau and shall be filed with the zoning administrator. Applications shall not be processed unless the applicant provides satisfactory evidence that any delinquent real estate taxes owed to the city which have been properly assessed against the subject property have been paid.

(b) Such application shall completely disclose the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

(bc) The board shall conduct a hearing on said application subsequent to the notice requirements contained in section 45-3202(e).

(cd) “Variance” means, in the application of this chapter, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land; or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

- (1) The board shall not authorize a variance unless it finds:
  - a. That the strict application of this ordinance would unreasonably restrict utilization of the property or the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance and the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.
  - b. That the authorization of such variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that

geographical area.

- c. That the condition or situation of the property concerned is not so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.
- d. That the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.
- e. That the relief or remedy sought by the variance application is not available through a special exception process or through modification of a zoning ordinance, both of which are authorized in this chapter.

(de) In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinances. The use or the structure permitted by the variance may not be expanded, unless the expansion is within an area of the site or part of the structure for which no variance is required. Where expansion is proposed within an area of the site or part of the structure for which a variance is required, the expansion may not occur unless an additional variance is obtained.

**Sec. 45-3204. Procedure for review and approval of special exceptions.**

(a) Applications for special exceptions may be made by any property owner, tenant, government official, department, board or bureau and shall be filed with the director of planning or his authorized representative. Applications shall not be processed unless the applicant provides satisfactory evidence that any delinquent real estate taxes owed to the city which have been properly assessed against the subject property have been paid.

(b) The board shall refer all special exception applications to the city planning commission for its recommendation. The city planning commission shall review the referred application and submit its recommendation to the board within sixty (60) days of the first meeting of the planning commission subsequent to referral. The planning commission report shall state whether the proposed special exception is in harmony with the intent of the applicable regulations in this zoning ordinance. In making its report, the planning commission may recommend to the board any conditions which should be attached to the special exception as to make it compatible with surrounding development. Failure of the planning commission to report within the prescribed

sixty-day period shall be construed as an affirmative recommendation.

(c) Prior to action by the planning commission on any special exception, the applicant must meet with the director of planning, or his representative, to determine the appropriateness of the application and who may require such supporting information as he may deem to be necessary, including:

- (1) A legal description of the property for which the special exception is requested.
- (2) Complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

(23) Ten (10) copies and one (1) eight and one-half (8 ½) inch by eleven (11) inch reproducible copy of a plan, including a drawing or drawings of the proposed special exception. Such drawing shall be drawn to scale in such manner as to show clearly the following information:

- a. The actual dimensions and shape of the property.
- b. The exact size and location on the property of existing and proposed structures.
- c. The existing and proposed uses of all structures and open areas.
- d. The name of the owner, as well as the name of any other person preparing the plan, together with the north point, scale and number of sheets of the plan.
- e. Such additional supporting information as may be deemed necessary by the director of planning to perform the evaluations required herein, including but not limited to topography, ingress and egress, vegetation, surrounding land use, proposed connections to existing or proposed water, sewer and drainage facilities.

(d) After notice as specified in section 45-3202(e), the board shall conduct a hearing on the application. The board may approve or deny the application and may impose such conditions relating to the use for which a special exception is granted as it may deem necessary in the public

interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

- (e) The board shall be authorized to hear and decide only those special exceptions listed below:
  - (1) The board may grant a special exception increasing the height and or floor area of accessory buildings and structures provided that:
    - a. The height or floor area increase is in harmony with the appearance of surrounding properties and does not create a harmful effect to the neighborhood; and
    - b. The accessory building and structure shall have at least the same required rear and side yard setbacks as the main building.
    - c. The board, as a condition of approval, may require additional side and rear yard setbacks for the accessory building and structure to be heightened or enlarged.
  - (2) A nonconforming lot of record having less than fifty (50) feet of frontage may be improved with a single-family detached dwelling provided that:
    - a. The single-family dwelling shall be two (2) stories or of similar design to abutting structures.
    - b. The front yard setback of the single-family dwelling shall be the average of the setbacks of existing buildings on the block, but not less than fifteen (15) feet.
    - c. The minimum side yard setback shall be five (5) feet.
    - d. An attached or detached garage shall be provided. However, if the garage is attached, it shall be attached on the side of the dwelling and recessed eighteen (18) feet from the front of the dwelling or attached in the rear of the dwelling.
    - e. The proposed dwelling is in harmony with the appearance of surrounding properties and does not create a harmful effect to the neighborhood.
  - (3) The board may grant as a special exception in the C1, C2 or C3 zoning districts the construction of a driveway for ingress and egress to any use permitted in the C2, C3, M1 or M2 zoning districts subject to the following provisions:

- a. Access to the site does not otherwise exist over a public street.
  - b. A report is obtained from the director of planning to the effect that a public street is not essential to serve the special use being developed or other lands in the same proximity.
  - c. It is the judgment of the board that the proposed use and the potential vehicular traffic produced will not adversely affect the general character and development of the immediate area.
- (4) The board may grant as a special exception a reduction of the required number of offstreet parking spaces provided that:
- a. Any such reduction is limited to:
    - 1. Community facilities, recreational services, utilities, educational services, transportation, wholesaling and warehousing, open industrial, limited industrial, and heavy industrial uses as specified in Article IV, section 45-402 Summary of Uses by District;
    - 2. Commercial and related uses listed in section 45-3004(d);
    - 3. Uses authorized by and located within the Neighborhood Conservation District as defined by Article XXXI;
    - 4. Multiple-family housing for disabled persons or the elderly.
  - b. Applications for parking space reductions using off-site parking plans shall meet the following criteria:
    - 1. The proposed development of the premises shall be for the following uses:
      - a. Commercial and related uses listed in section 45-3004(d).
      - b. Community facilities, recreational services, utilities, educational services, transportation, wholesaling and warehousing, open industrial, limited industrial and heavy industrial uses as specified in Article IV, Section 45-402, Summary of Uses by District
    - 2. Off-site parking plans shall meet the following criteria:

- a. The applicant shall demonstrate that off-site spaces are available to serve the uses proposed for the premises and such off-site spaces are within eight hundred (800) feet walking distance of a building entrance or use on the premises proposed for the parking reduction. The applicant shall demonstrate that safe and convenient pedestrian access is provided from the designated use to the off-site parking facility or that transportation is available from the off-site parking site to the premises.
  - b. The applicant shall demonstrate that the off-site parking spaces are available on a long-term basis of not less than twenty (20) years.
  - c. After approval of an off-site parking plan, the city zoning administrator shall approve no changes which would increase the parking needs of the affected premises served by that plan unless additional parking spaces are made available to serve the premises and the new off-site parking plan is approved by the zoning administrator.
3. A parking reduction which was granted based on an off-site parking plan shall be void in the event that said off-site parking plan is terminated in whole or in part.
  4. This ordinance shall not be interpreted to prevent parking reductions employing both on-premises shared parking plans and off-site parking plans in appropriate circumstances.
- c. The applicant proposing an on-site parking reduction for uses of community facilities, recreational services, utilities, educational services, transportation, wholesaling and warehousing, open industrial, limited industrial, and heavy industrial uses as specified in Article IV, section 45-402, Summary of Uses by District, or for any use in a neighborhood conservation district, shall clearly show that the proposed use:
    1. Requires a lesser amount of parking than specified in this chapter; and
    2. Provides an adequate amount of parking to accommodate employee and customer needs.
  - d. The applicant proposing on-site parking reductions for multiple-family

housing for disabled persons or the elderly shall show that the proposed use:

1. Requires a lesser amount of parking than specified in this chapter; and
  2. Provides an adequate amount of parking to accommodate employee and customer needs.
  3. Provided that the reduction shall not be to less than seventy-five (75) percent of a space per unit.
- e. The authorization of parking space reductions shall be limited to the specified use or uses for which the special exception is requested. Any enlargement of a building or change in use or uses shall be subject to the parking requirement as specified in this ordinance or as otherwise approved for increase or reduction as provided in this ordinance.
- (5) The board may grant as a special exception, in any district where such use is not permitted as a matter of right, facilities for the keeping of horses, ponies, or similar animals provided that:
- a. Such animals are exclusively kept for the recreational purposes of the family living on the premises.
  - b. The minimum area of any parcel used for the keeping of not more than two (2) such animals shall be five (5) acres. One-half (  $\frac{1}{2}$  ) acre addition to the minimum lot area shall be required for each additional animal kept thereon.
  - c. Any building, structure or animal yard used for the housing of such animals shall be located not less than one hundred (100) feet from any property line and not less than one hundred seventy-five (175) feet from any adjacent dwelling.
  - d. Such use will not be detrimental to the character of the neighborhood and provided further that other conditions which are imposed to protect the character of the neighborhood shall be observed.
- (6) The board may grant an enlargement of nonconforming uses; provided that:
- a. All yards, height, and other applicable dimensional regulations of the district in which the use is located shall be observed.
  - b. Any enlargement of a use shall be made in conformity with the regulations

of the most restrictive district in which such use would ordinarily be permitted.

- c. Any enlargement shall be limited to the same premises on which the use existed at the time it became nonconforming; provided, that in no case shall the nonconforming use be expanded across a zoning district boundary into a more restrictive district.
  - d. No enlargement of a building or use shall be made to create an entirely new use or to occupy more than one hundred (100) percent additional land area or floor space that was used at the time the use became nonconforming.
  - e. Such enlargement is in harmony with the surrounding neighborhood and such reconstruction or enlargement is in the general welfare of the public.
- (7) The board may authorize the outdoor storage of goods and materials when located in the C2 district; provided, that:
- a. Such storage is established as an accessory to a permitted use in the C2 district.
  - b. Materials so stored shall not be visible from any public right-of-way.
  - c. The storage of such goods or materials is screened or fenced in such manner so as not to detract from the character of the neighborhood.
  - d. Appropriate conditions in the form of screening and/or buffer area requirements shall be included to assure the protection of any adjacent residential district or development.
- (8) The board shall authorize as a special exception the use and/or reduction of any buffer area for uses associated with the higher intensity district and not otherwise permitted within the buffer area whenever the board finds the buffer area is screened or fenced in a manner that insures that any authorized concentration of people, cars, noise or associated activities will not adversely affect any use permitted in the abutting lower intensity district and the granting of such special exception is:
- a. Necessary for the reasonable use of the property;
  - b. Not detrimental to uses in or permitted in the abutting lower intensity district; and,

- c. Any reduction shall not reduce the required number of trees for the remaining buffer area.

The board in authorizing such special exceptions may impose reasonable conditions as may be required to insure compliance with this provision.

- (9) The board may grant a special exception for a kennel to be located in any residential district for no more than six (6) domesticated animals; provided;
  - a. All animals shall be maintained in a healthy condition or, if ill, shall be given appropriate treatment immediately.
  - b. Animal pens shall be large enough (within recognized standards) to provide freedom of movement for each animal contained therein.
  - c. Any animal pen must be located in the rear yard and at least ten (10) feet away from any property line.
  - d. Litter and bedding material shall be changed to prevent odor that could adversely affect or impact neighboring properties.
  - e. No person shall utilize any space for the keeping of animals in any manner that is detrimental to the use of the adjacent property or that, because of odor, noise or attraction of flies or other pests, reduces or otherwise unreasonably restrict the rights of adjacent property owners to enjoy the use of their property.
  - f. No person shall permit the drainage from any space devoted to animals to contaminate or pollute any stream, watercourse or drainageway, natural or manmade.
  - g. No person shall store, stockpile or permit any accumulation of animal waste in any manner whatsoever that, due to odor, attraction of flies or other pests or for any other reason, diminishes the rights of adjacent property owners to enjoy reasonable use of their property.
  - h. Such kennel will not adversely affect or impact neighboring properties.
- (10) The board may grant a special exception reducing or eliminating privacy fencing or treed buffers provided all of the following are met:
  - a. Any such reduction or elimination is limited to:

1. Community facilities as specified in Article IV., section 45-402, Summary of Uses by District.
  2. Uses authorized by and located within the Neighborhood Conservation district as defined by Article XXXI.
- b. That the applicant shall clearly show that the proposed surface lot:
1. Requires a lesser amount of fencing or tree screening or no fencing or tree screening; and
  2. The applicant shall clearly demonstrate that the reduction or elimination of the fencing or tree screening is necessary by reason of surface lot location, location of existing fencing, location of adjacent residences and other special circumstances as may warrant such reduction or elimination.

(11) The board may grant as a special exception an increase to the maximum required number of off street parking spaces permitted for a retail store or personal service establishment, a furniture or appliance store, wholesale establishment or service shop and an enclosed mall building, provided that:

- a. Such increase will not be detrimental to the general character and development of the immediate area.
- b. Satisfactory evidence is provided that additional parking cannot be provided through sharing arrangements with adjoining properties.
- c. Any such increase in parking also shall meet the following criteria:
  1. If the site is wooded, a tree survey shall be conducted on the site prior to land clearance or work being conducted on the site and all trees of six (6) inch caliper or greater shall be saved within all green areas;
  2. Twenty-five percent (25%) of the total site shall be landscaped in accord with a plan developed by the applicant for the special exception and approved by the director of planning. The approved landscaping shall be installed and maintained by said applicant;
  3. A twenty-five foot landscape strip shall be installed and maintained along the site's existing or planned street frontage;

4. Notwithstanding any other provision in the City Code, the only freestanding sign on an undeveloped site shall be a ground sign; and
5. Notwithstanding any other provision in the City Code, if the site is already developed, any existing freestanding signs on site shall be removed and replaced with ground signs.

## ARTICLE XXXIV. CHANGE OF REGULATIONS

### Sec. 45-3403. Procedure.

(a) The petition for an amendment to the zoning ordinance shall be filed with the director of planning, who shall transmit one (1) copy to the director of codes compliance. At the time of such filing, the director of planning shall be consulted as to the appropriateness of the proposed amendments. Such petition shall include:

- (1) For a proposed amendment to the zoning ordinance text:
  - a. A suggested wording of the proposed revision properly referenced to the existing ordinance by article and section number;
  - b. The nature and extent of the amendment desired, together with an explanation of the reasons for seeking such change.
- (2) For a proposed amendment to the zoning map:
  - a. A legal description of the property for which the change of zoning is requested.
  - b. Three (3) plats showing the property drawn at a scale with sufficient references to existing streets and subdivisions to enable said property to be located on city maps, along with the area of proposed zoning change, in square feet or acres.
  - c. Complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders. In

the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

- c.d. The names and addresses as far as practicable of property owners abutting the property of which said change is requested. For this purpose, property separated from the petitioned property by a street shall be considered to abut said property.
- d.e. A statement indicating the intended use of the property under the proposed zoning classification.
- e.f. A statement signed by the property owner giving consent to the submission of the application when the property owner is not the applicant.
- f.g. A conditioned or unconditioned proffer statement.
- g.h. Ten (10) copies and one eight and one-half (8½) inch by eleven (11) inch reproducible copy of a more detailed plan as may be deemed necessary by the director of planning to perform the required evaluation. Such additional information may include, but need not be limited to: Topography, ingress and egress, location of buildings and improvements vegetations, surrounding land use, proposed connections to existing or proposed water, sewer and drainage facilities.

(b) All applications shall be annotated with either of the following statements:

- (1) "I hereby proffer that the development of the subject property of this application shall be in accordance with the conditions set forth in this submission." or
- (2) "I hereby proffer that the development of the subject property of this application shall not be subject to any additional conditions not otherwise provided for the requested zoning district by ordinance."

(c) The director of planning shall place the proposed amendment on the agenda of the planning commission for public hearing at a regular meeting to be held no later than sixty (60) days after the proposed amendment is filed. When the property under consideration drains into any of the city's reservoirs, comments from the director of waterworks shall be solicited prior to planning commission action. The planning commission shall transmit its report and recommendation to the city council within one hundred (100) days from the date of the first meeting of the planning

commission at which the proposed amendment first appears on the agenda for consideration. After such time, the council shall conduct its public hearing and take final action upon the petition. For the purpose of this article, the proposed amendment is deemed to be referred to the planning commission on the date the matter is to be first considered at a meeting by the planning commission.

**EXCERPTS FROM PLANNING COMMISSION MINUTES****October 5, 2016**

**ZT-16-383, City of Newport News.** Requests an amendment to the Zoning Ordinance regarding real estate ownership disclosure for change of zoning, conditional use permit, special exception and variance applications. (Sections 45-2703, 45-3203, 45-3204, and 45-3404).

Claudia Cotton, Manager of Current Planning, presented the staff report (copy attached to record minutes).

There being no questions or comments, Mr. Carpenter opened and closed the public hearing.

Ms. Fox made a motion to recommend adoption of zoning text amendment ZT-16-383 to City Council, as recommended by staff. The motion was seconded by Mr. Jones.

**Vote on Roll Call**

**For: Maxwell, Fox, Jones, Mulvaney, Willis, Groce, Carpenter**

**Against: None**

**Abstention: None**

The Planning Commission voted unanimously (7:0) to recommend adoption of zoning text amendment ZT-16-383 to City Council.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXVII., CONDITIONAL USE PERMITS, SECTION 45-2703, APPLICATION REQUIREMENTS; ARTICLE XXXII., BOARD OF ZONING APPEALS, SECTION 45-3203, PROCEDURE FOR REVIEW AND APPROVAL OF VARIANCES; SECTION 45-3204, PROCEDURE FOR REVIEW AND APPROVAL OF SPECIAL EXCEPTIONS; AND ARTICLE XXXIV., CHANGE OF REGULATIONS, SECTION 45-3404, PROCEDURE.

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

1. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XXVII., Conditional Use Permits, Section 45-2703, Application requirements; Article XXXII., Board of Zoning Appeals, Section 45-3203, Procedure for review and approval of variances; Section 45-3204, Procedure for review and approval of special exception and Article XXXIV., Change of Regulations, Section 45-3404, Procedure, be, and the same hereby is, amended and reordained as follows:

**CHAPTER 45**

**ZONING ORDINANCE**

**ARTICLE XXVII. CONDITIONAL USE PERMITS**

**Sec. 45-2703. Application requirements.**

Applications for a conditional use permit shall meet the following requirements:

- (1) An application for a conditional use permit shall be filed with the director of planning.
- (2) Such applications shall be made in the name of, and signed by, the owner of the property or a person having power of attorney from the owner.
- (3) Such applications shall completely disclose the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500

shareholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

- (34) The application shall be accompanied by:
- a. A written description of the nature and extent of the specific use for which a conditional use permit is being requested and a written explanation of how the conditions of section 45-2702 have been satisfied in order to warrant approval of the requested permit.
  - b. A legal description of the property for which the conditional use is requested.
  - c. Ten (10) copies and one (1) eight and one-half (8 ½) inch by eleven (11) inch reproducible copy of a site plan including a drawing or drawings of the proposed conditional use; such drawing shall be drawn to scale and in such manner as to show clearly the following information:
    1. The actual dimensions and shape of the property;
    2. The exact size and location on the property of existing and proposed structures;
    3. The existing and proposed uses of all structures and open areas;
    4. The name of the owner, as well as the name of any other person preparing the plan, together with the north point, scale and number of sheets of the plan;
    5. Such additional supporting information as may be deemed necessary by the director of planning to perform the evaluations required herein, including but not limited to: topography, ingress and egress, traffic impact, vegetation, surrounding land uses, proposed connections to existing or proposed water, sewer and drainage facilities, and landscaping.
- (45) Applications shall not be processed unless the applicant provides satisfactory evidence that any delinquent real estate taxes owed to the city which have been properly assessed against the subject property have been paid.

## ARTICLE XXXII. BOARD OF ZONING APPEALS

### Sec. 45-3203. Procedure for review and approval of variances.

(a) An application for a variance may be made by any property owner, tenant, government official, department, board or bureau and shall be filed with the zoning administrator. Applications shall not be processed unless the applicant provides satisfactory evidence that any delinquent real estate taxes owed to the city which have been properly assessed against the subject property have been paid.

(b) Such application shall completely disclose the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

(bc) The board shall conduct a hearing on said application subsequent to the notice requirements contained in section 45-3202(e).

(ed) “Variance” means, in the application of this chapter, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land; or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

(1) The board shall not authorize a variance unless it finds:

- a. That the strict application of this ordinance would unreasonably restrict utilization of the property or the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance and the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.
- b. That the authorization of such variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that

geographical area.

- c. That the condition or situation of the property concerned is not so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.
- d. That the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.
- e. That the relief or remedy sought by the variance application is not available through a special exception process or through modification of a zoning ordinance, both of which are authorized in this chapter.

(~~d~~e) In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinances. The use or the structure permitted by the variance may not be expanded, unless the expansion is within an area of the site or part of the structure for which no variance is required. Where expansion is proposed within an area of the site or part of the structure for which a variance is required, the expansion may not occur unless an additional variance is obtained.

**Sec. 45-3204. Procedure for review and approval of special exceptions.**

(a) Applications for special exceptions may be made by any property owner, tenant, government official, department, board or bureau and shall be filed with the director of planning or his authorized representative. Applications shall not be processed unless the applicant provides satisfactory evidence that any delinquent real estate taxes owed to the city which have been properly assessed against the subject property have been paid.

(b) The board shall refer all special exception applications to the city planning commission for its recommendation. The city planning commission shall review the referred application and submit its recommendation to the board within sixty (60) days of the first meeting of the planning commission subsequent to referral. The planning commission report shall state whether the proposed special exception is in harmony with the intent of the applicable regulations in this zoning ordinance. In making its report, the planning commission may recommend to the board any conditions which should be attached to the special exception as to make it compatible with surrounding development. Failure of the planning commission to report within the prescribed

sixty-day period shall be construed as an affirmative recommendation.

(c) Prior to action by the planning commission on any special exception, the applicant must meet with the director of planning, or his representative, to determine the appropriateness of the application and who may require such supporting information as he may deem to be necessary, including:

- (1) A legal description of the property for which the special exception is requested.
- (2) Complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.
- ~~(23)~~ Ten (10) copies and one (1) eight and one-half (8 ½) inch by eleven (11) inch reproducible copy of a plan, including a drawing or drawings of the proposed special exception. Such drawing shall be drawn to scale in such manner as to show clearly the following information:
  - a. The actual dimensions and shape of the property.
  - b. The exact size and location on the property of existing and proposed structures.
  - c. The existing and proposed uses of all structures and open areas.
  - d. The name of the owner, as well as the name of any other person preparing the plan, together with the north point, scale and number of sheets of the plan.
  - e. Such additional supporting information as may be deemed necessary by the director of planning to perform the evaluations required herein, including but not limited to topography, ingress and egress, vegetation, surrounding land use, proposed connections to existing or proposed water, sewer and drainage facilities.

(d) After notice as specified in section 45-3202(e), the board shall conduct a hearing on the application. The board may approve or deny the application and may impose such conditions relating to the use for which a special exception is granted as it may deem necessary in the public

interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

(e) The board shall be authorized to hear and decide only those special exceptions listed below:

(1) The board may grant a special exception increasing the height and or floor area of accessory buildings and structures provided that:

- a. The height or floor area increase is in harmony with the appearance of surrounding properties and does not create a harmful effect to the neighborhood; and
- b. The accessory building and structure shall have at least the same required rear and side yard setbacks as the main building.
- c. The board, as a condition of approval, may require additional side and rear yard setbacks for the accessory building and structure to be heightened or enlarged.

(2) A nonconforming lot of record having less than fifty (50) feet of frontage may be improved with a single-family detached dwelling provided that:

- a. The single-family dwelling shall be two (2) stories or of similar design to abutting structures.
- b. The front yard setback of the single-family dwelling shall be the average of the setbacks of existing buildings on the block, but not less than fifteen (15) feet.
- c. The minimum side yard setback shall be five (5) feet.
- d. An attached or detached garage shall be provided. However, if the garage is attached, it shall be attached on the side of the dwelling and recessed eighteen (18) feet from the front of the dwelling or attached in the rear of the dwelling.
- e. The proposed dwelling is in harmony with the appearance of surrounding properties and does not create a harmful effect to the neighborhood.

(3) The board may grant as a special exception in the C1, C2 or C3 zoning districts the construction of a driveway for ingress and egress to any use permitted in the C2, C3, M1 or M2 zoning districts subject to the following provisions:

- a. Access to the site does not otherwise exist over a public street.
  - b. A report is obtained from the director of planning to the effect that a public street is not essential to serve the special use being developed or other lands in the same proximity.
  - c. It is the judgment of the board that the proposed use and the potential vehicular traffic produced will not adversely affect the general character and development of the immediate area.
- (4) The board may grant as a special exception a reduction of the required number of offstreet parking spaces provided that:
- a. Any such reduction is limited to:
    - 1. Community facilities, recreational services, utilities, educational services, transportation, wholesaling and warehousing, open industrial, limited industrial, and heavy industrial uses as specified in Article IV, section 45-402 Summary of Uses by District;
    - 2. Commercial and related uses listed in section 45-3004(d);
    - 3. Uses authorized by and located within the Neighborhood Conservation District as defined by Article XXXI;
    - 4. Multiple-family housing for disabled persons or the elderly.
  - b. Applications for parking space reductions using off-site parking plans shall meet the following criteria:
    - 1. The proposed development of the premises shall be for the following uses:
      - a. Commercial and related uses listed in section 45-3004(d).
      - b. Community facilities, recreational services, utilities, educational services, transportation, wholesaling and warehousing, open industrial, limited industrial and heavy industrial uses as specified in Article IV, Section 45-402, Summary of Uses by District
    - 2. Off-site parking plans shall meet the following criteria:

- a. The applicant shall demonstrate that off-site spaces are available to serve the uses proposed for the premises and such off-site spaces are within eight hundred (800) feet walking distance of a building entrance or use on the premises proposed for the parking reduction. The applicant shall demonstrate that safe and convenient pedestrian access is provided from the designated use to the off-site parking facility or that transportation is available from the off-site parking site to the premises.
  - b. The applicant shall demonstrate that the off-site parking spaces are available on a long-term basis of not less than twenty (20) years.
  - c. After approval of an off-site parking plan, the city zoning administrator shall approve no changes which would increase the parking needs of the affected premises served by that plan unless additional parking spaces are made available to serve the premises and the new off-site parking plan is approved by the zoning administrator.
- 3. A parking reduction which was granted based on an off-site parking plan shall be void in the event that said off-site parking plan is terminated in whole or in part.
- 4. This ordinance shall not be interpreted to prevent parking reductions employing both on-premises shared parking plans and off-site parking plans in appropriate circumstances.
- c. The applicant proposing an on-site parking reduction for uses of community facilities, recreational services, utilities, educational services, transportation, wholesaling and warehousing, open industrial, limited industrial, and heavy industrial uses as specified in Article IV, section 45-402, Summary of Uses by District, or for any use in a neighborhood conservation district, shall clearly show that the proposed use:
  - 1. Requires a lesser amount of parking than specified in this chapter; and
  - 2. Provides an adequate amount of parking to accommodate employee and customer needs.
- d. The applicant proposing on-site parking reductions for multiple-family

housing for disabled persons or the elderly shall show that the proposed use:

1. Requires a lesser amount of parking than specified in this chapter; and
  2. Provides an adequate amount of parking to accommodate employee and customer needs.
  3. Provided that the reduction shall not be to less than seventy-five (75) percent of a space per unit.
- e. The authorization of parking space reductions shall be limited to the specified use or uses for which the special exception is requested. Any enlargement of a building or change in use or uses shall be subject to the parking requirement as specified in this ordinance or as otherwise approved for increase or reduction as provided in this ordinance.

(5) The board may grant as a special exception, in any district where such use is not permitted as a matter of right, facilities for the keeping of horses, ponies, or similar animals provided that:

- a. Such animals are exclusively kept for the recreational purposes of the family living on the premises.
- b. The minimum area of any parcel used for the keeping of not more than two (2) such animals shall be five (5) acres. One-half (  $\frac{1}{2}$  ) acre addition to the minimum lot area shall be required for each additional animal kept thereon.
- c. Any building, structure or animal yard used for the housing of such animals shall be located not less than one hundred (100) feet from any property line and not less than one hundred seventy-five (175) feet from any adjacent dwelling.
- d. Such use will not be detrimental to the character of the neighborhood and provided further that other conditions which are imposed to protect the character of the neighborhood shall be observed.

(6) The board may grant an enlargement of nonconforming uses; provided that:

- a. All yards, height, and other applicable dimensional regulations of the district in which the use is located shall be observed.
- b. Any enlargement of a use shall be made in conformity with the regulations

of the most restrictive district in which such use would ordinarily be permitted.

- c. Any enlargement shall be limited to the same premises on which the use existed at the time it became nonconforming; provided, that in no case shall the nonconforming use be expanded across a zoning district boundary into a more restrictive district.
- d. No enlargement of a building or use shall be made to create an entirely new use or to occupy more than one hundred (100) percent additional land area or floor space that was used at the time the use became nonconforming.
- e. Such enlargement is in harmony with the surrounding neighborhood and such reconstruction or enlargement is in the general welfare of the public.

(7) The board may authorize the outdoor storage of goods and materials when located in the C2 district; provided, that:

- a. Such storage is established as an accessory to a permitted use in the C2 district.
- b. Materials so stored shall not be visible from any public right-of-way.
- c. The storage of such goods or materials is screened or fenced in such manner so as not to detract from the character of the neighborhood.
- d. Appropriate conditions in the form of screening and/or buffer area requirements shall be included to assure the protection of any adjacent residential district or development.

(8) The board shall authorize as a special exception the use and/or reduction of any buffer area for uses associated with the higher intensity district and not otherwise permitted within the buffer area whenever the board finds the buffer area is screened or fenced in a manner that insures that any authorized concentration of people, cars, noise or associated activities will not adversely affect any use permitted in the abutting lower intensity district and the granting of such special exception is:

- a. Necessary for the reasonable use of the property;
- b. Not detrimental to uses in or permitted in the abutting lower intensity district; and,

- c. Any reduction shall not reduce the required number of trees for the remaining buffer area.

The board in authorizing such special exceptions may impose reasonable conditions as may be required to insure compliance with this provision.

- (9) The board may grant a special exception for a kennel to be located in any residential district for no more than six (6) domesticated animals; provided;
  - a. All animals shall be maintained in a healthy condition or, if ill, shall be given appropriate treatment immediately.
  - b. Animal pens shall be large enough (within recognized standards) to provide freedom of movement for each animal contained therein.
  - c. Any animal pen must be located in the rear yard and at least ten (10) feet away from any property line.
  - d. Litter and bedding material shall be changed to prevent odor that could adversely affect or impact neighboring properties.
  - e. No person shall utilize any space for the keeping of animals in any manner that is detrimental to the use of the adjacent property or that, because of odor, noise or attraction of flies or other pests, reduces or otherwise unreasonably restrict the rights of adjacent property owners to enjoy the use of their property.
  - f. No person shall permit the drainage from any space devoted to animals to contaminate or pollute any stream, watercourse or drainageway, natural or manmade.
  - g. No person shall store, stockpile or permit any accumulation of animal waste in any manner whatsoever that, due to odor, attraction of flies or other pests or for any other reason, diminishes the rights of adjacent property owners to enjoy reasonable use of their property.
  - h. Such kennel will not adversely affect or impact neighboring properties.
- (10) The board may grant a special exception reducing or eliminating privacy fencing or treed buffers provided all of the following are met:
  - a. Any such reduction or elimination is limited to:

1. Community facilities as specified in Article IV., section 45-402, Summary of Uses by District.
  2. Uses authorized by and located within the Neighborhood Conservation district as defined by Article XXXI.
- b. That the applicant shall clearly show that the proposed surface lot:
1. Requires a lesser amount of fencing or tree screening or no fencing or tree screening; and
  2. The applicant shall clearly demonstrate that the reduction or elimination of the fencing or tree screening is necessary by reason of surface lot location, location of existing fencing, location of adjacent residences and other special circumstances as may warrant such reduction or elimination.

(11) The board may grant as a special exception an increase to the maximum required number of off street parking spaces permitted for a retail store or personal service establishment, a furniture or appliance store, wholesale establishment or service shop and an enclosed mall building, provided that:

- a. Such increase will not be detrimental to the general character and development of the immediate area.
- b. Satisfactory evidence is provided that additional parking cannot be provided through sharing arrangements with adjoining properties.
- c. Any such increase in parking also shall meet the following criteria:
  1. If the site is wooded, a tree survey shall be conducted on the site prior to land clearance or work being conducted on the site and all trees of six (6) inch caliper or greater shall be saved within all green areas;
  2. Twenty-five percent (25%) of the total site shall be landscaped in accord with a plan developed by the applicant for the special exception and approved by the director of planning. The approved landscaping shall be installed and maintained by said applicant;
  3. A twenty-five foot landscape strip shall be installed and maintained along the site's existing or planned street frontage;

4. Notwithstanding any other provision in the City Code, the only freestanding sign on an undeveloped site shall be a ground sign; and
5. Notwithstanding any other provision in the City Code, if the site is already developed, any existing freestanding signs on site shall be removed and replaced with ground signs.

## **ARTICLE XXXIV. CHANGE OF REGULATIONS**

### **Sec. 45-3403. Procedure.**

(a) The petition for an amendment to the zoning ordinance shall be filed with the director of planning, who shall transmit one (1) copy to the director of codes compliance. At the time of such filing, the director of planning shall be consulted as to the appropriateness of the proposed amendments. Such petition shall include:

- (1) For a proposed amendment to the zoning ordinance text:
  - a. A suggested wording of the proposed revision properly referenced to the existing ordinance by article and section number;
  - b. The nature and extent of the amendment desired, together with an explanation of the reasons for seeking such change.
- (2) For a proposed amendment to the zoning map:
  - a. A legal description of the property for which the change of zoning is requested.
  - b. Three (3) plats showing the property drawn at a scale with sufficient references to existing streets and subdivisions to enable said property to be located on city maps, along with the area of proposed zoning change, in square feet or acres.
  - c. Complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the names of stockholders, officers and directors and in any case the names and addresses of all of the real parties of interest. However, the requirement of listing names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders. In

the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if they own 10% or more of the units in the condominium.

- e.d. The names and addresses as far as practicable of property owners abutting the property of which said change is requested. For this purpose, property separated from the petitioned property by a street shall be considered to abut said property.
- d.e. A statement indicating the intended use of the property under the proposed zoning classification.
- e.f. A statement signed by the property owner giving consent to the submission of the application when the property owner is not the applicant.
- f.g. A conditioned or unconditioned proffer statement.
- g.h. Ten (10) copies and one eight and one-half (8½) inch by eleven (11) inch reproducible copy of a more detailed plan as may be deemed necessary by the director of planning to perform the required evaluation. Such additional information may include, but need not be limited to: Topography, ingress and egress, location of buildings and improvements vegetations, surrounding land use, proposed connections to existing or proposed water, sewer and drainage facilities.

(b) All applications shall be annotated with either of the following statements:

- (1) "I hereby proffer that the development of the subject property of this application shall be in accordance with the conditions set forth in this submission." or
- (2) "I hereby proffer that the development of the subject property of this application shall not be subject to any additional conditions not otherwise provided for the requested zoning district by ordinance."

(c) The director of planning shall place the proposed amendment on the agenda of the planning commission for public hearing at a regular meeting to be held no later than sixty (60) days after the proposed amendment is filed. When the property under consideration drains into any of the city's reservoirs, comments from the director of waterworks shall be solicited prior to planning commission action. The planning commission shall transmit its report and recommendation to the city council within one hundred (100) days from the date of the first meeting of the planning

commission at which the proposed amendment first appears on the agenda for consideration. After such time, the council shall conduct its public hearing and take final action upon the petition. For the purpose of this article, the proposed amendment is deemed to be referred to the planning commission on the date the matter is to be first considered at a meeting by the planning commission.

2. That this ordinance shall be in effect on and after the date of its adoption, October 25, 2016.

## E. Public Hearings

3. Ordinance Authorizing Zoning Text Amendment ZT-16-384, to City of Newport News Redesignating Amusement Arcade as Amusement Establishment and Amending the Permitted Uses in the Oyster Point Urban Core Overlay District

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING ZONING TEXT AMENDMENT NO. ZT-16-384 TO THE CITY OF NEWPORT NEWS, AMENDING CITY CODE, CHAPTER 45, ZONING ORDINANCE, ARTICLE IV., SUMMARY OF USES BY DISTRICT, SECTION 45-402, SUMMARY OF USES BY DISTRICT; BY AMENDING USE "I" ENTITLED RECREATIONAL USES.

**BACKGROUND:**

- The amendment renames the use, "Amusement Arcade" to "Amusement Establishment" in order to update the terminology.
- It also adds Amusement Establishment and Skating Rink to the Oyster Point Urban Core Overlay district as permitted uses to expand the opportunities for entertainment in City Center.
- Further, it deletes the requirement that some uses may only be allowed as accessory uses in the overlay district, so that they may be stand-alone uses in City Center.
- On October 5, 2016, the City Planning Commission voted unanimously 7:0 to recommend approval of this request.

**Vote on Roll Call**

**For:** Carpenter, Fox, Groce, Jones, Maxwell, Mulvaney, Willis

**Against:** None

**Abstention:** None

- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

**ATTACHMENTS:**

Description

CM Memo re ZT-16-384

Staff Report and CPC Minute Excerpts

ZT-16-384 Sec. 45-402, Amending Use Amusement Establishment

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

October 19, 2016

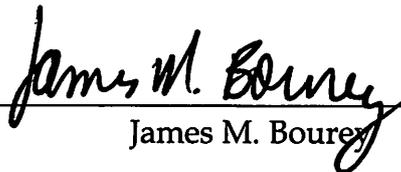
**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** ZT-16-384 City of Newport News

This amendment will provide the opportunity to update and expand the permit uses within City Center. Specifically, the amendment renames 'amusement arcade' as 'amusement establishment' in order to update the terminology. It allows amusement establishment as a permitted use in the Oyster Point Urban Core Overlay district (City Center).

The original vision for City Center contemplated amusement/entertainment uses having a smaller presence. This amendment deletes the requirement that certain entertainment uses only be allowed as accessory to a nightclub, hotel/motel or restaurant so that they can be stand-alone uses. The amendment also adds skating rink as a permitted use.

On October 5, 2016, the City Planning Commission voted unanimously 7:0 to recommend approval of the zoning text amendment.

I concur with Planning Commission's recommendation.

  
James M. Bourey

JMB:ckc

Attachment

# ZONING TEXT AMENDMENT NO. ZT-16-384

## CITY OF NEWPORT NEWS

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### BACKGROUND

The request is to amend Article IV., Summary of Uses by District, Section 45-402, Summary of Uses by District; and Article XXXI., Overlay Zoning Districts and Regulations, Division 5., Special Zoning Regulations for the Oyster Point Urban Core, Section 45-3139, Permitted Uses.

The amendment proposes to rename the use, 'amusement arcade', to 'amusement establishment'. The term 'arcade' typically refers to an establishment with many games that can be played by putting coins in them. This terminology is outdated given today's amusement/entertainment venues that are seeking to operate in the city.

The second purpose of the amendment is to allow amusement establishments in the Oyster Point Urban Core overlay district. This district encompasses City Center. The original vision for City Center included an upscale mixed use environment combining civic and community space with employment, shopping, living and entertainment creating a unique urban development for social and business activities. Since its original development, City Center has contained a variety of high-end retailers, offices, restaurants and residential uses. The new owners wish to include more amusement/entertainment uses in their new tenant mix for the center. Amusement/entertainment uses, while contemplated in the original master plan, were not specifically allowed in the overlay as stand-alone uses.

The original vision contemplated amusement/entertainment uses having a smaller presence in City Center. Therefore, the amendment also deletes the requirement that some uses may only be allowed as accessory to a nightclub, motel/hotel or restaurant so that they can be stand-alone uses. Finally, the amendment also adds skating rink as a permitted use in the overlay.

On September 21, 2016, the Regulations Committee reviewed and recommends approval of the above referenced amendment.

### STAFF RECOMMENDATION

**It is recommended that the City Planning Commission recommend to City Council adoption of the Zoning Ordinance text amendment ZT-16-384.**

### CPC RECOMMENDATION

**On October 5, 2016, the City Planning Commission voted unanimously (7:0) to recommend adoption of the zoning text amendment to the City Council.**

## **APPENDIX**

- A-1 ARTICLE IV., SUMMARY OF USES BY DISTRICT, SECTION 45-402, SUMMARY OF USES BY DISTRICT; ARTICLE XXXI., OVERLAY ZONING DISTRICTS AND REGULATIONS, DIVISION 5., SPECIAL ZONING REGULATIONS FOR THE OYSTER POINT URBAN CORE, SECTION 45-3139, PERMITTED USES**
  
- A-2 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF OCTOBER 5, 2016**

sdm14677

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, ARTICLE IV., SUMMARY OF USES BY DISTRICT, SECTION 45-402, SUMMARY OF USES BY DISTRICT, BY AMENDING USE “I” ENTITLED RECREATIONAL USES.

WHEREAS, Section 45-402 of the Code of the City of Newport News, Virginia, contains a comprehensive listing of uses permitted by the Zoning Ordinance of the City of Newport News, Virginia, in a “matrix” format; and

WHEREAS, the Newport News Planning Commission, in accordance with applicable law, has recommended an amendment, identified as ZT-16-\_\_\_\_\_, to Section 45-402, Summary of Uses by District, which would amend use “I.5. Amusement Arcade”; and

WHEREAS, the Council of the City of Newport News, after public notice and hearing as required by law, desires to approve the use by amending Section 45-402, use “I.5. Amusement Arcade” to “I.5. Amusement Establishment” which shall be permitted by right in the C2 General Commercial and C3 Regional Business Districts and permitted by conditional use permit in the R9 Mixed Use and C1 Retail Commercial Districts.

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

1. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article IV., Summary of Uses by District, Section 45-402, Summary of Uses by District, be, and the same hereby is, amended and reordained to “I.5. Amusement Establishment” which shall be permitted by right in the C2 General Commercial and C3 Regional Business Districts and permitted by conditional use permit in the R9 Mixed Use and C1 Retail Commercial Districts.

2. The rest and remainder of Section 45-402 shall not be affected by this amendment, shall remain effective as adopted, shall be deemed incorporated into this ordinance by reference as if fully set forth herein and shall be deemed reordained hereby.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXXI., OVERLAY ZONING DISTRICTS AND REGULATIONS, DIVISION 5., SPECIAL ZONING REGULATIONS FOR THE OYSTER POINT URBAN CORE, SECTION 45-3139, PERMITTED USES.

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

That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XXXI., Overlay Zoning District and Regulations, Division 5., Special Zoning Regulations for the Oyster Point Urban Core, Section 45-3139, Permitted uses, be, and the same hereby is, amended and reordained as follows:

**CHAPTER 45**

**ZONING ORDINANCE**

**ARTICLE XXXI. OVERLAY ZONING DISTRICTS AND REGULATIONS**

**DIVISION 5. SPECIAL ZONING REGULATIONS FOR THE OYSTER POINT URBAN CORE**

**Sec. 45-3139. Permitted uses.**

(a) *Permitted uses:* In the Urban Core, buildings or premises may be used for any use normally permitted in the underlying zoning district regulations set forth in Article IV, Section 45-402. The real estate in the Urban Core is all subject to covenants and restrictions, and no use may be made of such real estate that is inconsistent with or violates those covenants or restrictions. In addition to those covenants and restrictions and those uses permitted in the underlying zoning district, the following uses shall also be permitted by right within the Urban Core (Sec. 45-402 matrix listing shown in parenthesis):

Amusement establishment (I.5)

Bicycle sales and service (J.5)

Billiard parlor (I.2) ~~as an accessory use to a nightclub or a motel/hotel or a restaurant~~

Bowling alley (I.4) ~~as an accessory use to a nightclub or a motel/hotel or a restaurant~~

Car wash (K.8); provided that the building housing the car wash use shall be located wholly within a parking garage

~~Coin-operated amusement arcade (I.5) as an accessory use to a nightclub or a motel/hotel or a restaurant~~

Coin-operated commercial laundry (H.4) as an accessory use to a multiple family residential use

Commercial parking lot or garage (L.3)

Convenience store without gasoline (J.12); provided that the convenience store without gasoline use shall not be permitted in a separate freestanding building

Food preparation, storage & distribution (M.5); provided that such use shall occupy less than 7,500 sq. ft.

Garden supply store (J.19); provided that such use shall occupy less than 15,000 sq. ft.

Grocery store (J.21); provided that such use shall occupy less than 10,000 sq. ft.

Hardware store (J.22); provided that such use shall occupy less than 10,000 sq. ft.

Home accessory store (J.23)

Medical center complex (C.2)

Motel/hotel (J.32)

Multiple-family (B.3); provided that the building housing this use shall be a minimum of four (4) stories in height

Nightclub as defined in this chapter

Off-site parking lot or garage (L.6)

Off-premise sale of alcohol in an establishment of less than 1,600 sq. ft. in size (J.35)

Other educational/group instruction (E.4)

Skating rink (I.12)

Theatre or stage (I.14)

Toy or hobby store (J.45)

Variety store (J.47)

(b) *Accessory uses:* Any use customarily incidental or accessory to any permitted use is permitted in this district when clearly established as an accessory use to a permitted use.

(c) *Signs:* Signs permitted in the Urban Core shall be those set forth in City Code Chapter 33.01, Sec. 33.01-4(e). Such signs shall be compatible with the Urban Core architecture and concept.

**EXCERPTS FROM PLANNING COMMISSION MINUTES**

**October 5, 2016**

**ZT-16-384, City of Newport News.** Requests an amendment to the Zoning Ordinance redesignating amusement arcade as amusement establishment and amending the permitted uses in the Oyster Point Urban Core Overlay District. (Sections 45-402 and 45-3139).

Claudia Cotton, Manager of Current Planning, presented the staff report (copy attached to record minutes).

There being no questions or comments, Mr. Carpenter opened and closed the public hearing.

Ms. Willis made a motion to recommend adoption of zoning text amendment ZT-16-384 to City Council, as recommended by staff. The motion was seconded by Mr. Jones.

Ms. Willis stated she thinks it is a positive change for the city, because of the changing times. She stated that allowing people to have stand-alone entertainment activities is a good use of the area.

**Vote on Roll Call**

**For: Fox, Jones, Mulvaney, Willis, Groce, Maxwell, Carpenter**

**Against: None**

**Abstention: None**

The Planning Commission voted unanimously (7:0) to recommend adoption of zoning text amendment ZT-16-384 to City Council.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 45, ZONING ORDINANCE, ARTICLE IV., SUMMARY OF USES BY DISTRICT, SECTION 45-402, SUMMARY OF USES BY DISTRICT, BY AMENDING USE “I” ENTITLED RECREATIONAL USES.

WHEREAS, Section 45-402 of the Code of the City of Newport News, Virginia, contains a comprehensive listing of uses permitted by the Zoning Ordinance of the City of Newport News, Virginia, in a “matrix” format; and

WHEREAS, the Newport News Planning Commission, in accordance with applicable law, has recommended an amendment, to Section 45-402, Summary of Uses by District, which would amend use “I.5. Amusement Arcade”; and

WHEREAS, the Council of the City of Newport News, after public notice and hearing as required by law, desires to approve the use by amending Section 45-402, use “I.5. Amusement Arcade” to “I.5. Amusement Establishment” which shall be permitted by right in the C2 General Commercial and C3 Regional Business Districts and permitted by conditional use permit in the R9 Mixed Use and C1 Retail Commercial Districts.

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

1. That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article IV., Summary of Uses by District, Section 45-402, Summary of Uses by District, be, and the same hereby is, amended and reordained to “I.5. Amusement Establishment” which shall be permitted by right in the C2 General Commercial and C3 Regional Business Districts and permitted by conditional use permit in the R9 Mixed Use and C1 Retail Commercial Districts.

2. The rest and remainder of Section 45-402 shall not be affected by this amendment, shall remain effective as adopted, shall be deemed incorporated into this ordinance by reference as if fully set forth herein and shall be deemed reordained hereby.

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

That Chapter 45, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XXXI., Overlay Zoning District and Regulations, Division 5., Special Zoning Regulations for the Oyster Point Urban Core, Section 45-3139, Permitted uses, be, and the same hereby is, amended and reordained as follows:

## ARTICLE XXXI. OVERLAY ZONING DISTRICTS AND REGULATIONS

### DIVISION 5. SPECIAL ZONING REGULATIONS FOR THE OYSTER POINT URBAN CORE

#### Sec. 45-3139. Permitted uses.

(a) *Permitted uses:* In the Urban Core, buildings or premises may be used for any use normally permitted in the underlying zoning district regulations set forth in Article IV, Section 45-402. The real estate in the Urban Core is all subject to covenants and restrictions, and no use may be made of such real estate that is inconsistent with or violates those covenants or restrictions. In addition to those covenants and restrictions and those uses permitted in the underlying zoning district, the following uses shall also be permitted by right within the Urban Core (Sec. 45-402 matrix listing shown in parenthesis):

Amusement establishment (I.5)

Bicycle sales and service (J.5)

Billiard parlor (I.2) ~~as an accessory use to a nightclub or a motel/hotel or a restaurant~~

Bowling alley (I.4) ~~as an accessory use to a nightclub or a motel/hotel or a restaurant~~

Car wash (K.8); provided that the building housing the car wash use shall be located wholly within a parking garage

~~Coin-operated amusement arcade (I.5) as an accessory use to a nightclub or a motel/hotel or a restaurant~~

Coin-operated commercial laundry (H.4) as an accessory use to a multiple family residential use

Commercial parking lot or garage (L.3)

Convenience store without gasoline (J.12); provided that the convenience store without gasoline use shall not be permitted in a separate freestanding building

Food preparation, storage & distribution (M.5); provided that such use shall occupy less than 7,500 sq. ft.

Garden supply store (J.19); provided that such use shall occupy less than 15,000 sq. ft.

Grocery store (J.21); provided that such use shall occupy less than 10,000 sq. ft.

Hardware store (J.22); provided that such use shall occupy less than 10,000 sq. ft.

Home accessory store (J.23)

Medical center complex (C.2)

Motel/hotel (J.32)

Multiple-family (B.3); provided that the building housing this use shall be a minimum of four (4) stories in height

Nightclub as defined in this chapter

Off-site parking lot or garage (L.6)

Off-premise sale of alcohol in an establishment of less than 1,600 sq. ft. in size (J.35)

Other educational/group instruction (E.4)

Skating rink (I.12)

Theatre or stage (I.14)

Toy or hobby store (J.45)

Variety store (J.47)

(b) *Accessory uses*: Any use customarily incidental or accessory to any permitted use is permitted in this district when clearly established as an accessory use to a permitted use.

(c) *Signs*: Signs permitted in the Urban Core shall be those set forth in City Code Chapter 33.01, Sec. 33.01-4(e). Such signs shall be compatible with the Urban Core architecture and concept.

3. That this ordinance shall be in effect on and after the date of its adoption, October 25, 2016.

## **E. Public Hearings**

4. Ordinance Authorizing the City Manager to Make Offers to Acquire by Purchase or Condemnation, Portions of Property for the Atkinson Boulevard Extension Project, to Provide Funds for this Purpose, and to Execute All Documents Necessary to Effect the Purchase

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING THE CITY MANAGER TO MAKE OFFERS TO ACQUIRE BY PURCHASE OR CONDEMNATION, PORTIONS OF PROPERTY FOR THE ATKINSON BOULEVARD EXTENSION PROJECT, TO PROVIDE FUNDS FOR THIS PURPOSE, AND TO EXECUTE ALL DOCUMENTS NECESSARY TO EFFECT THE PURCHASE.

**BACKGROUND:**

- The Atkinson Boulevard project scope consists of a new four-lane divided roadway, to include a 1,600-foot bridge and will be a critical east/west connection between Warwick Boulevard and Jefferson Avenue.
- The property being acquired will be used to construct the proposed road and install utilities in the project area.
- Funding for these acquisitions is available through previously appropriated State and Federal funds.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

### **ATTACHMENTS:**

#### **Description**

CM Memo re Atkinson Blvd East/West Project

Attachment Location Map Atkinson Boulevard Project

sdm14746 Authorizing re Parcels of RE - Atkinson Blvd Project

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

October 19, 2016

**TO:** The Honorable City Council

**FROM:** City Manager

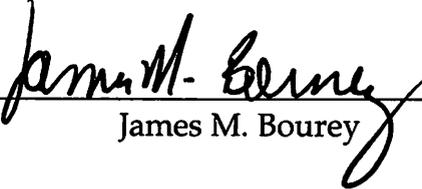
**SUBJECT:** Atkinson Boulevard Project from Jefferson Avenue to Warwick Boulevard

City Council is requested to approve an ordinance authorizing the City Manager to make offers, negotiate, or condemn if necessary, and to execute all documents necessary to acquire by purchase or condemnation, parcels of property and utility easements located at 15400 Warwick Boulevard, 15401 Warwick Boulevard, 15324 Warwick Boulevard, 400 Atkinson Way, 13110 Jefferson Avenue, and 12978 Jefferson Avenue for the Atkinson Boulevard and Bridge Project.

The right-of-way and utility easements being acquired will be used to construct a four-lane divided roadway, including a 1,600-foot bridge that spans Interstate 64 and the CSXT rail lines, a shared use path, streetlights, landscaping, underground utilities, and improvements to the intersections at Jefferson Avenue and Warwick Boulevard.

Appraisals have been conducted for each location. Funding for these acquisitions is available through previously appropriated State and Federal funds.

I recommend City Council approve the resolution.

  
James M. Bourey

JMB/DEM/plw

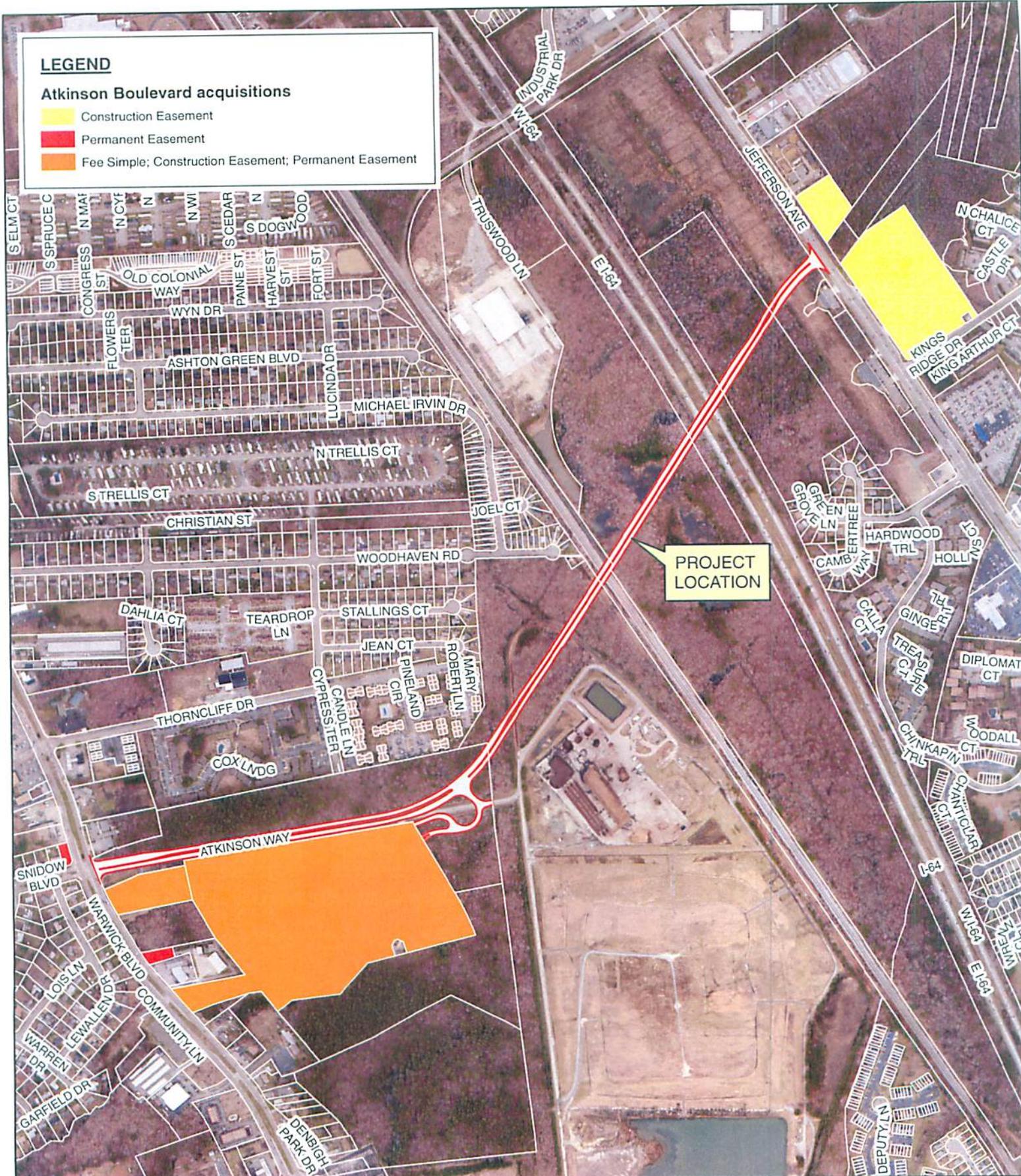
Attachment

cc: Everett Skipper, Director, Department of Engineering

**LEGEND**

**Atkinson Boulevard acquisitions**

- Construction Easement
- Permanent Easement
- Fee Simple; Construction Easement; Permanent Easement



CITY OF NEWPORT NEWS, VIRGINIA

**ATKINSON BOULEVARD EXTENSION - ACQUISITIONS**



**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO MAKE OFFERS TO ACQUIRE, BY PURCHASE OR CONDEMNATION, PORTIONS OF CERTAIN PARCELS OF REAL PROPERTY HEREINAFTER MORE PARTICULARLY DESCRIBED, FOR THE ATKINSON BOULEVARD EXTENSION PROJECT, TO PROVIDE FUNDS FOR THIS PURPOSE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST ALL DOCUMENTS NECESSARY TO EFFECT THE PURCHASE AUTHORIZED HEREIN.

WHEREAS, in the opinion of the Council of the City of Newport News, a public necessity exists for the acquisition of certain real property interests, hereinafter more particularly described, for the purpose of extending Atkinson Boulevard from its intersection with Warwick Boulevard to Jefferson Avenue, which includes the construction of approaches and of a bridge crossing Interstate 64 and railroad tracks operated by CSXT, and for the preservation of the safety, health, peace, good order, comfort, convenience, morals and welfare of the City of Newport News.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia, after a properly noticed Public Hearing on October 25, 2016, pursuant to Virginia Code §15.2-1903:

Section 1. That the Council hereby authorizes the acquisition of unencumbered fee simple title by general warranty deed or other interests in the properties identified in Section 6 of this ordinance..

Section 2. That the City Attorney be, and hereby is, authorized and directed to acquire in a manner provided by Title 15.2, Chapter 19 and Title 25.1, Chapters 2 and 3, of the Code of Virginia, 1950, as amended, interests in those certain properties located in the City of Newport News, Virginia, together with all rights appurtenant thereto, if appropriate, to implement the Atkinson Boulevard Extension Project, the said properties where the interests are to be acquired, and a preliminary indication of ownership being more particularly described in Section 6 of this ordinance.

Section 3. That the City Manager is hereby authorized and directed to act for and on behalf of the City of Newport News in agreeing and disagreeing with the owners of the properties upon the compensation to be paid therefor within the limits of the funds provided herein for this purpose as set out in Section 6 of this ordinance and to sign any documents necessary to effectuate acquisition of the properties.

Section 4. That in order to provide funds for the acquisition of interests in the said properties and to defray the costs incident thereto, the sum of ONE HUNDRED THIRTY-SEVEN THOUSAND SEVEN HUNDRED AND 00/100 DOLLARS (\$137,700.00) or so much thereof as may be necessary, is hereby designated from funds appropriated for acquisition of the hereinafter described properties.

Section 5. That the authority to acquire interests in the property listed in Section 6 of this ordinance shall include all necessary authority to acquire clear title to those properties and shall, without intending to be a limitation, include the authority to institute proceedings against successors in title or to institute eminent domain proceedings in order to establish clear title.

Section 6. That the present owners of the properties to be acquired, or interests therein, and a description of said properties or their interests, and the funds necessary to compensate the owners of the properties are as follows (the interests to be acquired being fee simple ownership unless otherwise indicated on the plats attached hereto):

Parcel 01 - Right of way, temporary construction easements and a utility easement from One Sonny Corporation, for SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$75,000.00). The interest(s) to be acquired affects a parcel currently used as a shopping center at 15392, 15394, 15396, 15398 and 154000 Warwick Boulevard, identified as Tax Parcel 078000101, and more particularly described on a plat attached to this Ordinance as Exhibit 1.

Parcel 02 - Permanent right of way, water line easement and temporary construction easement from School Board of the City of Newport News for THIRTY-FOUR THOUSAND AND FIVE HUNDRED and 00/100 DOLLARS (\$34,500.00). The interest(s) to be acquired affect(s) a parcel identified as 400 Atkinson Boulevard, Tax Parcel 078000402, and more particularly described on a plat attached to this Ordinance as Exhibit 2.

Parcel 04 - A Permanent Utility Easement from the Economic Development Authority of the City of Newport News, for FIFTEEN THOUSAND AND FIVE HUNDRED AND 00/100 DOLLARS (\$15,500.00). The interest(s) to be acquired affect(s) a parcel identified as 15401A Warwick Blvd., Tax Parcel 077000307, and more particularly described on a plat attached to this Ordinance as Exhibit 4.

Parcel 05 - A permanent utility easement from, Kenneth W. Zeigler and Ruby K. Ziegler, for FOUR THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$4,500.00). The interest(s) to be acquired affect(s) a parcel identified as 15324 Warwick Boulevard, Tax Parcel 078000301, and more particularly described on a plat attached to this Ordinance as Exhibit 5.

Parcel 06 - A temporary construction easement from CMH Homes, Inc., for FIVE THOUSAND FOUR HUNDRED AND 00/100 DOLLARS (\$5,400.00). The interest(s) to be acquired affect(s) a parcel identified as 13110 Jefferson Avenue, Tax Parcel 059000305, and more particularly described on a plat attached to this Ordinance as Exhibit 6.

Parcel 07 - A temporary construction easement from WARWICK #15198, LLC, for TWO THOUSAND EIGHT HUNDRED AND 00/100 DOLLARS (\$2,800.00). The interest(s) to be acquired affect(s) a parcel identified as 12978 Jefferson Avenue, Tax Parcel 065000243, and more particularly described on a plat attached to this Ordinance as Exhibit 7.

Section 7. That this ordinance shall be in effect on and after the date of its adoption, October 25, 2016.

**SURVEY NOTES:**

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE RECORD. DOES NOT SHOW ANY PHYSICAL IMPROVEMENTS, NOR ALL EASEMENTS, RESTRICTIONS OR ENCUMBRANCES THAT MAY AFFECT THE PROPERTY.
2. PROPERTY LINE AND RIGHT-OF-WAY INFORMATION IS BASED ON PLATS, DEEDS OF RECORD AND ACTUAL FIELD MEASUREMENTS.
3. THIS PLAT IS FOR PRESENT AND FUTURE ACQUISITION PURPOSES ONLY AND IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY NOR A SUBDIVISION OF LAND.
4. SOURCE OF TITLE AND LAST PLACE OF RECORD: D.B. 1505, PG. 1704 RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS, VIRGINIA.

APPROVED BY: DIRECTOR OF PUBLIC WORKS DATE: \_\_\_\_\_



VIRGINIA STATE PLANE COORDINATE SYSTEM SOUTH ZONE (NAD 1983) (NSRS 2007)

**PLAT OF RIGHT OF WAY AND EASEMENT DEDICATION TO THE CITY OF NEWPORT NEWS**  
**ONE SONNY CORPORATION**

FOR  
**ATKINSON BOULEVARD**  
**VDOT PROJECT: U000-121-V11**  
**UPC NO. 4483**  
 NEWPORT NEWS, VIRGINIA  
 SCALE: 1" = 30' DATE: SEPTEMBER 26, 2016

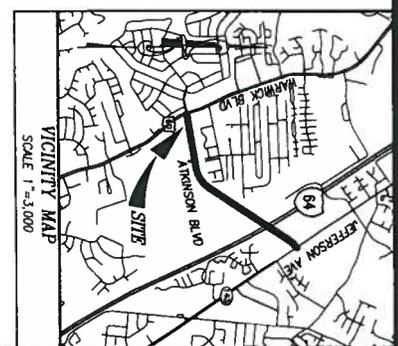


**PRECISION MEASUREMENTS, INC.**

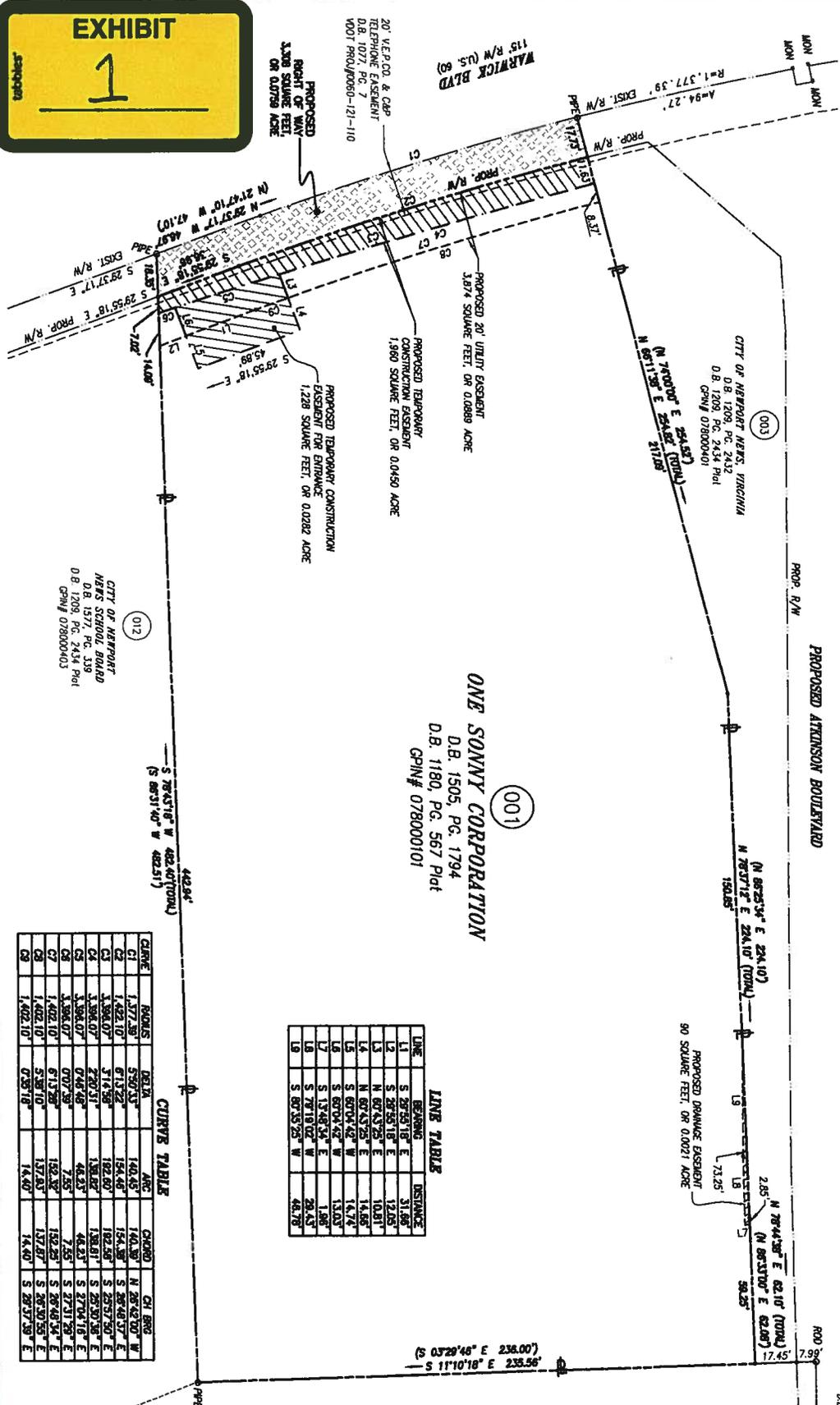
SURVEYORS: GRS-3-D SCANNING - GRS MAPPERS  
 VIRGINIA BECHTOLD-ANDERSON-HEMPERT STEWART/ANTHILL, VIRGINIA  
 11633 CHERRY HILL, VIRGINIA  
 NEWPORT NEWS, VIRGINIA 23060  
 TEL: (757) 595-7570  
 SHEET 1 OF 1

**AREA TABLE**

DESCRIPTION	SQ. FT.	ACRES
ORIGINAL PARCEL (COMPILED)	114,604	2.6309
PARCEL ACQUISITION FOR R/W	3,308	2.0759
RESIDUAL PARCEL	111,296	2.5550
TEMP. CONSTRUCTION EASEM.	1,980	0.0450
TEMP. CONST. ESM. ENTRANCE	1,228	0.0282
UTILITY EASEMENTS	3,874	0.0889
DRAINAGE EASEMENT	90	0.0021



REFERENCES:  
 D.B. 1505, PG. 1794



**ONE SONNY CORPORATION**  
 D.B. 1505, PG. 1794  
 G.P.N.# 078000101

(001)

**LINE TABLE**

LINE	BEARING	INSTANCE
L1	S 29°55'18" E	31.66'
L2	S 29°55'18" E	12.25'
L3	N 67°43'25" E	10.81'
L4	N 67°43'25" E	14.68'
L5	S 67°04'42" W	14.74'
L6	S 67°04'42" W	13.03'
L7	S 13°48'34" E	1.68'
L8	S 78°18'02" W	28.43'
L9	S 67°33'25" W	48.78'

**CURVE TABLE**

CLAVE	POINTS	DELTA	ARC	CURVED	CH. BEG.	CH. END
C1	1,377.39'	579°33'	140.45'	140.39'	N 28°42'00" W	
C2	1,422.10'	671°32'	154.46'	154.38'	S 28°48'07" E	
C3	3,398.07'	314°58'	192.80'	192.58'	S 29°57'50" E	
C4	3,398.07'	270°51'	138.82'	138.81'	S 27°09'18" E	
C5	3,398.07'	0°46'48"	48.83'	48.83'	S 27°09'18" E	
C6	3,398.07'	0°07'39"	7.85'	7.85'	S 27°31'29" E	
C7	1,402.10'	671°28'	192.82'	192.29'	S 28°48'54" E	
C8	1,402.10'	579°10'	137.87'	137.87'	S 28°48'54" E	
C9	1,402.10'	0°59'18"	14.40'	14.40'	S 28°57'39" E	



(002)  
 CITY OF NEWPORT NEWS SCHOOL BOARD  
 D.B. 1537, PG. 0239  
 D.B. 1589, PG. 1292 Plat  
 G.P.N.# 078000402



**SURVEY NOTES:**

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT. ONE'S NOT SHOWN ANY PROPERTY INFORMATION, FOR ALL DEEDS, RESTRICIONS OR ENCUMBRANCES THAT MAY AFFECT THE PROPERTY.
2. PROPERTY LINE AND RIGHT-OF-WAY INFORMATION IS BASED ON PLAT, DEEDS OF RECORD AND ACTUAL FIELD MEASUREMENTS.
3. THIS PLAT IS FOR PROPOSED EASEMENT PURPOSES ONLY AND IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY NOR A SUBDIVISION OF LAND.
4. SOURCE OF TITLE AND LIST PLACE OF RECORD: INSTRUMENT #140011986 RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS, VIRGINIA.

APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 DIRECTOR OF PUBLIC WORKS



PLAT OF EASEMENT DEDICATION TO  
**THE CITY OF NEWPORT NEWS**  
 FROM  
**ECONOMIC DEVELOPMENT AUTHORITY  
 OF THE CITY OF NEWPORT NEWS,  
 VIRGINIA**

ATKINSON BOULEVARD  
 FOR  
 VDOT PROJECT: U000-121-Y11  
 UPRC NO. 4483  
 NEWPORT NEWS, VIRGINIA  
 SCALE: 1" = 10'  
 DATE: AUGUST 19, 2016



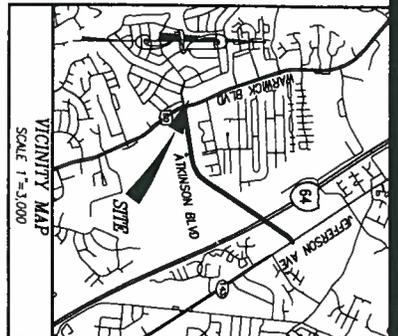
**PRECISION MEASUREMENTS, INC.**  
 SURVEYORS • GPS • 3-D SCANNING • GIS • MAPPING  
 VIRGINIA BEACH-RICHMOND-NEWPORT NEWS-CHANTILLY VIRGINIA  
 11333 CANYON BOULEVARD, SUITE B103  
 NEWPORT NEWS, VIRGINIA 23606  
 TEL: (757) 995-7570  
 SHEET 1 OF 1

AREA TABLE FOR PARCEL 0770000307

PARCEL AREA DESCRIPTION	SQ. FT.	ACRES
PROP. PERMANENT UTILITY EASEMENT	3,293	0.0756

DENOTES AREA OF PROPOSED  
 PERMANENT UTILITY EASEMENT

VIRGINIA STATE PLANK  
 COMMERCIAL SURVEYOR  
 (RENEWED 1/1/2016)  
 (RENEWED 2011)



**WARWICK BOULEVARD**  
 R/W WIDTH VARIES (U.S. 60)

**PROPOSED PERMANENT UTILITY EASEMENT**  
 3,293 SQUARE FEET, OR 0.0756 ACRE

**ECONOMIC DEVELOPMENT AUTHORITY OF  
 THE CITY OF NEWPORT NEWS**

INST. #140011986  
 P.B. 4, PG. 37 & 38  
 GPN# 0770000307

004

**ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NEWPORT NEWS**  
 INST. #140011986  
 P.B. 4, PG. 39-41  
 GPN# 0770000543

EXISTING 5' UTILITY & DRAINAGE EASEMENT (PB 4, PG 39)

EXISTING 5' CAP TELEPHONE & SEWER EASEMENT (DB 536, PG 399)

EXISTING 5' UTILITY & DRAINAGE EASEMENT (PB 4, PG 37)

THOMAS L. CARTER  
 MADELINE R. CARTER  
 D.B. 1009, PG. 1798  
 P.B. 4, PG. 37  
 GPN# 0770000306

**SNIDOW BOULEVARD**  
 100' R/W (P.B. 4, PG. 37)



005

002

005

CURVE	ARC	RADIUS	DELTA	CHORD	BEARING	CHORD
C1	88.72°	1,377.39'	341.27°	N 36°28'33" W	88.71'	
C2	33.00°	1,377.39'	122.22°	N 35°19'01" W	33.00'	
C3	33.14°	1,352.39'	124.14°	S 35°48'13" E	33.13'	
C4	120.42°	1,377.39'	500.33°	N 32°07'33" W	120.38'	
C5	72.72°	1,377.39'	301.31°	S 39°50'01" E	72.72'	



**SURVEY NOTES:**

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, AND DOES NOT SHOW ANY PHYSICAL IMPROVEMENTS, NOR ALL EASEMENTS, RESTRICTIONS OR ENCUMBRANCES THAT MAY AFFECT THE PROPERTY.
2. PROPERTY LINE AND RIGHT-OF-WAY NEGOTIATION IS BASED ON PLATS, RECORDS OF RECORD AND ACTUAL FIELD MEASUREMENTS.
3. THIS PLAT IS FOR EASEMENT ACQUISITION PURPOSES ONLY AND IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY NOR A SUBDIVISION OF LAND.
4. SOURCE OF TITLE AND LAST PLACE OF RECORD: D.B. 957, PG. 17 RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS, VIRGINIA.

APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 DIRECTOR OF PUBLIC WORKS

002  
 CITY OF NEWPORT NEWS SCHOOL  
 ROAD  
 D.B. 1517, PG. 339  
 D.B. 957, PG. 5434 Plat  
 OPW 07000403

005  
 KENNETH W. ZIEGLER  
 & RUBY K. ZIEGLER  
 D.B. 957, PG. 17  
 D.B. 367, PG. 463 Plat  
 OPW 07000201

005  
 KENNETH W. ZIEGLER  
 & RUBY K. ZIEGLER  
 D.B. 1191, PG. 2261  
 P.B. 16, PG. 47  
 OPW 070000324

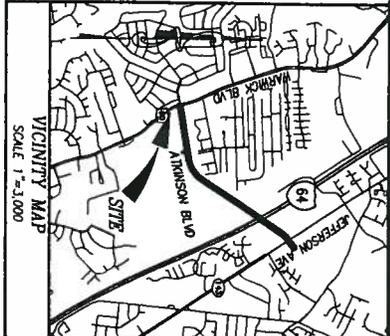
DAVID L. FEUER  
 & OPHELIA WARELA  
 D.B. 1630, PG. 0718  
 P.B. 16, PG. 47  
 OPW 0707000323

EXISTING 20'  
 VEPCO EASEMENT  
 P.B. 16, PG. 47

EXISTING 10'  
 CAP EASEMENT  
 P.B. 16, PG. 47

**AREA TABLE**

PARCEL	AREA DESCRIPTION	SQ. FT.	ACRES
PROP. PERMANENT UTILITY EASEMENT		14,178	0.3235
		877	0.0190



VIRGINIA STATE PLANK  
 COMMISSIONER  
 SOUTH ZONE (NOV 2012)  
 (EXPIRES 2027)  
 (ISSUED 1983)



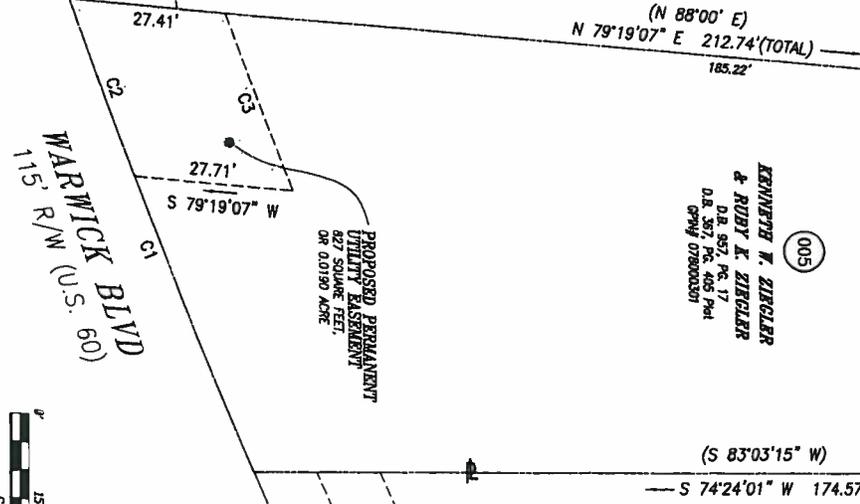
PLAT OF EASEMENT DEDICATION TO  
 THE CITY OF NEWPORT NEWS  
 FROM  
 KENNETH W. ZIEGLER  
 & RUBY W. ZIEGLER  
 FOR  
 ATKINSON BOULEVARD  
 VDOT PROJECT: 10000-121-V11  
 DPC NO. 4483  
 NEWPORT NEWS, VIRGINIA  
 SCALE = 1" = 15'  
 DATE: MAY 23, 2016



**PRECISION MEASUREMENTS, INC.**  
 SURVEYORS - GPS - 3-D SCANNING - GIS - MAPPERS  
 VIRGINIA BEACH - RICHMOND - NEWPORT NEWS - CHANTILLY, VIRGINIA  
 11835 CANNON BLVD., SUITE B103  
 NEWPORT NEWS, VIRGINIA 23606  
 TEL: (757) 596-7570



WARWICK BLVD  
 115' R/W (U.S. 60)

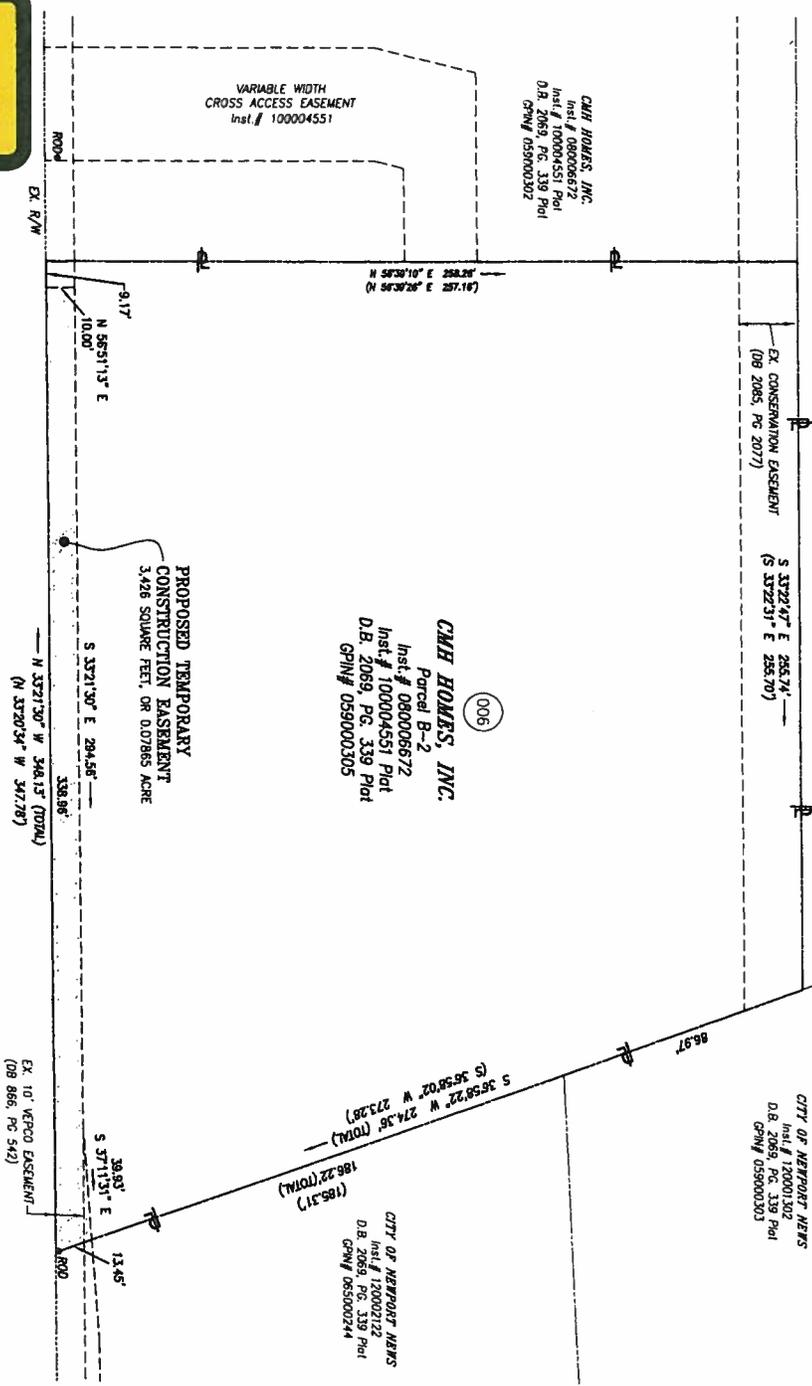


**EXHIBIT**

**6**

Asp/ged

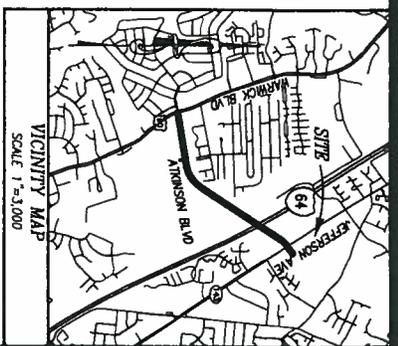
ACAD: A11-DED-PARCEL006.dwg



□ DENOTES AREA OF TEMPORARY CONSTRUCTION EASEMENT

**AREA TABLE**

PARCEL (PER PLAN)	AREA DESCRIPTION	SQ. FT.	ACRES
77,620	TEMPORARY CONSTRUCTION EASEMENT	3,426	0.07865
1,7819			



- SURVEY NOTES:**
1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, AND DOES NOT SHOW ANY PHYSICAL IMPROVEMENTS, NOR ALL EASEMENTS, RESTRICTIONS OR ENCUMBRANCES THAT MAY AFFECT THE PROPERTY.
  2. PROPERTY LINE AND RIGHT-OF-WAY INFORMATION IS BASED ON PLATS.
  3. DEEDS OF RECORD AND ACTUAL FIELD MEASUREMENTS.
  4. THIS PLAN IS FOR PROPOSED EASEMENT PURPOSES ONLY AND IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY FOR A SUBDIVISION OF LAND.
  5. SOURCE OF TITLE AND LAST PLACE OF RECORD INSTRUMENT F. 080006672 RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS, VIRGINIA.

APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
DIRECTOR OF PUBLIC WORKS



PLAT OF EASEMENT DEDICATION TO  
**THE CITY OF NEWPORT NEWS**  
 FROM  
**CMH HOMES, INC.**  
 FOR  
**ATKINSON BOULEVARD**  
**VDOT PROJECT: 0000-121-V11**  
 UPG NO. 4483  
 NEWPORT NEWS, VIRGINIA  
 SCALE: 1" = 30'  
 DATE: MAY 23, 2016

**PRECISION MEASUREMENTS, INC.**  
 SURVEYORS - G.S. - 3-D SCANNING - GS - MAPPERS  
 VIRGINIA BEACH-RICHMOND-NEWPORT NEWS-CHARLTY, VIRGINIA  
 11835 CANON BOULEVARD, SUITE 8703  
 NEWPORT NEWS, VIRGINIA 23686  
 TEL: (757) 595-7570



SHEET 1 OF 1

**SURVEY NOTES:**

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, AND DOES NOT SHOW ANY PRACTICAL APPROXIMATIONS FOR ALL EASEMENTS, RESTRICTIONS OR ENCUMBRANCES THAT MAY AFFECT THE PROPERTY.
2. PROPERTY LINE AND RIGHT-OF-WAY INFORMATION IS BASED ON PLATS, RECORDS OF RECORD AND ACTUAL FIELD MEASUREMENTS.
3. THIS PLAT IS FOR PROPOSED EASEMENT PURPOSES ONLY AND IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY NOR A SUBDIVISION OF LAND.
4. SOURCE OF TITLE AND LAST PLACE OF RECORD: D.B. 285, PG. 2078 (REMPOR NEWS, VIRGINIA).

APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 DIRECTOR OF PUBLIC WORKS

**CURVE DATA**

STATION	CHORD BEARING	CHORD LENGTH
1	S 58°28'28" E	24.53
2	S 58°38'50" W	10.00
3	N 74°59'08" E	49.64
4	S 33°11'48" E	39.35
5	S 33°10'42" W	26.21
6	S 02°45'55" N	24.08



**AREA TABLE**

AREA DESCRIPTION	SQ. FT.	ACRES
PARCEL (PER PLAT)	43,714	10.0033
TEMP. CONSTRUCTION EASEMENTS	2,320	0.0533

□ DENOTES AREA OF PROPOSED TEMPORARY CONSTRUCTION EASEMENT

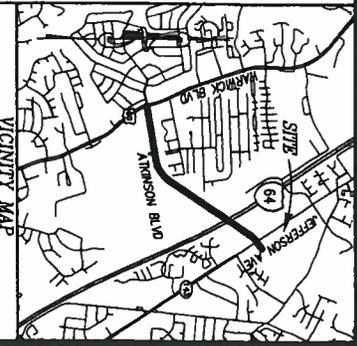
CITY OF NEWPORT NEWS  
 Plat # 120001302  
 D.B. 2069, PG. 339 Plat  
 GPM# 065000245



CITY OF NEWPORT NEWS  
 Plat # 120001302  
 D.B. 2069, PG. 339 Plat  
 GPM# 065000303

WARWICK #15198, LLC  
 D.B. 285, PG. 2078  
 D.B. 2069, PG. 339 Plat  
 GPM# 065000219

REFERENCES  
 D.B. 285, PG. 2078



PLAT OF EASEMENT DEDICATION TO  
 THE CITY OF  
 NEWPORT NEWS  
 FROM  
 WARWICK #15198, LLC  
 FOR  
 ATKINSON BOULEVARD  
 VDOT PROJECT:  
 U000-121-V11  
 DPC NO. 4483  
 NEWPORT NEWS, VIRGINIA  
 SCALE: 1" = 50'  
 DATE: MAY 26, 2016



PRECISION MEASUREMENTS, INC.  
 SURVEYORS - CGS - 1-0 SCANNING - GIS - MAPPERS  
 VIRGINIA BEACH - RICHMOND - NEWPORT NEWS - CHARLLOTTE, VIRGINIA  
 11625 CANNON BOULEVARD, SUITE B103  
 NEWPORT NEWS, VIRGINIA 23606  
 TEL: (757) 585-7570

SHEET 1 OF 1



10. 12-103-02A ACAD: A1X-DED-PARCEL007.dwg

## **E. Public Hearings**

5. Ordinance Authorizing the City Manager to Make Offers to Acquire by Purchase or Condemnation, Portions of Property for the Newport News Transportation Center Project (NNTC) Multimodal Station, to Provide Funds for this Purpose, and to Execute All Documents Necessary to Effect the Purchase

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING THE CITY MANAGER TO MAKE OFFERS TO ACQUIRE BY PURCHASE OR CONDEMNATION, PORTIONS OF PROPERTY FOR THE NEWPORT NEWS TRANSPORTATION CENTER PROJECT (NNTC) MULTIMODAL STATION, TO PROVIDE FUNDS FOR THIS PURPOSE, AND TO EXECUTE ALL DOCUMENTS NECESSARY TO EFFECT THE PURCHASE.

**BACKGROUND:**

- A property acquisition and permanent easement is required at 13380 Warwick Springs Drive to accommodate a retaining wall and water line relocation.
- Property acquisitions are required at 482 Youngs Mill Lane, 490 Youngs Mill Lane and 550 Youngs Mill Lane, as well as, 13020 Mitchell Point Road to facilitate the construction of an Amtrak Maintenance Facility near Sluice Mill Pond.

**FISCAL IMPACT:**

- The total appraised value of all acquisitions is \$2,423,533.
- Funding for this acquisition is available through previously appropriated State and Federal funds.
- The City Manager recommends approval.

### **ATTACHMENTS:**

#### **Description**

CM Memo re NNTC Multimodal Station Property Acquisition

Maps for NNTC Multimodal Station

Maps for NNTC Multimodal Station no2

sdm14749 Authorizing Property Acquisitions - NNTC

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

October 19, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Newport News Transportation Center (NNTC) - Property Acquisition

City Council is requested to adopt an ordinance authorizing the City Manager to make offers, negotiate, or condemn if necessary, and to execute all documents necessary to acquire, by purchase or condemnation, parcels of property at 482 Youngs Mill Lane, 550 Youngs Mill Lane, 490 Youngs Mill Lane, 13020 Mitchell Point Road, 13380 Warwick Springs Drive, for the Newport News Transportation Center (NNTC) Project.

A property acquisition and permanent easement is required at 13380 Warwick Springs Drive to accommodate a retaining wall and water line relocation. Property acquisitions are required at 482 Youngs Mill Lane, 550 Youngs Mill Lane, 490 Youngs Mill Lane, and 13020 Mitchell Point Road, to facilitate the construction of an Amtrak maintenance facility adjacent to Sluice Mill Pond.

The approximate value of the acquisitions is \$2,423,533. This funding is available through previously appropriated State and Federal funds

I recommend approval of the resolution.

  
James M. Bourey

JMB/VPU/plw

Attachment

cc: Everett Skipper, Director, Department of Engineering



CITY OF NEWPORT NEWS, VIRGINIA

# NEWPORT NEWS TRANSPORTATION CENTER





**LEGEND**

**PROPERTY ACQUISITIONS**

- EASEMENT
- PARCEL

SERVICE FACILITY SITE

CITY OF NEWPORT NEWS, VIRGINIA

**NEWPORT NEWS TRANSPORTATION CENTER - ACQUISITIONS**



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO MAKE OFFERS TO ACQUIRE, BY PURCHASE OR CONDEMNATION, PORTIONS OF CERTAIN PARCELS OF REAL PROPERTY HEREINAFTER MORE PARTICULARLY DESCRIBED, FOR THE NEWPORT NEWS TRANSPORTATION CENTER PROJECT, TO PROVIDE FUNDS FOR THIS PURPOSE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST ALL DOCUMENTS NECESSARY TO EFFECT THE PURCHASE AUTHORIZED HEREIN.

WHEREAS, in the opinion of the Council of the City of Newport News, a public necessity exists for the acquisition of certain real property interests, hereinafter more particularly described, for the purpose of design and construction of the Newport News Transportation Center, and for the preservation of the safety, health, peace, good order, comfort, convenience, morals and welfare of the City of Newport News.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia, after a properly noticed Public Hearing on October 25, 2016, pursuant to Virginia Code §15.2-1903:

Section 1. That the Council hereby authorizes the acquisition of unencumbered fee simple title by general warranty deed or other interests in the properties identified in Section 6 of this ordinance..

Section 2. That the City Attorney be, and hereby is, authorized and directed to acquire in a manner provided by Title 15.2, Chapter 19 and Title 25.1, Chapters 2 and 3, of the Code of Virginia, 1950, as amended, interests in those certain properties located in the City of Newport News, Virginia, together with all rights appurtenant thereto, if appropriate, to implement the Newport News Transportation Center Project, the said properties where the interests are to be acquired, and a preliminary indication of ownership being more particularly described in Section 6 of this ordinance.

Section 3. That the City Manager is hereby authorized and directed to act for and on behalf of the City of Newport News in agreeing and disagreeing with the owners of the properties upon the compensation to be paid therefor within the limits of the funds provided herein for this purpose as set out in Section 6 of this ordinance and to sign any documents necessary to effectuate acquisition of the properties.

Section 4. That in order to provide funds for the acquisition of interests in the said properties and to defray the costs incident thereto, the sum of TWO MILLION, FOUR HUNDRED TWENTY-NINETHOUSAND,FIVE HUNDRED AND 00/100 DOLLARS (\$2,429,500.00) or so much thereof as may be necessary, is hereby designated from funds appropriated for acquisition of the hereinafter described properties.

Section 5. That the authority to acquire interests in the property listed in Section 6 of this

ordinance shall include all necessary authority to acquire clear title to those properties and shall, without intending to be a limitation, include the authority to institute proceedings against successors in title or to institute eminent domain proceedings in order to establish clear title.

Section 6. That the present owners of the properties to be acquired, or interests therein, and a description of said properties or their interests, and the funds necessary to compensate the owners of the properties are as follows (the interests to be acquired being fee simple ownership unless otherwise indicated on the plats attached hereto):

A. Four parcels from which the City will be obtaining interest are subject to a common plan of development, and the parcels listed below define the parcels are attached, and the appraised value which will be described in Section 6.B. below, will encompass the interest taken in all four lots:

Parcel 01 - a Portion Acquired in Fee Simple of 4,629 Square Feet or 0.016 Acre, a Drainage and Utility Easement of 1,296 Square Feet or 0.030 Square Feet, A Drainage and Utility Easement of 2,296 Square Feet or 0.053 Acre, a Drainage Easement of 825 Square Ft or 0.019 Acre, a temporary Construction Easement of 851 Square Feet or 0.020 Acre, a temporary construction easement of 844 Square Feet or 0.019 Acre, a 20 Foot Access and Utility Easement of 1,753 Square Feet or 0.040 Acre and a Twenty Foot Access easement of 12, 237 Square Feet or 0.081 Acre from Young's Mill Apartments. LTD. The interest(s) to be acquired affect a parcel currently used as an apartment complex located at 482 Youngs Mill Lane and further described as listed as Tax Parcel 14000101, and more particularly described on a plat attached to this Ordinance as Exhibit 1.

Parcel - 02 - a permanent fee simple acquisition of 36,861 Square feet or 0.846 Acre, from YM DEVCO, LLC, representing a portion of a Parcel identified as 490 Youngs Mill Lane, Tax Parcel 14000108, and more particularly described on a plat attached to this Ordinance as Exhibit 2.

Parcel 03 - a permanent fee simple acquisition of 124,760 Square feet or 2.864 Acres, from YM DEVCO-10, LLC, representing a portion of a Parcel identified as 550 Youngs Mill Lane, Tax Parcel 14000109, and more particularly described on a plat attached to this Ordinance as Exhibit 3.

Parcel 04 - a permanent fee simple acquisition of 60,325 Square feet or 1.385 Acre, from YM DEVCO, LLC, representing a portion of a Parcel identified as 13020 Mitchell Point Road, Tax Parcel 1150000125, and more particularly described on a plat attached to this Ordinance as Exhibit 4.

B. The appraised value of all portions of parcels listed as Parcels 1 through 4 above is

TWO MILLION FOUR HUNDRED TWENTY THOUSAND AND 00/100 DOLLARS (\$2,420,000.00).

C. In addition, there is a fifth parcel as described below:

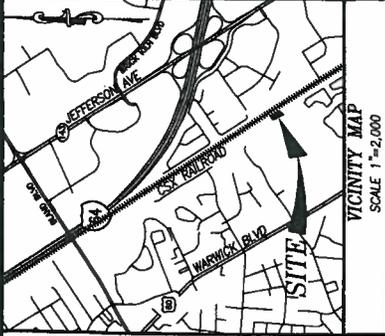
Parcel 05 - A fee simple acquisition of 12,693 Square Feet, or 0.062 Acre and a Drainage and Utility Easement of 3,376 Square Feet, or 0.078 Acre from Carlito A. Hidalgo and Rosalina C. Hidalgo, for NINE THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$9,500.00). The interest(s) to be acquired affect(s) a parcel identified as 13380 Warwick Springs Road, Tax Parcel 130000440, and more particularly described on a plat attached to this Ordinance as Exhibit 5.

Section 7. That this ordinance shall be in effect on and after the date of its adoption, October 25, 2016.



**EXHIBIT**

**2**



**REFERENCES:**

- INST# 160001180
- D.B. 1456, PG. 1698
- D.B. 1399, PG. 1481
- D.B. 1627, PG. 1279
- D.B. 1238, PG. 821 PLAT
- D.B. 1195, PG. 288 PLAT
- D.B. 1373, PG. 2021 PLAT
- D.B. 1394, PG. 1439 PLAT
- P.B. 2, PG. 8

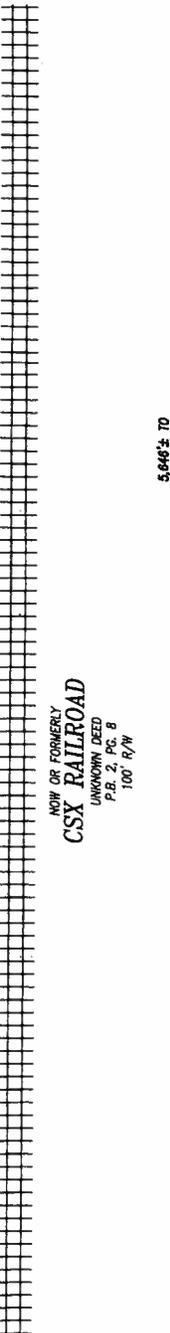
PLAT OF PROPERTY  
TO BE COMEDED TO  
**THE CITY OF NEWPORT NEWS**  
FROM  
**YM DEVCO, LLC**  
FOR  
NEWPORT NEWS TRANSPORTATION CENTER  
NEWPORT NEWS, VIRGINIA

SCALE= 1" = 30'  
DATE: APRIL 21, 2016



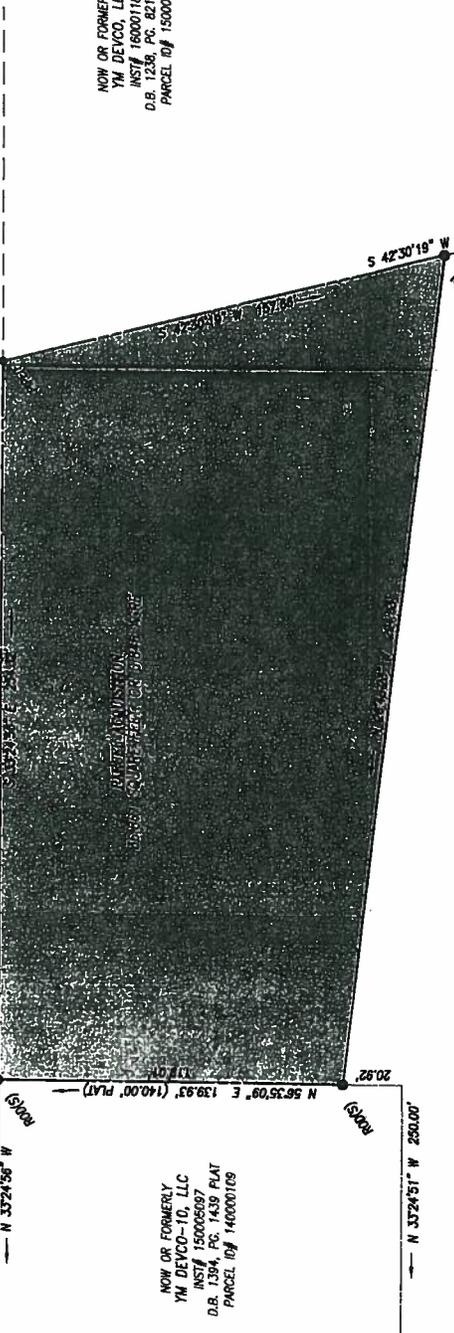
**PRECISION MEASUREMENTS, INC.**  
SURVEYORS • GPS • 3-D SCANNING • GIS • MAPPERS  
VIRGINIA BEACH—RICHMOND—NEWPORT NEWS—CHANTILLY, VIRGINIA  
17855 CANYON BLVD, SUITE B103  
NEWPORT NEWS, VIRGINIA 23606  
TEL: 757.595-7570

VIRGINIA STATE PLANE  
COORDINATE SYSTEM  
SOUTH ZONE (NAD83/2011)



5.646± TO  
BLAND BLVD.  
S 33°24'56" E  
30' CITY OF NEWPORT NEWS RIGHT-OF-WAY  
D.B. 1238, PG. 821

NOW OR FORMERLY  
**YM DEVCO, LLC**  
INST# 160001180  
D.B. 288, PG. 11 PLAT  
PARCEL ID# 130000125



PROPERTY OF  
**YM DEVCO, LLC**  
INST# 160001180  
D.B. 1195, PG. 288 PLAT  
PARCEL ID# 140000108

NOW OR FORMERLY  
**YM DEVCO-10, LLC**  
INST# 15000597  
D.B. 1534, PG. 1439 PLAT  
PARCEL ID# 140000109

NOW OR FORMERLY  
**CITY OF NEWPORT NEWS**  
UNKNOWN DEED  
P.B. 2, PG. 8  
PARCEL ID# 140000109

NOW OR FORMERLY  
**CSX RAILROAD**  
UNKNOWN DEED  
P.B. 2, PG. 8  
100' R/W



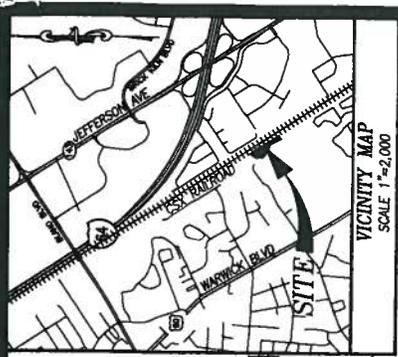
**AREA TABLE**

ORIGINAL PARCELS (PER PLAT)	SQUARE FEET	ACRES
PARCEL ACQUISITION	1,211,457	27.7608
RESIDUAL PARCEL	1,277,983	29.339

**SURVEY NOTES:**

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, AND DOES NOT SHOW ANY PHYSICAL IMPROVEMENTS, NOR ALL EASEMENTS, RESTRICTIONS OR ENCUMBRANCES THAT MAY AFFECT THE PROPERTY.
2. PROPERTY LINE AND RIGHT-OF-WAY INFORMATION IS BASED ON PLATS, DEEDS OF RECORD AND ACTUAL FIELD MEASUREMENTS.
3. THIS PLAT IS FOR PROPERTY ACQUISITION PURPOSES ONLY AND IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY NOR A SUBDIVISION OF LAND.
4. SOURCE OF TITLE AND LAST PLACE OF RECORD: INST# 160001180, RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS, VIRGINIA.

VIRGINIA STATE PLANE  
COORDINATE SYSTEM  
SOUTH ZONE (NAD83/2011)



REFERENCES:  
 INST# 150005087  
 D.B. 1394, PC. 1439 PLAT  
 D.B. 1195, PC. 288 PLAT  
 D.B. 1564, PC. 977 PLAT  
 P.B. 2, PC. 8

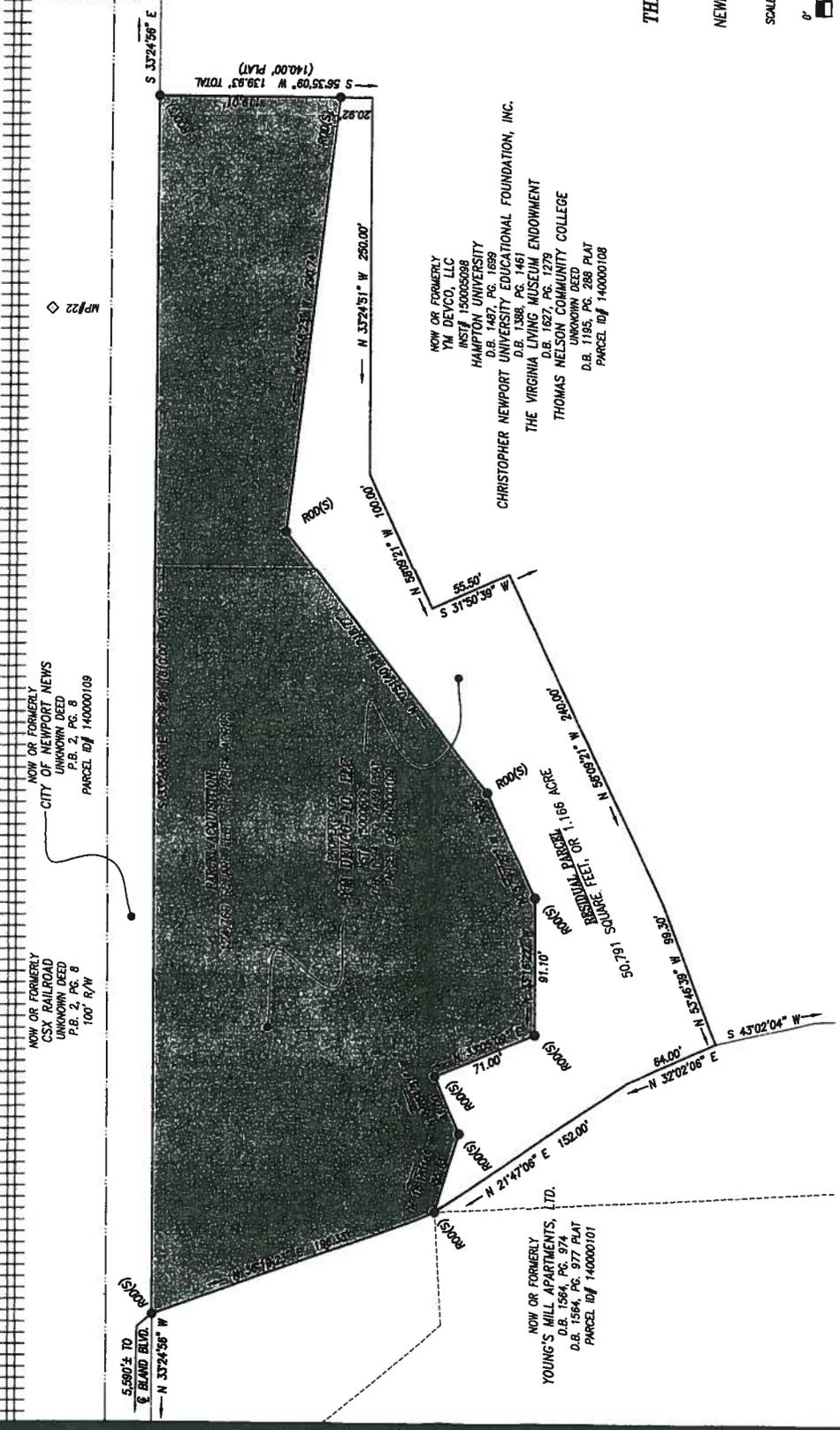


PLAT OF PROPERTY  
 TO BE CONVEYED TO  
**THE CITY OF NEWPORT NEWS**  
 FROM  
**YM DEVCO-10, LLC**  
 FOR  
 NEWPORT NEWS TRANSPORTATION CENTER  
 NEWPORT NEWS, VIRGINIA  
 SCALE= 1" = 50' DATE: SEPTEMBER 29, 2015



**PRECISION MEASUREMENTS, INC.**  
 SURVEYORS • GPS • 3-D SCANNING • GS • MAPPERS  
 VIRGINIA BEACH • RICHMOND • NEWPORT NEWS • CHANTILLY, VIRGINIA  
 11835 CANYON BLVD, SUITE 8103  
 NEWPORT NEWS, VIRGINIA 23606  
 TEL: 757-585-7570

SHEET 1 OF 1

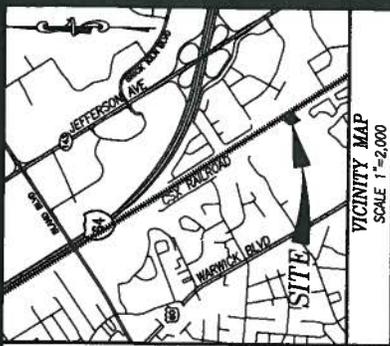


AREA TABLE

ORIGINAL PARCELS	SQUARE FEET	ACRES
ORIGINAL PARCELS	178,551	4.030
PARCELS ACQUIRED	184,780	2.664
RESIDUAL PARCELS	50,791	1.168

**SURVEY NOTES:**

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, AND DOES NOT SHOW ANY PHYSICAL IMPROVEMENTS NOR ALL EASEMENTS, RESTRICTIONS OR ENCUMBRANCES THAT MAY AFFECT THE PROPERTY.
2. PROPERTY LINE AND RIGHT-OF-WAY INFORMATION IS BASED ON PLATS, DEEDS OF RECORD AND ACTUAL FIELD MEASUREMENTS.
3. THIS PLAT IS FOR PROPERTY ACQUISITION PURPOSES ONLY AND IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY NOR A SUBDIVISION OF LAND.
4. SOURCE OF TITLE AND LAST PLACE OF RECORD: INST# 150005087 RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS, VIRGINIA.



**REFERENCES:**

- INST# 160001180
- D.B. 1487, PG. 1699
- D.B. 1386, PG. 1461
- D.B. 1827, PG. 1279
- D.B. 1236, PG. 821 PLAT
- D.B. 1195, PG. 288 PLAT
- D.B. 1373, PG. 2021 PLAT
- P.B. 2, PG. 6

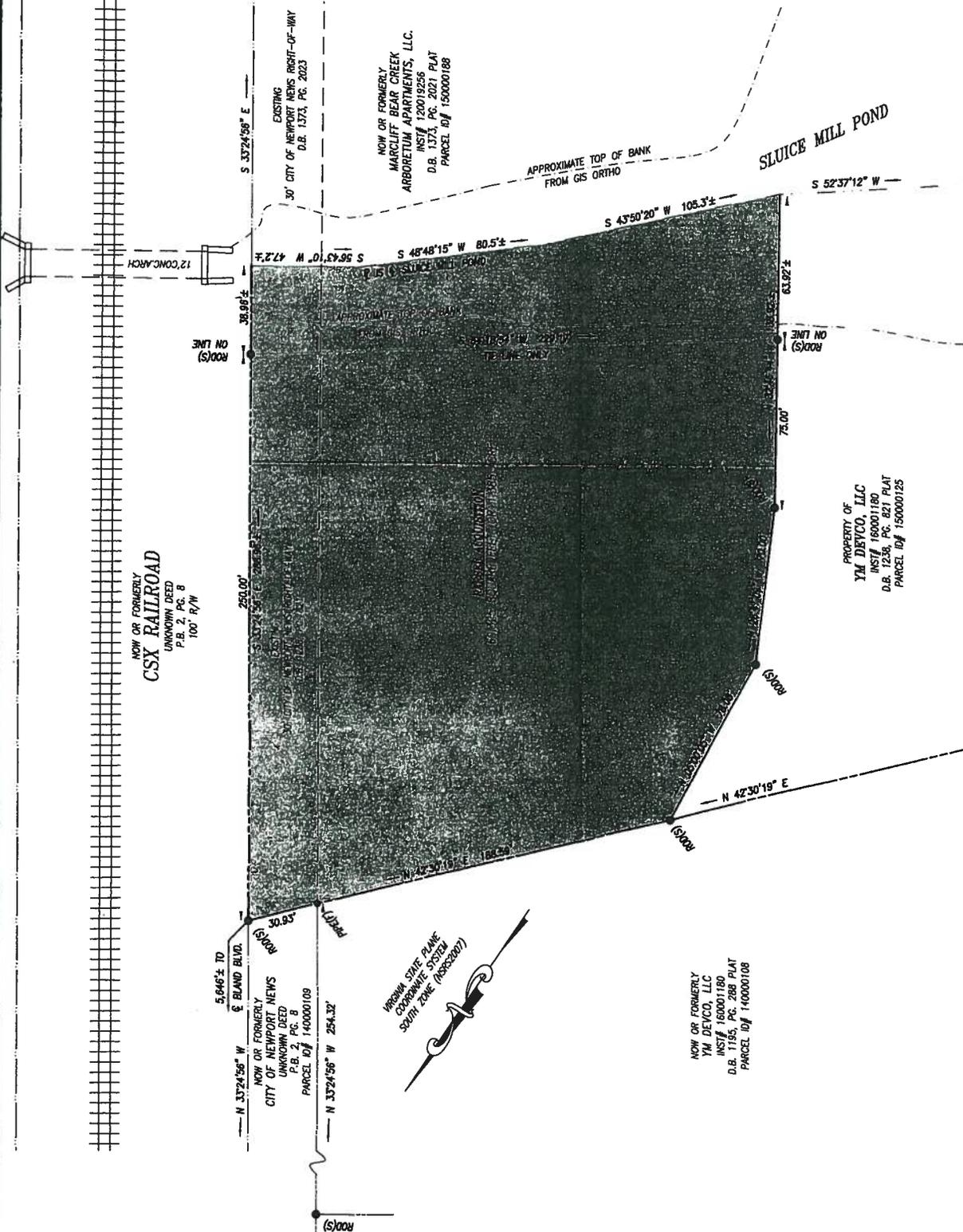
PLAT OF PROPERTY  
TO BE COMEDED TO  
FROM  
**THE CITY OF NEWPORT NEWS**  
FOR  
**YM DEVCO, LLC**  
NEWPORT NEWS TRANSPORTATION CENTER  
NEWPORT NEWS, VIRGINIA

SCALE = 1" = 30'  
0' 30' 60' 90'  
DATE: APRIL 21, 2016  
GRAPHIC SCALE



**PRECISION MEASUREMENTS, INC.**  
SURVEYORS GPS 3-D SCANNING - GIS - MAPS  
VIRGINIA BEACH - RICHMOND - NEWPORT NEWS - CHARLOTTE, VIRGINIA  
11835 CANON BLVD. SUITE 8103  
NEWPORT NEWS, VIRGINIA 23606  
TEL: 757 585-7570

SHEET 1 OF 1



**AREA TABLE**

ORIGINAL PARCEL (PER PLAT)	SQUARE FEET	ACRES
PARCEL ACQUISITION	377,230	8.66
RESIDUAL PARCEL	60,325	1.385
	316,905	7.276

**SURVEY NOTES:**

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, AND DOES NOT SHOW ANY EASEMENTS, ENCUMBRANCES, RESTRICTIONS OR ENCUMBRANCES THAT MAY AFFECT THE PROPERTY.
2. PROPERTY LINE AND RIGHT-OF-WAY INFORMATION IS BASED ON PLATS, DEEDS OF RECORD AND ACTUAL FIELD MEASUREMENTS.
3. THIS PLAT IS FOR PROPERTY ACQUISITION PURPOSES ONLY AND IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY NOR A SUBDIVISION OF LAND.
4. SOURCE OF TITLE AND LAST PLACE OF RECORD: INST# 160001180, RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS, VIRGINIA.

**SURVEY NOTES:**

1. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, AND DOES NOT SHOW ANY PHYSICAL IMPROVEMENTS, NEAR ADJACENTS, RESTRICTIONS OR ENCUMBRANCES THAT MAY AFFECT THE PROPERTY.
2. PROPERTY LINE AND RIGHT-OF-WAY INFORMATION IS BASED ON PLATS, DEEDS OF RECORD AND ACTUAL FIELD MEASUREMENTS.
3. THIS PLAT IS FOR PROPERTY AND EASEMENT ACQUISITION PURPOSES ONLY AND IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY NOR A SUBDIVISION OF LAND.
4. SOURCE OF TITLE AND LAST PLACE OF RECORD: D.B. 1750, PG. 1, 1860 RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS, VIRGINIA.

APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 DIRECTOR OF PUBLIC WORKS



PLAT OF PROPERTY TO BE CONVEYED TO  
**THE CITY OF NEWPORT NEWS**  
 FROM  
**CARLITO A. HIDALGO &  
 ROSALINA C. HIDALGO**

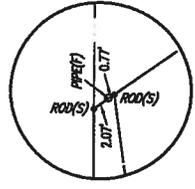
**LOT 22**  
 WARWICK SPRINGS SUBDIVISION  
 FOR  
**NEWPORT NEWS TRANSPORTATION CENTER**  
 NEWPORT NEWS, VIRGINIA  
 SCALE= 1" = 20'  
 DATE: NOVEMBER 13, 2015  
 SHEET 1 OF 1



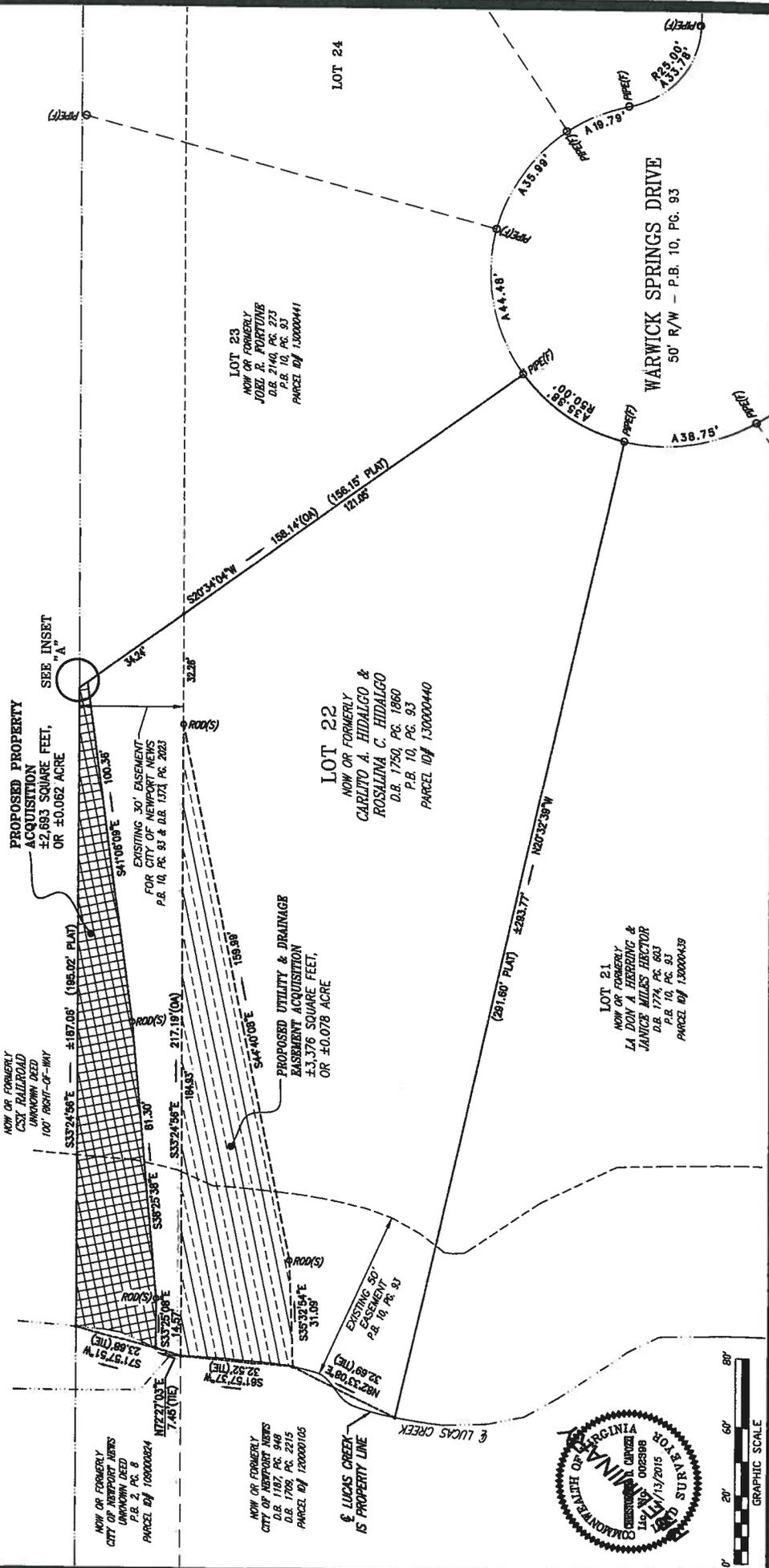
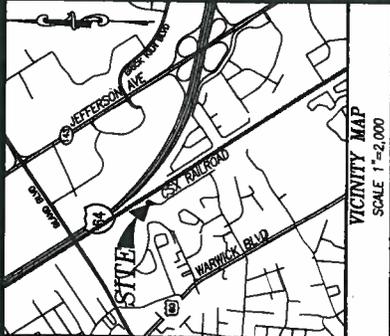
**PRECISION MEASUREMENTS, INC.**  
 SURVEYORS - GPS - 3-D SCANNING - CS - HARPERS  
 VIRGINIA BEACH - RICHMOND - NEWPORT NEWS - CHARLOTTE, VIRGINIA  
 11835 CAMON BLD. SUITE 6103  
 NEWPORT NEWS, VIRGINIA 23606  
 TEL. 757.595-7570

**AREA TABLE**

AREA DESCRIPTION	SQ. FT.	ACRES
ORIGINAL PARCEL AREA (PER PLAT)	432,800	±0.753
PARCEL ACQUISITION AREA	±2,693	±0.062
RESIDUAL PARCEL AREA	±30,107	±0.691
EXISTING EASEMENT AREA	±6,042	±0.139
EASEMENT ACQUISITION AREA	±3,376	±0.078



**INSET "A"**  
 SCALE: 1" = 10'



## E. Public Hearings

### 6. Ordinance Authorizing the City Manager to Execute Any and All Documents Necessary to Effectuate the Conveyance of Eight (8) City-Owned Properties to Newport News Redevelopment and Housing Authority (NNRHA)

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE ANY AND ALL DOCUMENTS, INCLUDING DEEDS, NECESSARY TO EFFECTUATE THE CONVEYANCE OF EIGHT (8) CITY-OWNED PROPERTIES TO THE NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY (NNRHA).

**BACKGROUND:**

- This action is consistent with the City's ongoing efforts to encourage single-family residential development within the Southeast Community.
- The City Manager is recommending that the City convey eight (8) city-owned vacant lots to the NNRHA.
- Four of the properties will be combined to create two buildable-by-right lots.
- Upon conveyance, NNRHA has also agreed to transfer one (1) of the combined properties to Habitat for Humanity Peninsula and Greater Williamsburg to build a Habitat home on the site over the course of the next year.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

#### ATTACHMENTS:

##### Description

CM Memo re Conveyance of City-owned Vacant Lots  
sdm14740 Conveyance of City Owned Property to NNRHA

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

October 19, 2016

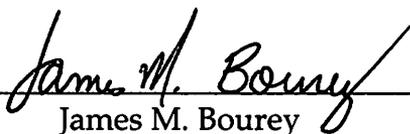
**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Conveyance of Vacant Property by the City of Newport News

Consistent with the City's ongoing efforts to encourage single-family residential development within the Southeast Community, I am recommending that the City convey eight (8) city-owned vacant lots to the Newport News Redevelopment and Housing Authority (NNRHA). Four (4) of the properties are contiguous and will be combined to create two (2) buildable by right lots. In furtherance of this effort, staff has already vacated the prior lot lines and recorded the combined lots.

Once conveyed, NNRHA will utilize five (5) of the properties for a Request For Proposal (RFP) seeking single-family infill residential development. The RFP is scheduled to be issued imminently.

Upon conveyance, NNRHA has also agreed to transfer one (1) of the now combined properties (2001 and 2003 Marshall Avenue) to Habitat for Humanity Peninsula and Greater Williamsburg. Habitat for Humanity intends to build a Habitat home on the site over the course of the next year.

I recommended that City Council adopt the ordinance authorizing the conveyance of the property.

  
James M. Bourey

JMB:epm

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST ON BEHALF OF THE CITY OF NEWPORT NEWS ANY AND ALL DOCUMENTS, INCLUDING DEEDS, NECESSARY TO EFFECTUATE THE CONVEYANCE OF CERTAIN CITY OWNED PROPERTY TO THE NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY.

WHEREAS, the City Manager has recommended that certain City owned property be conveyed to the Newport News Redevelopment and Housing Authority; and

WHEREAS, the City Council concurs with this recommendation, finding that it is in the public interest to make such conveyances.

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

1. That it desires to, and hereby does, authorize and direct the City Manager to execute and the City Clerk to attest on behalf of the City of Newport News, Virginia, any and all documents necessary to effectuate the conveyance, by special warranty, of the City owned properties listed below to the Newport News Redevelopment and Housing Authority:

<u>ACCOUNT</u>	<u>ADDRESS</u>	<u>LEGAL DESCRIPTION</u>
307.0404-14	1225 - 21 <sup>st</sup> Street	Lots 22, 23, & 24, Block 28-C
306.0406-12	834 - 24 <sup>th</sup> Street	Lots 51 & 52, Block 53
301.0204-52	1305 - 29 <sup>th</sup> Street	Lots 24 & 24 ½, J. Heffelfinger's Williams Land
312.0204-36	2001 Marshall Avenue	Lot 8, Block 34
312.0204-35	2003 Marshall Avenue	Lot 7, Block 34
301.0403-52	2606 Oak Avenue	Lot 35 & Pt Alley, Block 46-C
301.0403-28	2608 Oak Avenue	Lot 36 & Pt Alley, Block 46-C
301.0205-74	2800 Oak Avenue	Lot 8, Block 50

2. That the documents necessary to implement the property conveyances authorized herein shall either be prepared by or reviewed by the City Attorney before their execution. The City Manager and City Attorney are hereby authorized to resolve title issues or other matters necessary to effectuate the conveyance of the properties to the Authority.

3. That this ordinance shall be in effect on and after the date of its adoption, October 25, 2016.

## E. Public Hearings

### 7. Ordinance Amending City Code, Chapter 13, Building Regulations; by Adding New Article XII., Identification and Inspection of Rental Dwelling Units

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AMENDING CITY CODE, CHAPTER 13, BUILDING REGULATIONS; BY ADDING NEW ARTICLE XII., IDENTIFICATION AND INSPECTION OF RENTAL DWELLING UNITS, TO INCLUDE THE ESTABLISHMENT OF RENTAL INSPECTION DISTRICTS.

**BACKGROUND:**

- City Council was briefed at its September 27th work session on the proposed establishment of a Rental Inspection District in south Newport News.
- As the *Code of Virginia* permits localities to create Residential Rental Dwelling Inspection Districts, approval of this Ordinance will establish such.
- The proposed project area is defined as U.S. Census Bureau Neighborhood Statistical Areas 1, 2 & 3, which make up much of Newport News south of 39th Street and the maps of this area are attached to the City Manager's memo.
- As the City's housing stock continues to age, it is extremely important that the City stabilizes neighborhoods and improve the condition of its housing stock.
- Upon approval of this Ordinance, staff will continue its ongoing efforts to communicate with rental property owners, citizens, and others to notify them about the implementation process and their requirements and responsibilities under the program.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

#### ATTACHMENTS:

##### Description

CM Memo re Rental Inspection District

Area Maps of Rental Inspection District

Regional Profile

General Rental Housing Inspection List

sdm14719 Adding Article XII, Identification and Inspection of Rental Dwelling Units

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

October 19, 2016

**TO:** The Honorable City Council

**FROM:** City Manager

**SUBJECT:** Ordinance Establishing a Residential Rental Dwelling Inspection District

At your September 27th Work Session, staff briefed City Council on the proposal to establish a rental inspection district in south Newport News. The *Code of Virginia*, Section 36-105.1:1 permits localities to create Residential Rental Dwelling Inspection Districts when it has been determined that:

- (1) action is necessary to promote public health and safety;
- (2) the targeted rental housing is blighted and deteriorating; and
- (3) inspection is necessary to maintain safe, decent and sanitary living conditions.

The proposed project area is defined as U.S. Census Bureau Neighborhood Statistical Areas 1, 2, & 3 which make up much of Newport News south of 39th Street and generally has the following boundaries: 39th Street to the north, Hampton Roads to the south, the Newport News/Hampton city line to the east and the James River to the west. Maps (Attachment 1) illustrating the project areas are attached for your review. Based on research and available information, these areas in particular have a disproportionately larger share of rental properties that are in poor condition and are further deteriorating.

As the City's housing stock continues to age, it is extremely important that we stabilize neighborhoods and improve the condition of our housing. For many years, Newport News has maintained a code enforcement operation that is responsible for abating hundreds of property maintenance violations each year. This level of enforcement, in concert with beautification, preservation and redevelopment efforts has begun to make a difference in the community. However, it is important that the

The Honorable City Council

Page 2

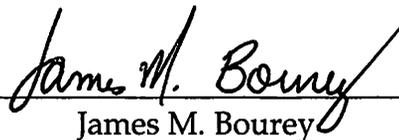
Ordinance Establishing a Residential Rental Dwelling Inspection District

October 19, 2016

City take additional steps to more comprehensively address the housing conditions including the interior conditions of rental property.

Once City Council has established the rental inspection districts, staff will continue its ongoing efforts to communicate with rental property owners, citizens and others potentially impacted parties to notify them about the implementation process and their requirements and responsibilities under the program.

The establishment of the Rental Inspection Program is an important step in our efforts to improve housing conditions and will further support existing revitalization efforts. I recommend that City Council adopt the Rental Inspection District Ordinance as proposed by staff, and prepared and provided by the City Attorney's office.

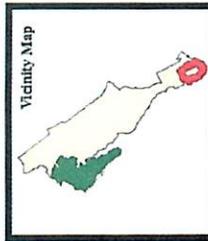
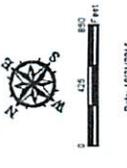
  
James M. Bourey

JMB:CDR:cno

Attachments (3)

**Legend**

-  PUBLIC VEHICLES
-  FIRE STATIONS
-  POLICE STATIONS
-  TAXI STOPS
-  BUILDING
-  CHURCH
-  NSA

Scale: 0 125 250 Feet  
Date: 10/11/2015

2015 Aerial Photography  
Virginia State Code, §A 16.2-218.1, §A 16.2-218.2  
Aerial photography is provided for reference only. It does not constitute a warranty or a statement of fact. The City of Newport News is not responsible for any errors or omissions in this document.



City of Newport News, Department of Engineering, 10/11/2015



Legend

- PUBLIC VEHICLES
- FIRE STATIONS
- POLICE STATIONS
- STREETS
- RAILROADS
- CITY LIMITS
- NSA
- SEA

Vicinity Map



Date: 10/17/2015

2015 Aerial Photography

Virginia State Code - § 15.2-1806 (b) (4) (B)  
Any data or information provided by or on behalf of the City of Newport News is provided as is, without warranty of any kind, and the user assumes all responsibility for its use.







# HOUSING

# SECTION TWO: REGIONAL PROFILE

Locality	Total Housing Units	Owner Occupied	% Owner Occupied	Renter Occupied	% Renter Occupied	Median Housing Value
Hampton Roads PDC	686,135	384,345	61.7	238,091	38.3	--
Virginia Beach City	179,842	105,999	64.1	59,297	35.9	\$263,200
Norfolk City	95,699	37,731	43.7	48,666	56.3	\$196,700
Chesapeake City	85,540	57,644	71.7	22,744	28.3	\$254,900
<b>Newport News City</b>	<b>76,903</b>	<b>34,930</b>	<b>50.6</b>	<b>34,057</b>	<b>49.4</b>	<b>\$194,600</b>
Hampton City	60,036	30,968	58.8	21,732	41.2	\$191,800
Portsmouth City	40,876	20,528	55.8	16,236	44.2	\$173,700
Suffolk City	33,862	22,044	71.6	8,754	28.4	\$240,200
James City County	30,943	20,616	74.5	7,049	25.5	\$320,000
York County	26,953	17,619	73.5	6,351	26.5	\$313,100
Gloucester County	15,993	11,377	80.8	2,697	19.2	\$225,400
Isle of Wight County	14,912	10,679	79.0	2,840	21.0	\$245,400
Southampton County	7,531	4,777	71.8	1,877	28.2	\$159,200
Williamsburg City	4,951	2,023	46.3	2,342	53.7	\$305,000
Poquoson City	4,738	3,763	81.3	864	18.7	\$304,200
Franklin City	3,878	1,559	43.5	2,021	56.5	\$170,900
Surry County	3,478	2,088	78.7	564	21.3	\$160,200

Source: US Census

## **RENTAL HOUSING INSPECTION GENERAL LIST**

Listed below are deficiencies which may appear when a rental inspection is performed. Any identified deficiencies must be corrected before the required certificate can be issued. Use this list to help you prepare for your rental inspection. This is only a general list and not intended to be a complete list of potential deficiencies. **Note: All utilities shall be on.**

- **EXTERIOR**

**Premises identification.** Shall be Arabic numerals or alphabet letter with a minimum height of 4 inches.

**General.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary.

**Protective treatment.** All exterior surfaces, including but not limited to, doors, window frames, cornices, porches, trim, decks shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other treatments.

**Structural members.** Shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

**Foundation walls.** Shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

**Stairways, decks, porches, and balconies.** Shall be maintained structurally sound, in good repair and capable of supporting the imposed loads.

**Handrails and guards.** Shall be firmly fastened and capable of supporting normally imposed loads and in good condition.

**Window, skylight and door frames.** Shall be kept in sound condition, good repair and weather tight.

**Openable windows.** Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

**Rubbish storage facilities.** The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

**Disposal of garbage.** Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

- **INTERIOR STRUCTURE:**

**Structural members.** Shall be structurally sound and capable of supporting the imposed loads.

**Interior surfaces.** Shall be maintained in good, clean and sanitary condition.

**Stairs and walking surfaces.** Shall be maintained in good condition.

**Handrails and guards.** Every handrail and guard shall be maintained in good condition.

**Interior doors.** Shall fit reasonably well within its frame and shall open and close properly.

**Extermination.** The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

**Habitable space.** Every habitable space shall have at least one openable window.

**Heat supply.** Every owner and operator of any building who rents, leases or lets one of more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 15 to May 1 to maintain a temperature of not less than 65 degrees F in all habitable rooms, bathrooms, and toilet rooms. **Note:** One or more unvented room heaters shall not be used as the sole source of comfort heat in a dwelling unit.

**Plumbing.** The owner of the structure shall provide and maintain all plumbing facilities and fixtures.

**Mechanical appliances.** Shall be properly installed and maintained in a safe working condition.

**Clearances.** All required clearances to combustible materials shall be maintained.

**Combustion air.** Shall be provided for all fuel-burning equipment.

**Electrical.** The size and usage of appliances and equipment shall serve as a basis for additional facilities. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase system, not less than 60 amperes.

**Receptacles.** Every habitable space shall contain at least two separate outlets. Every laundry area shall contain a grounded outlet or at least one ground fault circuit interrupted protection. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupted protection.

**Insect screens.** During the period from April 1 to December 1, every door, window and other outside opening required for ventilation of habitable rooms, shall be supplied with approved tightly fitting screens.

**Smoke detectors.** Shall be in good working order. Shall be in each bedroom, outside of each bedroom and on every floor

**Questions, please call the Codes Compliance Division at 757-220-5136.**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, BUILDING REGULATIONS, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, BY ADDING THERETO A NEW ARTICLE, NAMELY: ARTICLE XII., IDENTIFICATION AND INSPECTION OF RENTAL DWELLING UNITS.

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

That Chapter 13, Building Regulations, of the Code of the City of Newport News, Virginia, be, and the same hereby is, amended and reordained, by adding thereto a new article, namely: Article XII., Identification and Inspection of Rental Dwelling Units, as follows:

**CHAPTER 13**

**BUILDING REGULATIONS**

**ARTICLE XII. IDENTIFICATION AND INSPECTION OF RENTAL DWELLING UNITS**

**DIVISION 1. GENERALLY**

**Sec. 13-191. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Dwelling unit” means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household.

“Residential rental dwelling unit” means a dwelling unit that is leased or rented to one or more tenants. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom, unless otherwise provided in the zoning ordinance by the local governing body.

“Multiple-family complex” means any structure, consisting of ten or more dwelling units under common ownership and occupied for valuable consideration. The term "multiple-family

complex" shall not include mobile homes under common ownership in a mobile home park or subdivision; nor shall such term include single-family detached dwellings, duplex dwellings, or townhouse dwellings under common ownership.

“Owner” means the person or entity shown on the current real estate assessment books or current real estate assessment records of the city or the fee simple titleholder of the property if ownership has changed since such tax assessment records were last updated.

“Conditions which immediately affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit” include items that violate fire safety; lack of or poor condition of sanitary facilities; absence of adequate heating systems or equipment; items which affect the safe operation of electrical and mechanical systems; items which affect structural integrity of the building and/or the ability of the building envelope to keep out weather, or one or more other conditions that if not corrected would be reasonably expected to become conditions that affect the safe, decent and sanitary living conditions of the occupants.

“Disqualifying violation” includes those conditions which affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit, or other conditions that violate the provisions of the Virginia Uniform Statewide Building Code, or multiple building code violations that indicate in their totality that the dwelling unit is not being properly maintained.

## **DIVISION 2. RENTAL INSPECTION DISTRICTS**

### **Sec. 13-192. Factors for establishing rental inspection districts.**

After holding a duly advertised public hearing as required by § 36-105.1:1.C.1. of the Code of Virginia, city council finds that within the inspection districts described in section 13-193 herein below (i) there is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the designated rental inspection districts; (ii) the residential rental dwelling units within the designated rental inspection districts are either (a) blighted or in the process of deteriorating, or (b) the residential rental dwelling units are in the need of inspection by the code compliance administrator to prevent deterioration, taking into account the number, age and condition of residential dwelling rental units inside said rental inspection districts, and (iii) the inspection of residential rental dwelling units inside the rental inspection districts is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the rental inspection districts.

**Sec. 13-193. Rental inspection districts established.**

Based upon the findings of city council as set forth in section 13-192 hereinabove, the following areas are included and hereby declared to be rental inspection districts (RID) which are subject to the requirements of this article:

District 1: RID #1



District 2: RID #2



District 3: RID #3



Maps showing the rental inspection districts described in this section are hereby adopted as a part of this article, and shall be available for public inspection in the codes compliance office. Said districts are hereinafter referred to collectively as “rental inspection districts” or “inspection districts”.

**Sec. 13-194. Applicability.**

The provisions of this article shall apply to residential rental dwelling units located within the districts identified in [section 13-193](#) of this article and shall further apply to certain structures located outside of such districts but meeting the requirements of section 1-6(c) herein below.

**DIVISION 3. INSPECTION**

**Sec. 13-195. Inspection and certificate required.**

(a) The owner of each residential rental dwelling unit located in an inspection district shall obtain and permit an initial inspection and subsequent inspections of such residential rental dwelling unit as provided in this section and [section 13-196](#). Inspections under this article shall be conducted by the Department of Codes Compliance who is charged with the enforcement of

this article. If the unit to be inspected is occupied at the time of a required inspection, it shall be the duty of the owner thereof to notify the occupants of such inspection and make the residential rental dwelling unit available for inspection.

(b) If inspection reveals that a residential rental dwelling unit has no disqualifying violations, the Department of Codes Compliance shall issue a 48-month certificate of compliance for such unit. However, if one or more violations of the property maintenance provisions of the Building Code are found that do not constitute a disqualifying violation, the existence of such non-disqualifying violations shall be noted on the 48-month certificate of compliance together with the date by which such non-disqualifying violations must be remedied, which date shall be determined by the Department of Codes Compliance and which date shall be reasonable. The issuance of a certificate of compliance shall not be evidence of a lack of any and all building code violations, and shall not prevent the Department of Codes Compliance from conducting follow-up inspections regarding building code violations in the residential rental unit, whether or not the violations affect the safe decent and sanity occupancy of said unit. If a follow-up inspection reveals that the owner has failed to remedy the noted violations by specified date, the Department of Codes Compliance shall issue a notice of violation, revoke the 48 month certificate of compliance and the unit shall thereafter be subject to annual inspections pursuant to section 13-196.

(c) If inspection of a residential rental dwelling unit reveals one or more disqualifying violations, the Department of Codes Compliance shall not issue a certificate of compliance until the disqualifying violations are satisfactorily remedied. However, the Department of Codes Compliance may issue a temporary certificate of compliance if in the opinion of the Department, such disqualifying violations do not constitute an immediate threat of injury to the occupants of such residential rental dwelling unit. If conditions warrant, however, the Department of Codes Compliance may require that the residential rental dwelling unit be vacated or remain unoccupied until brought into compliance, pursuant to his authority under Code of Virginia, (1950), as amended, § 36-98, et seq., the Virginia Uniform Statewide Building Code. Upon compliance, the Department of Codes Compliance shall, as provided in section 13-196 of this article, issue an annual certificate of compliance.

(d) No annual inspection pursuant to this article shall take place more than one time each year, calculated from the date of the first inspection, should additional inspections be necessary to achieve compliance. However, nothing in this article shall modify the authority of the Department of Codes Compliance to conduct any other inspections, as allowed under the provisions of the Virginia Uniform Statewide Building Code, and inspections for obtaining a certificate of compliance under this article do not supplant or preclude any other inspection authorized under the Virginia Uniform Statewide Building Code.

(e) Unless a current certificate or temporary certificate of compliance is in force for a residential rental dwelling unit is in force in accordance with the provisions of section 13-196

(a)(1) of this article, and such certificate remains in effect, no owner of such unit shall permit any person to occupy such unit as a tenant or otherwise.

(f) A building or structure meeting the definition of a residential rental dwelling unit but located outside of an inspection district shall nevertheless be subject to the terms of this article on the following basis: city council makes a separate finding for said individual residential rental dwelling unit that (i) there is a need to protect the public health, welfare and safety of the occupants of that individual residential rental dwelling unit; (ii) the individual residential rental dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of the building code that affect the safe, decent and sanitary living conditions for occupants of such individual residential rental dwelling unit. Upon said finding by the city council, said residential rental dwelling unit shall be subject to this article, notwithstanding its location outside the inspection districts.

(g) Should the owner fail to timely contact the code compliance office within the required time in order to schedule any inspection required under this article, or should such owner fail to allow such inspection to proceed on the date for which it was scheduled, the owner shall be in violation of this article and shall be subject to such penalties and enforcement remedies as provided in section 13-196 herein below.

**Sec. 13-196. Certificates of compliance; applications and exemptions.**

(a) The following shall apply to all residential rental dwelling units located within inspection districts, which are not exempted under section [13-196](#) (b).

- (1) The initial inspection of each residential rental dwelling unit which is subject to inspection under this article unless the initial inspection is delayed under paragraph (a) of this section, shall take place no later than 120 days from the date that the owner thereof contacts the code compliance office to schedule such inspection. However, should the owner of a residential rental dwelling unit which is subject to inspection under this article, fail to give timely notice as required by section 1-4 the Department of Codes Compliance shall inspect such unit within a reasonable time of becoming aware of such unit. Each residential rental unit for which a certificate of compliance or 48-month certificate of compliance as described in (a)(3) below has been issued shall be again inspected within 30 days from the expiration certificate or expiration or earlier revocation of a 48-month certificate of compliance.

Prior to expiration of the certificate of compliance or 48-month certificate of compliance, or upon earlier revocation of a 48-month certificate of compliance, the owner of the residential rental dwelling unit covered thereby shall contact the code compliance office and arrange for an inspection of such unit. Except in the

case of an inspection following revocation of a 48-month certificate of compliance, should the date scheduled for inspection be after expiration of the current certificate and more than 30 days from the day on which the owner contacted the code enforcement office to schedule inspection, a 30-day temporary certificate of compliance shall be issued. Said inspection shall take place no later than 30 days from the date of application for said inspection, and such temporary certificate shall expire on the date of the inspection.

As to building code violations which do not immediately affect the safe, decent and sanitary living conditions for persons living in such unit, and provided that all inspection fees shall have been remitted in advance to the issuance of such temporary certificate of compliance the Department of Codes Compliance shall issue one temporary certificate of compliance, valid for 30 days and may permit such extensions thereof, as the Department shall deem reasonably necessary to allow for remediation of the violations. However as to building code violations which are disqualifying violations and which violations which pose an immediate threat to the safe, decent and sanitary living conditions for persons living in such unit, then the Department of Codes Compliance shall not issue a temporary certificate of occupancy.

Temporary certificates of compliance shall expire upon the earlier of their stated expiration date or the completion of an inspection which finds all violations satisfactorily remedied.

- (2) Unless a residential rental unit in an inspection district is exempted from inspection under this article, or receives a 48-month certificate of compliance as provided section (a) below, the term of a certificate of compliance issued for any residential rental dwelling unit in an inspection district, shall be for a term of 12 months beginning with the first day of the month next following the month of issuance.
- (3) A residential rental dwelling unit which upon inspection under this article reveals no disqualifying violations, or with only one or more violations of such code that do not affect the safe, decent and sanitary living conditions for persons living in such unit, shall not be subject to further annual inspection under this article for forty-eight (48) months from date of such annual inspection, except as provided in section 1-5, and a 48-month certificate of compliance shall be issued for such unit. However, if a residential rental dwelling unit covered by a 48-month certificate of compliance is found in violation of the Uniform Statewide Building Code during the term of such 48-month certificate of compliance, the Department of Codes Compliance may revoke such 48-month certificate of compliance and such unit shall thereupon become subject to annual inspections and the issuance of annual certificates of compliance. If an annual certificate of compliance is

issued after the inspection necessitated by the violation of the Virginia Uniform Statewide Building Code and revocation of the extended certificate of compliance, then said residential rental dwelling unit shall again be eligible for an extended certificate of compliance only after the annual certificate of compliance has expired and as of the first subsequent annual inspection when no disqualifying violations are found.

- (4) Should a residential rental dwelling unit be sold, or the title thereto be otherwise transferred to another owner during term of a certificate of compliance or 48-month certificate of compliance issued for such unit, the term of such certificate shall end as of the last day of the month next following the month of transfer of ownership and the new owner shall contact the Department of Codes Compliance and arrange for inspection of the unit; provided, however, that if the last inspection of the unit pursuant to this article occurred during the calendar year of transfer of ownership, the existing certificate shall not expire until the end of such calendar year.

(b) The following shall be exempt from the requirements of this article for the time periods indicated:

- (1) No inspection of a newly constructed residential rental dwelling unit located in an inspection district shall be required within 48 months of the issuance of a certificate of occupancy for such newly constructed unit. Thereafter said unit shall in all respects become subject to the requirements of this article.
- (2) All hotels, motels, inns, bed and breakfast establishments, and other similar facilities to the extent occupied by transients shall be exempt from compliance with this article.
- (3) All residential rental dwelling units owned by or leased by an agency of the Commonwealth of Virginia or of the City of Newport News, shall be exempt from compliance with this article so long as said dwelling units are operated by such agency in carrying out its public purpose.

**Sec. 13-197. Multi-family complexes.**

(a) If a multifamily complex contains more than ten residential rental dwelling units, in the initial and annual inspections, the Department of Codes Compliance shall inspect no less than two units and not more than ten percent of the residential rental dwelling units.

(b) Notwithstanding the number of residential rental dwelling units inspected, the Department of Codes Compliance shall charge the fee authorized by this article for inspection of no more than ten dwelling units.

(c) If the Department of Codes Compliance determines upon inspection of the dwelling units in accordance with (a) above that there are within one or more of such units or the building housing same, violations of the Virginia Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for the tenants of such multifamily complex, the Department may inspect as many dwelling units as it deems reasonably necessary to assure compliance with the building code in which case, the fee shall be based upon a charge per dwelling unit inspected, notwithstanding the provisions of paragraph (b) of this section.

#### **DIVISION 4. CERTIFICATE ISSUANCE, INSPECTION FEES AND ENFORCEMENT**

##### **Sec. 13-198. Issuance of certificate; fees.**

(a) Except as provided in section 31-197 above, there shall be a \$50.00 inspection fee for the inspection of each dwelling unit. If repairs or corrections are deemed necessary by the Department of Codes Compliance, and a reinspection is required, no additional fee shall be charged for the reinspection. If, however, subsequent re-inspections are required, there shall be charged an additional fee of \$50.00 per dwelling unit for each subsequent reinspection. No reinspection shall be performed, nor any certificate of compliance be issued, unless all fees have been paid.

(b) Requests for an inspection may be made by telephone; provided that the Department of Codes Compliance shall, in all cases, receive notice from the owner and payment of the applicable inspection fees prior to conducting any inspection required under this article.

(c) The Department of Codes Compliance shall issue a 48-month certificate, as provided in section 13-196 hereinabove if, upon inspection, the Department finds that the residential rental dwelling unit does not have any disqualifying violations. The 48-month certificate of compliance may be issued immediately upon completion of an inspection in which no disqualifying violations are found.

(d) If the dwelling unit fails to comply with any one or more provisions of Virginia Uniform Statewide Building Code, and any amendments thereto, the Department of Codes Compliance shall furnish the owner with a written list of specific violations. Failure to list any violation shall not be deemed a waiver of such violation. Upon the completion of all corrections and repairs, the owner shall arrange a reinspection of the residential rental dwelling unit. Reinspection shall be for the purpose of determining compliance by the owner with the written list of specific violations furnished to the owner by the codes compliance administrator.

However, if upon reinspection, the Department of Codes Compliance discovers other violations that were not listed on the written list of specific violations previously furnished to the owner, the Department shall furnish the owner with a supplemental list of violations and shall provide the owner a reasonable opportunity to correct same. This provision, however, shall not preclude the Department from revoking the 48-month certificate of compliance if the subsequently discovered violations are disqualifying violations or if the non-disqualifying violations have not been corrected pursuant to sections 13-195 and 13-196.

**Sec. 13-199. Appeals; effects.**

(a) Any person aggrieved by any determination or decision of the Department of Codes Compliance made pursuant to this article shall have the right to appeal such determination or decision in accordance with the provisions of the Virginia Uniform Statewide Building Code, and amendments thereto.

(b) Nothing in this article shall be construed to limit, impair, alter or extend the rights and remedies of persons in their relationship of landlord and tenant as such rights and remedies exist under applicable law.

(c) Nothing in this article shall be construed to relieve or exempt any person from otherwise complying with all applicable laws, ordinances, standards and regulations pertaining to the condition of buildings and other structures.

(d) Nothing in this article shall be construed to limit the authority of the Department of Codes Compliance to perform housing inspections in accordance with applicable law.

**Sec. 13-200. Violation; penalty; right of entry.**

(a) Any person willfully failing to comply with the inspection requirements of this article or the Virginia Uniform Statewide Building Code shall be subject to the penalties established section 13-2 of this Code.

(b) The remedies set forth in (a) of this section are not the exclusive remedies for non-compliance with the requirements of this article and the Department of Codes Compliance shall take such further actions as allowed by applicable law in order to obtain compliance with the requirements of this article including, but not limited to seeking injunctive relief under section 15.2-1432 of the Virginia Code and obtaining inspection warrants as provided in section 36-105.C.3. of the Virginia Code.

## **E. Public Hearings**

### 8. Resolution of the Council of the City of Newport News, Virginia Authorizing an Application for a Boundary Amendment of Virginia Enterprise Zone No. 3

**ACTION:** A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, AUTHORIZING AN APPLICATION FOR A BOUNDARY AMENDMENT OF VIRGINIA ENTERPRISE ZONE #3 (NEWPORT NEWS ENTERPRISE ZONES #3 AND #3-A), PURSUANT TO THE VIRGINIA ENTERPRISE ZONE GRANT ACT.

**BACKGROUND:**

- City Council has been previously briefed on the need for adjustment of the boundaries to Virginia Enterprise Zone #3 (Newport News Enterprise Zones #3 and #3-A).
- City Council's approval of this Resolution authorizing the formal application to the Virginia Department of Housing and Community Development (DHCD) is required to accomplish the boundary adjustment.
- This action is critical to the continued success of our Enterprise Zone program by removing ineligible properties to ensure that sufficient land is available for future Enterprise Zone additions in support of the business community.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

#### **ATTACHMENTS:**

##### **Description**

CM Memo re NNEZ #3 Boundary Amendment

##### **Attachment**

sdm14722 Authorizing an Amendment to VA Enterprise Zone #3

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

October 19, 2016

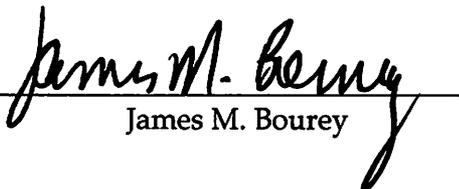
**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Newport News Enterprise Zone Boundary Amendment

I am now requesting City Council's authorization of an application for a boundary amendment to the Virginia Department of Housing and Community Development (DHCD) for the purpose of adjusting the boundaries of Virginia Enterprise Zone #3 (Newport News Enterprise Zones #3 and #3-A), as detailed in my memorandum to you dated September 30, 2016, a copy of which is attached for your convenience.

The boundary amendment application is being made to delete from Virginia Enterprise Zone #3 residential and public use areas, which are ineligible for Enterprise Zone benefits, containing portions of Stuart Gardens, portions of Ward 2 and portions of Ward 3.

This action is critical to the continued success of our Enterprise Zone program as it will remove ineligible properties from the Enterprise Zone and ensure that sufficient land is available for future Enterprise Zone additions in support of our business community.

I recommend City Council approve this Resolution, prepared and provided to you by the City Attorney's Office, authorizing an application to DHCD for a boundary amendment to Virginia Enterprise Zone #3.

  
James M. Bourey

Attachment

JMB:dep

cc: Florence G. Kingston, Director, Department of Development  
Carol Meredith, Assistant Director, Department of Development  
Sam J. Workman, Assistant Director, Department of Development

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

September 30, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Newport News Enterprise Zone Boundary Amendment

The Virginia Enterprise Zone (VEZ) Program is among the most important economic development tools available to Newport News businesses and the City regularly reviews the Enterprise Zones designated in Newport News to determine whether any adjustments to the boundaries would be useful. Staff has been engaged in the process of conducting such a review and has determined that certain boundary changes to VEZ #3, comprised of Newport News Enterprise Zones #3 and #3-A, will be beneficial and necessary to the continued success of the Enterprise Zone program.

The State limits the number of acres the City can include in each of the zones and VEZ #3 is currently at the maximum allowable acreage. To ensure that sufficient land is available for future Enterprise Zone additions in support of our business community, we will be applying to the State for a boundary amendment to VEZ #3 to remove a significant amount of residential and public use areas, as shown on the attached map, that are ineligible to receive Enterprise Zone Benefits.

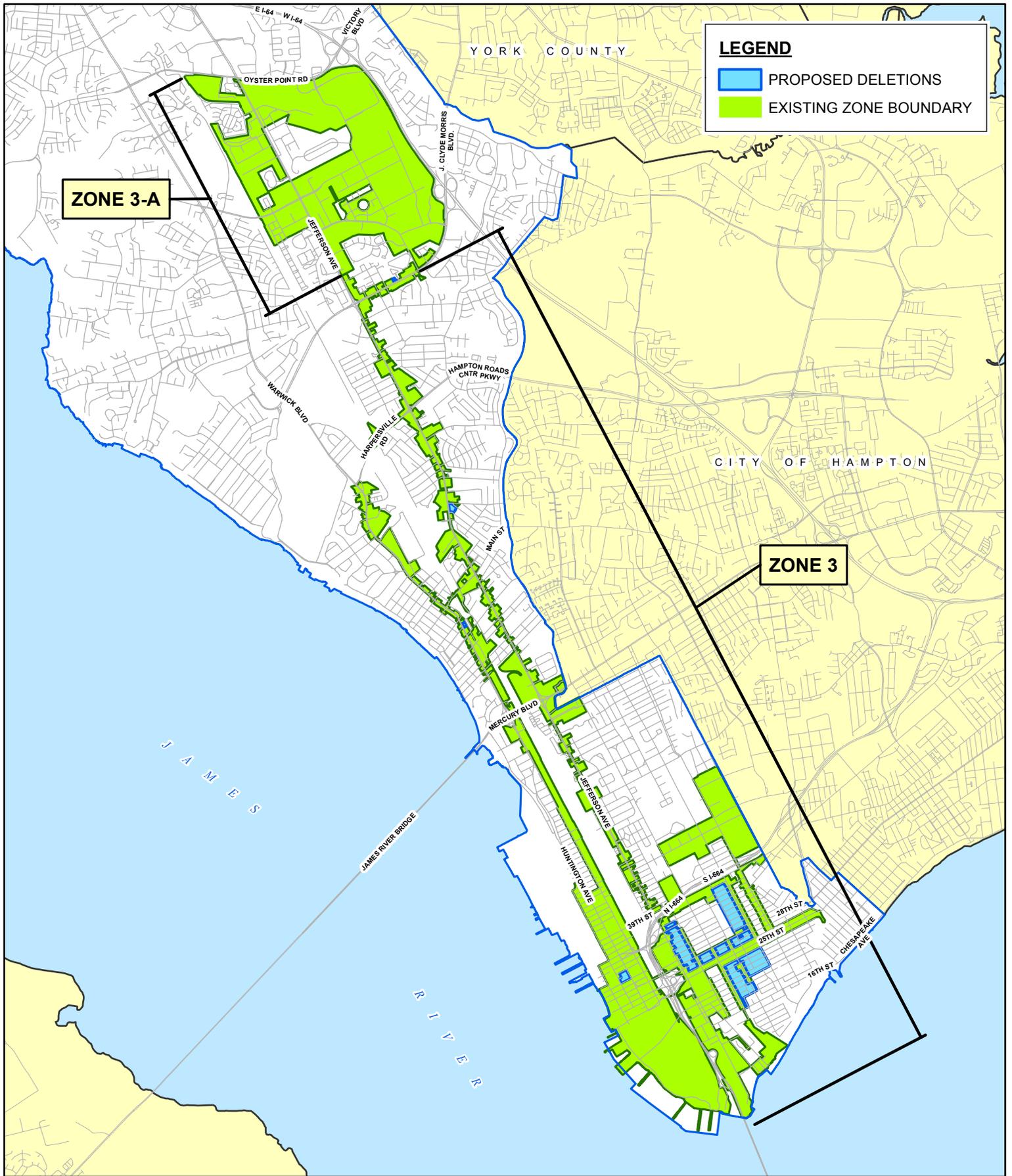
A public hearing is required prior to submission of the application. The State requires that all property owners proposed to be removed from the Enterprise Zone be notified in writing. It is my intention to request that staff mail the required property owner notifications on October 7, 2016 and schedule the required public hearing for your October 25, 2016 City Council meeting.

  
James M. Bourey

JMB:dep

Attachment

cc: Collins L. Owens, Jr., City Attorney  
Florence G. Kingston, Director, Department of Development  
Carol Meredith, Assistant Director, Department of Development  
Sam J. Workman, Assistant Director, Department of Development



CITY OF NEWPORT NEWS, VIRGINIA



# NEWPORT NEWS ENTERPRISE ZONES 3 & 3-A



**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, AUTHORIZING AN APPLICATION FOR A BOUNDARY AMENDMENT OF VIRGINIA ENTERPRISE ZONE #3 (NEWPORT NEWS ENTERPRISE ZONES #3 AND #3-A), PURSUANT TO THE VIRGINIA ENTERPRISE ZONE GRANT ACT.

WHEREAS, the Commonwealth of Virginia has adopted the Enterprise Zone Grant Act and designed the program with the purpose of stimulating real property improvements and new job creation in localities, and administers the Act through the Virginia Department of Housing and Community Development (DHCD) and Enterprise Zone Regulations adopted by DHCD; and

WHEREAS, the Enterprise Zone Grant Act allows a locality to add and delete certain areas and amend incentives within an existing enterprise zone; and

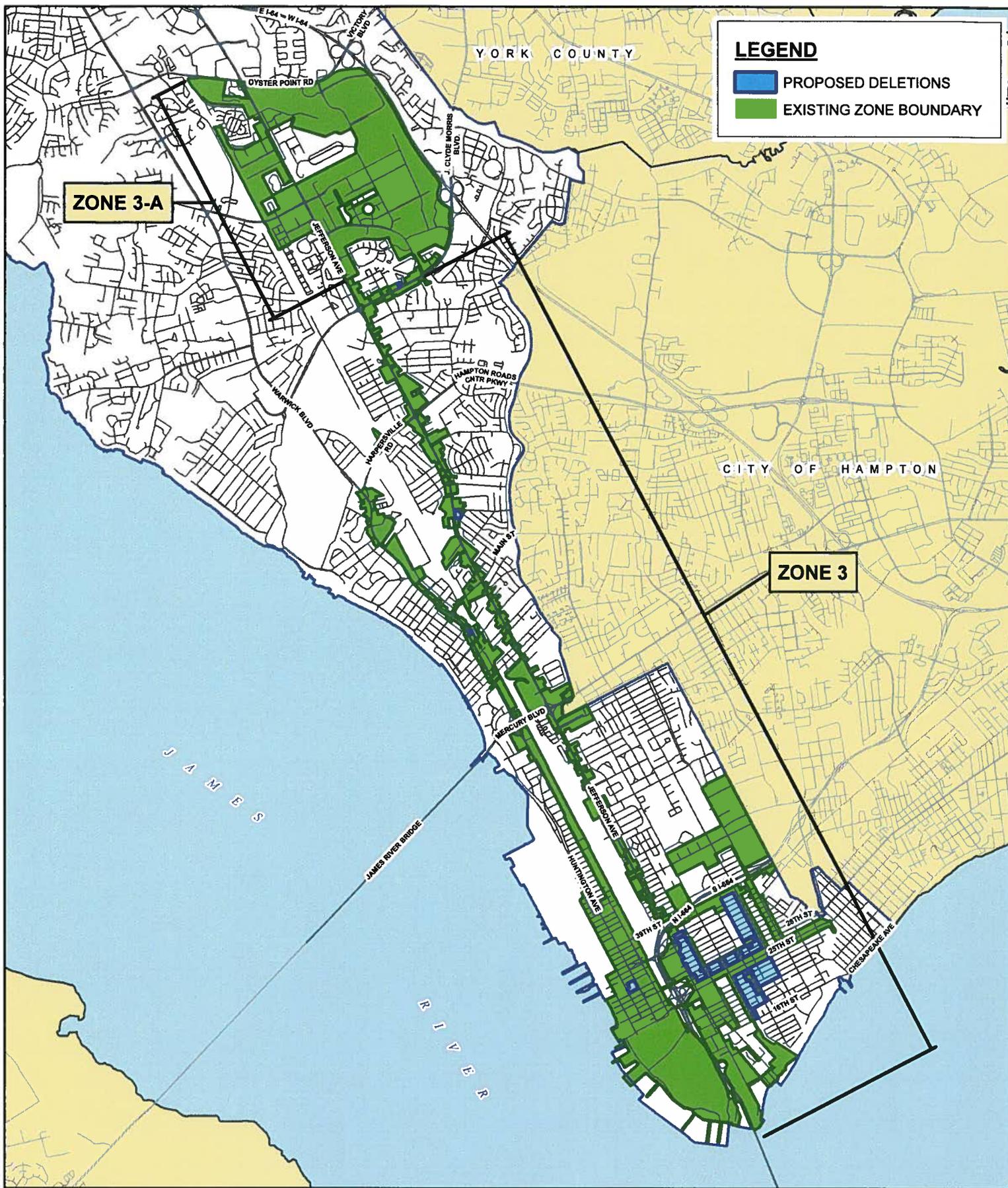
WHEREAS, the Council of the City of Newport News proposes to make an application to DHCD for an amendment to the boundaries of Virginia Enterprise Zone #3, comprised of Newport News Enterprise Zones (NNEZ) #3 and #3-A, which at present contains: Downtown; Huntington Heights to 65<sup>th</sup> Street; Port area; portion of Southeast Community below 39<sup>th</sup> Street; Seafood Industrial Park; Copeland Industrial Park; Newsome Park; portions of Jefferson Avenue from 39<sup>th</sup> Street to beyond J. Clyde Morris Boulevard; Warwick Boulevard from Huntington Avenue to Harpersville Road; portions of Main Street; portions of Harpersville Road; portions of J. Clyde Morris Boulevard; Greater Oyster Point; Oyster Point business park; City Center; commercial portion of Port Warwick; area north of Port Warwick to Oyster Point Road; Campus of Canon Virginia; and Jefferson Center for Research and Technology not including Jefferson Lab; and

WHEREAS, the application is being made to delete certain areas from Virginia Enterprise Zone # 3 containing portions Stuart Gardens; portions of Ward 2; and portions of Ward 3; and

WHEREAS, the attached exhibits show the approximate amended boundaries of Virginia Enterprise Zone #3 whose exact and official boundaries are shown on a series of Real Estate Assessment Maps located in the City Clerk's Office and in the Department of Development.

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

1. That it is the policy of the City to stimulate real, as well as tangible, property improvements and new job creation within the proposed boundaries of Virginia Enterprise Zone # 3.
2. That the Council is of the opinion that the proposed deletions from Virginia Enterprise Zone #3 will have minimal effect on future job creation or capital investment within Virginia Enterprise Zone #3.
3. That the Council therefore wishes to make an application as aforesaid to DHCD, to remove portions of Stuart Gardens; portions of Ward 2; and portions of Ward 3; the approximate boundaries of all of which are shown on the attached exhibit and whose exact and official boundaries are shown on a series of Real Estate Assessment Maps located in the City Clerk's Office and in the Department of Development.
4. That the Council authorizes the City Manager, as its chief administrator, to submit to appropriate state departments and officials all information needed to apply for the proposed amendment and to meet all other program administrative and reporting requirements, as defined by the Enterprise Zone Regulations, throughout the life of Virginia Enterprise Zone #3.
5. That this resolution shall be in effect on and after the date of its adoption, October 25, 2016.



CITY OF NEWPORT NEWS, VIRGINIA



# NEWPORT NEWS ENTERPRISE ZONES 3 & 3-A



## **F. Consent Agenda**

### 1. Minutes of the Work Session of October 11, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

#### ATTACHMENTS:

##### Description

Minutes of Work Session - October 11, 2016

**MINUTES OF WORK SESSION  
OF THE NEWPORT NEWS CITY COUNCIL  
HELD IN THE 10<sup>TH</sup> FLOOR CONFERENCE ROOM  
2400 WASHINGTON AVENUE  
October 11, 2016  
2:30 p.m.**

**PRESENT:** Sharon P. Scott; Tina L. Vick; Herbert H. Bateman, Jr.; Saundra N. Cherry, D. Min.; Marcellus L. Harris III; and McKinley L. Price, DDS-----6

**ABSENT:** Dr. Patricia P. Woodbury-----1

**OTHERS PRESENT:** James M. Bourey; Collins L. Owens; Mabel Washington Jenkins; Alan Archer; Cynthia Rohlf; RoShaundra Ellington; Darlene Bradberry; Lisa Cipriano; Chad Pritchett; Keith Ferguson; Everett Skipper; R. B. Alley; Scott Dewhirst; Florence Kingston; Carol Meredith; Chris Morello; Sheila McAllister; Dawn Barber; Mike Neal; Ashby Kilgore; John Eley; Mary Lou Roaseau; Kim Lee; Jerri Wilson; Jennifer Walker; Reema Amin; and Dave Ress

I. 2016 Fourth Quarter Financial Report Briefing

Mr. James Bourey, City Manager, introduced Ms. Lisa Cipriano, Director, Department of Budget and Evaluation, to present the FY 2016 Fourth Quarter Financial Report.

Ms. Cipriano reminded that the FY 2016 First Quarter projections resulted in a \$231,000 surplus, FY 2016 Second Quarter projections resulted in a \$691,000 surplus, and FY 2016 Third Quarter projections resulted in a \$75,000 surplus (a copy of the presentation, "FY 2016 General Fund Year-End Report – Based on Preliminary Fourth Quarter Results," is attached and made a part of these minutes).

Ms. Cipriano advised that Federal and State Grant revenue of \$4.1 million, and the anticipated use of the Fund Balance of \$4.5 million was included as part of the FY 2016 Operating Budget, which resulted in a shortage of \$710,000 in grant funding and the non-use of the Fund Balance.

Ms. Cipriano reported FY 2016 Fourth Quarter projections resulted in a \$4.4 million revenue shortfall and a \$4.7 million expenditure surplus, which resulted in a \$309,000 year-end surplus. She stated the results were realized without the use of Fund Balance reserves and was prior to Finance closing out the fiscal year. She reminded that bad debt write-offs and other changes could affect the year-end total.

Ms. Cipriano stated the adopted FY 2016 Operating Budget totaled \$464.2 million; however, FY 2016 Fourth Quarter Revenue projections totaled -\$4.4 million, which

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resulted in a 0.9% decrease. The change in revenue projections were realized in the following categories:

• Real Estate Taxes	-	up \$750,000
• Personal Property	-	up \$2.48 million
• Machinery & Tools	-	up \$397,000
• Sales Tax	-	down \$621,000
• Lodging Tax	-	up \$331,000
• Meals Tax	-	up \$1.55 million
• BPOL Taxes	-	down \$676,000
• Cigarette Tax	-	down \$391,000
• Tax on Deeds	-	down \$194,000
• Building Permits	-	up \$113,000
• Fines/Forfeitures	-	down \$837,000

Ms. Cipriano reported the adopted FY 2016 Fourth Quarter Expenditure projections totaled \$4.7 million, which equated to a 1.0% increase. The change in expenditure projections were realized in the following categories:

• Salaries and Benefits	-	up \$247,000
• Contractual Services	-	up \$787,000
• Fuel	-	up \$506,000
• Utilities	-	down \$99,000
• Materials/Supplies	-	up \$208,000

Ms. Cipriano reported the FY 2016 Fourth Quarter resulted in a year-end budget surplus of \$309,000. She stated that revenues, especially those that were consumer driven, were excellent performers. There were some deficit fluctuations in limited areas that would need to be tracked in FY 2017. There also was no need to use the Fund Balance or to adjust Expenditures, which was good news for FY 2017.

## II. 2017 State Legislative Package

City Manager Bourey introduced Ms. Jerri Wilson, Management and Legislative Program Analyst, City Manager's Office, to report on the 2017 Legislative Priorities.

Ms. Wilson stated that the State Legislative Priorities 2017 Virginia General Assembly packet included "A Message from the Newport News City Council," that summarized their long-standing positions on overarching issues that pertained to Local Government

Authority and Revenue. The City Council asked that the General Assembly not take away local control over land use decisions and leave the City's revenue intact (a copy of the "State Legislative Priorities 2017 Session, Virginia General Assembly," packet and presentation are attached and made a part of these minutes).

Ms. Wilson reported that the 2017 General Assembly Session was scheduled to begin on January 11, 2017, and would be a short Session. She stated it was anticipated that there would be a significant State budget shortfall of approximately \$1.5 million. It was important to point out that all Members of the House were up for re-election in the Fall of 2017, as well as the election of a new Governor. The City's local delegation was in transition and November elections could impact the session.

Ms. Wilson noted the 2017 Legislative Priorities Code Change Requests and Budget Priorities (see justification for each in the presentation attached to these minutes):

### **2017 Legislative Requests**

1. **Municipal Park Rangers** – Amend several sections of the Code of Virginia, to include Municipal Park Rangers in the list of officers authorized for the purposes of enforcement powers.
2. **Underage Possession of Handguns and Assault Weapons in the Home or on the Property** – Amend Section 18.2-308.7 of the Code of Virginia to clarify that a person under 18 who resided with a parent, grandparent, or legal guardian, must have their permission to possess a handgun or assault firearm while in the home or on the property.
3. **Liens for Nonpayment of Waste and Recycling Fees** – Amend Section 15.9-925 of the Code of Virginia to allow municipalities the option of placing liens against properties for nonpayment of waste and recycling collection fees and charges consistent with the authority granted in VA Code Section 15.2-2119 E for water and sewer services.
4. **Court Discretion to Reinstate Discontinued Civil Cases** – Amend Section 8.01-335 of the Code of Virginia by adding language to affirm a court's authority to choose whether or not to reinstate a discontinued civil case.

## 2017 Position Statements

- **Expand Medicaid Expansion** – The City Council of Newport News urges the Virginia General Assembly to implement Medicaid expansion as provided by the Affordable Care Act.
- **Fund Public Transportation** – The General Assembly should identify a dedicated revenue source independent of local general funds to sustain and improve regional transit services and allow Hampton Roads to use regional transportation funds for public transportation purposes.
- **Authorize Magistrates to order testing in cases of exposure to infection with Human Immunodeficiency virus or Hepatitis B or C viruses** – The City Council urges the General Assembly to authorize the Magistrate to order testing rather than a General District Court Judge due to time constraints.
- **Remove Restoration Restriction on Emergency Psychiatric Treatment** – The City Council supports legislation that would expedite emergency psychiatric treatment for an inmate of a local correctional facility to be hospitalized, if necessary.
- **Study Port of Virginia Economic Impact to Host Cities** – The City of Newport News respectfully requests that the General Assembly update the 1999 JLARC Study focusing on the financial relationship between the Port and its host cities.
- **Fund Local Youth Employment Programs** – Support legislation to establish a State funding stream to support local youth employment programs.

City Manager Bourey stated, while at a meeting of local City Managers, he suggested that, particularly Urban Cities (Norfolk, Portsmouth, Hampton, Newport News), submit a request to the General Assembly asking for additional funding to support juvenile employment programs.

Councilwoman Cherry inquired whether the funding would be for youth employment programs beyond the Summer Training and Enrichment Program (STEP). City

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Manager Bourey replied that the funding would be allocated for urban cities to administer summer youth employment programs. It had not been defined for more than that. He stated the STEP Program had been effective and helpful and could be expanded. The funding would be targeted annual funding for summer youth employment programs.

Councilwoman Cherry felt it was important that the City looked beyond the summer for ongoing youth employment programs. City Manager Bourey agreed. Councilwoman Cherry felt the City needed to look further if the funding was only for summer youth employment programs. City Manager Bourey replied that the funding was for youth employment programs for the summer and beyond.

Councilwoman Scott inquired whether the proposed youth employment program would include a work training component. City Manager Bourey replied yes. Ms. Wilson agreed that the proposed program could include a work training component. She advised that the great thing about asking for a regional fund was that each locality could design a program that best suited them.

City Manager Bourey saw the request as funding, such as \$10 million, which would be allocated and distributed to Urban Cities, based on their population, to be used for youth employment programs.

Mayor Price pointed out that a problem could arise when the funding was based on statistics, where the better a locality did, the less funding they would receive. City Manager Bourey agreed that the better the statistics for improvement, the less funding one received. He advised that juvenile crime had decreased by 17% in 2015. Juvenile arrests had decreased by 9% in the summer of 2015 due to STEP, Newport News Public Schools (NNPS) Summer Program for Arts, Recreation and Knowledge (SPARK), and the implementation of a curfew for youth. There were 27% less juvenile arrests in 2016, which could include all three components; however, a major increase in the number of curfew violations were realized by stepping up enforcement, which helped with the reductions in youth crime. Unfortunately, there were more weapons charges during the summer of 2016, which was another issue that had to be addressed.

Mayor Price inquired whether there were any statistics on the number of guns taken off the streets during the summer of 2016. City Manager Bourey replied that he would get the information and provide it to City Council.

- **Restrict Predatory Lending** – The City Council supported legislation that restricted predatory lending practices, which posed a threat to the well-being of the community. Many payday lenders charged excessive fees, failed to verify a borrower's ability to repay and targeted high-cost loans to the elderly, low-income, and minority families.

Councilwoman Scott indicated that the Denbigh area had more than enough predatory lenders. She inquired whether there had been any discussion about a moratorium in areas that already had an excessive amount of predatory lenders. Ms. Wilson replied no. There had been a moratorium on legislative bills that dealt with predatory lenders. The Legislators were unreceptive to this type of legislation.

- **Stormwater Local Assistance Fund** – City Council asked the General Assembly to provide funding of \$20 million in the second year of the biennium for the Stormwater Local Assistance Fund.
- **Legalize Medical Marijuana for the Treatment of Neuropathy** - The City of Newport News supported legislation to legalize the use of medical marijuana for the treatment of Neuropathy.

### **Other Initiatives**

The City was a voting member of the Hampton Roads Planning District Commission, the Hampton Roads Transportation Planning Organization and the Hampton Roads Transportation Accountability Commission and unless stated, supported the legislative agendas of each.

Councilman Bateman reminded that in 2015 there were discussions about the possibility of having a regional Review Committee of Law Enforcement Officers to review police officer involved shootings. He recalled that the City Manager was in support of a statewide review committee effort. He inquired about the status of the matter. Ms. Wilson replied that she understood that the Hampton Roads Regional Chiefs of Police Association had discussed the matter. City Manager Bourey replied that the Police Chiefs met with the State Police who indicated they would be able to handle police involved shooting investigations. The Regional Chiefs of Police were in support of the State handling such investigations. It had been decided that the State would handle such matters, and the City would endorse the initiative. All of the major jurisdictions were in support of allowing the State Police to handle independent

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investigations of police involved shootings.

Councilwoman Scott stated that she had been asking for a Review Committee in the City of Newport News for the past 14 years, since being elected to City Council. There had been times when she had been told that the State did not want to review certain police involved shootings in Newport News. She inquired whether there would be legislation that mandated that the State handle independent police involved shooting investigations. City Manager Bourey replied that he did not anticipate that there would be any state legislation, but there would be an agreement.

Councilwoman Scott stated that she could appreciate that, but she knew of other Cities, Counties and States that had Citizen Review Boards. She believed it was still important for citizens to be involved in review committees because of politics, nepotism, cronyism, etc. Sometimes citizens, especially those impacted by police involved shootings, felt more comfortable if allowed to participate on the Review Committee. It was like having a jury of your peers. Citizens would feel more comfortable if there was someone from the City involved in an investigation, which would always be her position. She wanted the record to note that citizens should be involved in Review Committees that dealt with police involved shootings.

Councilman Bateman disagreed and stated he would like to have the State take some responsibility to help the City with such matters, because he felt that a review was important. He inquired whether legislators needed to know that City Council was sensitive to the matter. City Manager Bourey believed that the City needed to have an agreement with the State regarding to a Review Committee. He asked Assistant City Manager Alan Archer to ensure the agreement was done and report back to City Council once the matter was resolved.

Councilwoman Scott indicated that it may not be a State priority when there was a situation in Newport News. The State may be busy handling other matters. They may have bigger cases, such as federal cases, and may not have time for City reviews. She inquired what would happen then.

Mayor Price believed that there would be some type of Memorandum of Understanding with the State.

Councilwoman Scott inquired whether the Mayor believed that there may be a group of people galvanized for such purpose and event. The Mayor replied yes.

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Councilman Bateman asked for an update on the background check loophole and whether it was still outstanding. Ms. Wilson replied that it was still outstanding and nothing had changed. There had not been much political will to close the loophole.

Vice Mayor Vick thanked Ms. Wilson for her representation at the Virginia Municipal League and at the City's legislative committee meetings.

Councilman Bateman inquired about the gun control bill from 2015. Ms. Wilson replied that the gun control bill did not gain much interest.

### III. Capital Project Priorities Discussion

City Manager Bourey reminded about a prior discussion held at the September 12, 2016 Work Session regarding the roles of the City Manager and City Council, and indicated it was important that City Council offer some direction regarding the Capital Improvement Program (CIP), especially in light of school funding issues. The CIP was a policy document on which City Council should have an opportunity to weigh in. This discussion entailed the amount of funding that was put towards capital projects and the distribution of that funding. Staff would offer the issues that drove the CIP, which included debt service, and the way it was distributed as well as the City's bond ratings. The discussion would include funding that had been provided to Schools and what could be done to increase funding for Schools, with feedback from City Council. The City had limited resources and could not fund everything. The request that was received from the School District exceeded \$140 million. There were certain options available to the City that would help, but staff wanted to provide additional alternatives if City Council wanted to be more aggressive in providing funding. Positive information had been received from Dr. Ashby Kilgore, Superintendent of Schools that the Schools were able to make a substantial reduction in the amount of funding needed for Huntington Middle School (approximately \$36 million). He introduced Ms. Cipriano, to provide the presentation.

Ms. Cipriano stated the CIP was a five-year funding guide that supported debt and needed projects. She explained that City Council approved a bond authorization for CIP projects that allowed staff to go to the bond market and borrow money, which generated the debt that the City paid. The City had been very aggressive for many years in how the debt was issued. The City issued 20-year bonds, because that was usually the life of a project. The City also did something called level principal, which allowed the principal to be paid at the same time that the 20-year loan was being paid off, which resulted in lower interest and a faster payoff period.

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Ms. Cipriano noted Capital Financing and Debt Management guiding principles adopted by City Council in 2007:

- Debt burden (Schools and General Fund Revenue for fiscal year compared to Taxable Assessed Value)
  - Goal: Maximum 3%
  - Status: 2.3%
- Debt Retirement
  - Goal: Minimum 30% in five years and 60% in ten years
  - Status: 43% in five years; 74% in ten years
- Debt Service Ratio (Combination of Revenues in any given year)
  - Goal: Maximum GF Debt Service of 9.5% of combined City and School Division Annual Revenue
  - Status: 7.2%
- Cash Capital (CIP paid in Cash)
  - Goal: Minimum 20%
  - Status: 24%

Ms. Cipriano advised that the City's bond rating was important when issuing bonds. She noted Moody's and the S&P's bond ratings from June 2011 to December 2015, which had increased positively, and noted the positives and concerns that were voiced by the two rating agencies (see information on pages 3 and 4 of presentation, "Capital Project Priority Discussion," attached and made a part of these minutes).

Councilman Bateman reminded that Capital financing and debt management principles were revised to be more fiscally conservative six or seven years prior, which led to a favorable bond rating.

Ms. Cipriano noted the amount of outstanding General Obligation Liability, Literary Loan and General Supported EDA Debt from FY 2007 to FY 2016 (see information on page 5 of the presentation attached to these minutes).

Ms. Cipriano noted which fund paid the FY 2017 City Debt service of \$60.9 million:

- General Fund paid \$47.4 million or 8% of the General Fund and Schools Debt
- Self-Supporting Funds/User Fee Funds paid \$12.5 million or 20%
- Schools paid \$1 million of 2% of VRS & Schools Bus Debt

Ms. Cipriano noted current and projected General Fund General Obligation Debt Service (see information on pages 7 – 8 of the presentation attached to these minutes). The General Fund was currently paying approximately \$48.1 million in debt. She advised that the debt would be reduced to \$41.8 million by FY 2022 if the City did not issue any additional bonds. The debt service was projected to increase to \$45.2 million in FY 2022, since the City had an active bond authorization for FY 2016 projects, in addition to the adopted FY 2017 – FY 2021 CIP.

Ms. Cipriano noted current and projected All Funds (User Fees, General Funds and Schools inclusive) General Obligation Debt Service (see information on pages 9 – 10 of the presentation attached to these minutes). She advised that All Funds was currently paying approximately \$53.0 million in debt. The debt would be reduced to \$39.4 million by FY 2022 if the City did not issue any additional bonds. The debt service was projected to increase to \$57.8 million by FY 2022 to fund the FY 2017 – FY 2021 CIP.

Ms. Cipriano reminded about the composition of the approved FY 2017 – 2021 CIP (Cash Capital and Debt) by sources:

- Streets and Bridges 22.1%
- Community Development 22.1%
- Schools 21.5%
- Public Buildings 19.1%
- Transit 0.4%
- Parks & Recreation 7.7%
- Equipment 6.6%
- Environmental 0.6%

Ms. Cipriano noted the total approved General Fund Cash Capital and General Obligations Bonds from FY 2010 – FY 2017 and the amount that was dedicated to Newport News Public Schools (see information on page 12 of the presentation attached to these minutes). She stated the total FY 2010 General Fund Cash Capital and General Obligation Bond totaled \$193.6 million.

Ms. Cipriano noted the history of Cash Capital and General Obligation Bond funding for all the categories that were represented in the CIP from FY 2010 – FY 2017 (see information on page 13 of the presentation attached to these minutes).

Ms. Cipriano noted Critical and Strategic project investments in the CIP from FY 2010 – 2017:

- Community Development
  - Upper Warwick Corridor/Denbigh
  - SCOT Center Relocation
  - Downtown Initiatives

Councilwoman Cherry asked for a breakdown of Cash Capital and GOB funding for Community Development projects from FY 2013 – 2016. She would like to know the specific projects that were in the CIP. Ms. Cipriano replied that she would provide the information to Councilwoman Cherry.

- Streets and Bridges
  - Major Bridge Repairs
  - Atkinson Boulevard
  - Lower Jefferson Avenue Street Reconstruction and Streetscape Improvements
  - Major Transportation Revenue Sharing Match
- Public Buildings
  - Grissom Library Replacement
  - Denbigh Community Center – Phase 2
  - Public Works Warehouse
  - Public Safety Jail Renovations
  - Fire Station 11 Replacement

Councilwoman Scott inquired whether the City had met all the requirements of the EPA's mandates on Sewer and Stormwater issues. Ms. Cipriano replied no; the funding for the improvements was being absorbed into Consent Order and Wastewater type projects.

Ms. Cipriano stated that the FY 2017 – FY 2022 CIP included \$197.2 million for NNPS Cash Capital and GOB funding. She advised that the current FY 2017 level of funding for NNPS included \$42.4 million, which was 21.5% of the annual FY 2017 CIP total. An additional \$6.9 million would be added to debt for NNPS, over five years, should the City increase funding to 25% (see information on page 16 of the presentation attached to these minutes). To be able to spread the \$6.9 million over five years (2017 – 2021), \$1.4 million in

additional Cash Capital and GOB funding would be added to the CIP on an annual basis, which would amount a 25% increase over five years.

Councilman Bateman inquired whether this was an arbitrary way that the City could afford to fund additional projects for the Schools. City Manager Bourey replied that the City could not meet all of its needs even if additional funding was not provided to the schools. This was a way to increase school funding because there seemed to be an interest by City Council to do so, and staff wanted to determine the level of interest.

Ms. Cipriano noted the history of NNPS Requested and Approved CIP amounts from FY 2012 - FY 2018 (see information on page 17 of the presentation). City Manager Bourey stated the City would be able to meet some, but not all, of the School's needs, and 25% seemed like a good first step.

Ms. Cipriano suggested that one way to increase funding for the schools by more than 25% was through a dedicated real estate tax. She stated that increasing the real estate tax rate by \$0.01 would amount to \$1,509,916 in annual tax revenue, which would support a 20-year payment commitment of \$20,073,376 worth of projects for the Schools (see different computations of real estate tax rate increases on page 18 of the presentation attached to these minutes). To fully fund 100% of the Newport News School Board's CIP FY 2018 – 2022 funding request (\$100,366,878), before making adjustments for Huntington Middle School, the real estate tax rate would need to be increased by \$0.05.

Councilwoman Scott inquired whether the increase to the real estate tax rate would be over a five-year period. City Manager Bourey replied that it would take 20 years of an increased real estate tax rate of \$0.05 to fund the School Board's five-year CIP request of \$100.4 million. He stated the increase would be earmarked for School projects only. This was an alternative should City Council desire, and would make a major change in the funding for schools.

Councilwoman Scott inquired whether the \$0.05 real estate tax increase for the schools was over and above any increase that would be needed to balance the City's budget. City Manager Bourey replied that he had never recommended a tax rate increase throughout his career as a City Manager and would not support one today. He believed, through increased revenue, the City would be able to balance its budget. He stated that people would pay increased taxes as their property values increased. It was not likely that he would recommend a tax rate increase, absent of any other unusual circumstances. From a policy perspective, for City

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Councils' consideration, one could argue that this was an unusual situation where an investment was necessary.

Vice Mayor Vick inquired whether this was similar to what the City of Norfolk did for their schools. City Manager Bourey replied yes.

Councilwoman Cherry advised that the City of Hampton also increased their real estate tax rate to provide a dedicated funding source for their school projects.

City Manager Bourey stated it was safe to argue that the City had gotten behind from where it needed to be in relation to school funding. He noted discussion points to consider additional funding for the Schools included:

- Making a change to the amount to be funded by taking on an incremental increase because the City had been prudent in its debt
- Eliminate City projects that added to the CIP level
- Find a way to raise additional revenue

He inquired of City Councils' level of interest and how progressive they wanted to be in the CIP in relation to the Schools and other projects.

Councilwoman Scott hoped that City Council could consider a combination of alternatives, rather than a \$0.05 increase to the real estate tax rate. She stated that citizens would be concerned about committing to an extra \$0.05 cents for a 20-year period. She realized that the aging School facilities were creating a large problem and were beginning to be a financial liability on the City as well as the Schools. She would like to consider a combination of alternatives that would help the issue.

Vice Mayor Vick stated that she would like to hold a community meeting to talk about the real estate tax rate increase and gain feedback. There may be many people in support of a real estate tax rate increase if the funding was dedicated for education.

City Manager Bourey advised that the CIP had to be delivered to City Council by the end of October 2016, and perhaps, a two-step process could be instituted that would provide incremental steps to address some of the School's needs (the additional \$6.9 million) and a community conversation about additional funding.

Councilman Harris inquired whether the data was available on what surrounding localities provided their school systems. City Manager Bourey replied that he would get the information; however, that was like comparing apples to oranges. For instance, there were matters that the City of Hampton included in their operating budget, which were not included in their capital budget, which the City of Newport News would do differently. It was difficult to compare one jurisdiction to another.

Mayor Price believed that the City's tax base would increase as new economic capital projects were approved, which would reduce the need to raise taxes. He felt the City could get an idea of projected revenue, based on planned capital projects.

Mayor Price believed that citizens should also have input when dealing with something of this magnitude, not only by discussion, but through a Referendum. He felt it was necessary to have intense discussions regarding the privatization of the projects because they were raising and providing funding to the Schools. There may be a difference of opinion about which school projects would be covered at any particular time. Everyone's wants and needs could sometimes be different when looking at various situations. Mayor Price appreciated this presentation as it provided him with the knowledge to have some philosophical discussion.

Councilman Bateman stated he appreciated the discussion by the City Manager. He stated City Council tried to express to the School Board that they needed to understand what their options were to determine funding for the Schools. It was a process and he appreciated the City Manager and Superintendent Kilgore working together. He believed that it would help to publically note what the realities were in an effort to come up with the funding needed for School capital projects. It was important to the bond rating to appropriately balance City debt. He stated that changing Pension/Retirement Plan Actuary Assumptions was another issue that would have an impact on the City. He would like to talk about the process of working and continuing to collaborate with the School division. He believed more could be done if City Council was knowledgeable. It was great to know that the cost for Huntington Middle School had decreased. He would like to believe that the School Board and City Council could determine several options without having to have a Referendum.

Mayor Price inquired whether there was any projection as to what effect a \$0.05 real estate tax rate increase would have on the City's bond rating. Ms. Cipriano replied no, because they looked at what the City did with its funding. City Manager Bourey stated that the additional \$0.05 would increase the City's revenue and debt ratio. The bond rating agencies would not frown on the City increasing its debt if its revenue increased.

Mayor Price recalled prior discussion about not obligating future City Councils' on certain proposed matters. He inquired whether a dedicated fund would obligate future City Councils and whether they would have to vote on the matter annually. City Attorney Owens replied that the City Council would vote to change its tax rate and the funding revenue generated from the \$0.05 would be earmarked to pay the School's debt, and would not obligate future City Councils. City Manager Bourey replied that City Council could not obligate a future City Council by adopting a new tax rate.

Councilwoman Cherry inquired about the benefit of increasing the City's bond rating. Ms. Cipriano replied that increasing the bond rating would enhance the City's ability to acquire lower interest rates and gain lender premiums when borrowing money.

Councilwoman Cherry inquired whether the City only borrowed when bond cash was depleted and a project was needed, even if it was for a lower interest rate. Ms. Cipriano replied that was correct; the City only went to the bond market when it was out of bond cash. City Manager Bourey reminded that the City had refinanced a number of loans over the past several years by taking advantage of lower interest rates, which saved millions of dollars.

Mayor Price suggested that City Council consider something incremental by including the \$6.9 million in the FY 2018 – 2022 CIP, and having further discussion about alternative funding.

There was consensus among City Council to move forward with including the \$6.9 million in the FY 2018 – 2022 CIP for school projects, and having further discussion about alternative funding.

Ms. Cipriano recognized Mr. Chad Pritchett, Senior Budget Analyst, for composing the presentation and information included.

Mayor Price recognized the members of the School Board and staff who were in attendance. He hoped that they would appreciate what City Council was going through. He felt it had been very helpful for the City Council to plan for the future. He looked forward to continuing the conversation.

Vice Mayor Vick agreed and hoped that the School Board and City Council continued to meet and have interaction. City Manager Bourey agreed and stated they had to get out of the "us versus them mentality," which was a no-win situation.

Closed Meeting: 5:00 p.m. – 6:15 p.m.

City Manager Bourey reminded about the Transportation Revenue Sharing project on the evening's agenda and indicated that staff felt putting funding into Independence Boulevard did not make sense. Staff suggested that Exit C off of Interstate-64 to Boykin Road be substituted for Independence Boulevard, which would reduce a tremendous amount of traffic on Jefferson Avenue. He provided a revised resolution for the evening's Regular meeting.

Mayor Price excused himself from the meeting and turned the floor over to Vice Mayor Vick.

Councilwoman Scott advised that she had previously stated that she wanted to reinstitute the Christmas Parade that was once held in the City of Newport News. She believed that since this was the 15<sup>th</sup> Anniversary of the North District Holiday Food Drive that this would be an excellent time to reinstitute the Christmas Parade and add it as a component of the Food Drive. The thought of doing it was to rebrand the Food Drive as a One City Celebration so that once the Christmas Parade was reinstated it did not necessarily have to be in the North District. The parade could be moved across the City to each district. She mentioned the matter to the City Manager earlier in the year who replied that the Mayor wanted a Memorial Day Parade, but there was no further discussion about the matter. She then found out, in October, after applying for the parade permit in September that City Council action was required to grant the permit.

Councilwoman Scott stated, as a member of City Council for more than 14 years, she was confused about all the things that had been going on and now, all of a sudden, she needed City Council approval to hold a parade. City Council did things day-by-day, point-by-point, and case-by-case. She just wanted to bring the matter before City Council to try to get a consensus, because time was of the essence. She had been announcing the parade all year, it was scheduled for December 17, and now there was a hurdle that needed to be overcome. The Engineering Department had the application and responded back to her that the parade could not be approved without having a Viewing Stand. Other issues arose once she resolved the Viewing Stand issue. The City Manager had to approve the permit and it had to come before City Council. She voiced concern with the process and the delay at this point, especially since she had been talking about the matter all year. She did not realize that City Council action was needed in order to have a parade in the City of Newport News.

Vice Mayor Vick inquired whether Councilwoman Scott was going to organize the parade. Councilwoman Scott replied that she had already applied for the parade permit through the Department of Engineering. It would not be a “Sharon Scott” event. The City had totally supported the Food Drive for most of the time that she had been on Council, and she had never asked for any financial support from the City for the event. She still was not asking for any financial support for the parade, but understood that the Police, Fire and other City departments would have to include the matter in their budgets. She needed some help from City Council because she was rather disappointed that this discussion was just happening in October when she had been talking about the matter for the entire year.

Councilwoman Cherry inquired how others obtained parade permits without the approval of City Council. City Attorney Owens replied that anyone could apply for a parade permit, but they had to pay a fee. He believed that Councilwoman Scott was looking for a City sponsored parade that did not require the payment of a fee.

Councilwoman Scott replied that she only filed the paperwork; she never stated that she wanted the fee to be waived or that she wanted an exemption of any kind.

City Manager Bourey replied that the filing was for a City sponsored parade that would have added a very significant cost to the City of approximately \$20,000 or more. He stated the parade was planned on a day of which the Engineering Department had a major concern. The Engineering Department was concerned about closing portions of Warwick Boulevard on the busiest shopping day of the year. The time, the safety concerns, and other matters were major issues.

Councilwoman Scott replied that the parade would only impact one side of the street for less than two hours. She stated the parade would begin on Oriana Road and proceed to the Denbigh Community Center. She spoke about the matter with several people who indicated the parade would probably take less than two hours.

Councilman Bateman advised that it would have been logical for Councilwoman Scott to share the information with City Council. Councilwoman Scott stated that she did not know it required City Council action. She mentioned the matter to the City Manager, who was her fourth City Manager. Since she had been a member of City Council, when she mentioned a matter to the City Manager it would be handled or she would be told, in an appropriate amount of time, that it could not be done. The matter would not come up six months later.

Councilman Bateman understood where Councilwoman Scott's heart was and felt it was an admirable thing to do. Councilwoman Scott replied that it was not her heart; it was for the citizens. She served at the will of the citizens. Councilman Bateman agreed, and stated that he liked to be involved in projects that included the entire City Council. It would have been a better project had Council been informed in February about a Christmas Parade, which would have avoided the argument.

Councilwoman Scott stated there was no argument, but indicated that she had mentioned the matter to the City Manager, since he stated that his will was to do the will of City Council. She should have received some direction six months earlier as opposed to discussing the matter in October.

Councilman Bateman reminded about the Virginia Institute of Government presentation and discussion held on September 12, 2016, regarding Council/Manager interaction. The discussion noted that City Council should work as a team. A parade was the perfect time to work together, but he never heard anything about a Christmas Parade. He felt it would be a "half-made" parade at this point in time, even if the funding became available.

Councilwoman Scott disagreed that it would be a "half-made" parade.

Councilman Bateman stated that he would like to get fully behind the parade with Councilwoman Scott if she tried to do it in another way.

Councilwoman Scott reiterated that it would not be a "half-made" parade. Councilman Bateman stated that City Council would have known about what was going to happen if the parade was well planned; it was not well planned.

Councilwoman Scott advised that the parade was planned, but was not approved.

Councilman Bateman stated if it was planned then the funding would have been allocated and the parade would have been paid for. Councilwoman Scott stated that she did not know that it took City Council action to plan a parade on the side of a street.

City Manager Bourey stated that City staff would say no to the parade if it were up to them. This was not a good time or place to have a parade; it posed significant safety concerns, and was not budgeted.

Councilwoman Scott pointed out that the City could be shut-down for a Marathon, but a small section of a street, that only had three intersections, and would be impacted for less than two hours, could not be shut-down.

City Manager Bourey advised that the time for the parade was scheduled on a busy Saturday.

Councilwoman Scott stated that there was no shopping in the area of the proposed parade; there was nothing in Denbigh for people to buy; and there was no shopping between Oriana Road and Fort Eustis Boulevard. City Manager Bourey replied that the traffic from Warwick Boulevard would have to be re-routed to Jefferson Avenue, which would cause a major traffic jam, especially during the Christmas holiday season.

Councilwoman Scott stated that there was not a lot of traffic on Saturday mornings. They had been doing the Holiday Food Drive for the past 15 years, and there was no traffic during that time of morning. She had lived in Denbigh since 1998.

City Manager Bourey stated that City staff could not approve the permit if Councilwoman Scott was asking for staff's recommendation, which was the reason that it needed the approval of City Council.

Councilwoman Scott disagreed, and stated that City Manager Bourey would not approve the permit. City Manager Bourey stated that the Engineering Department would not approve the permit.

Councilwoman Scott stated she was sure that the Engineering Department was providing the City Manager with information and that he was giving them information. She had not heard anyone from the Engineering Department state the reason that the permit would not be approved. This was not the first time that the City Manager was hearing about the matter, and he knew that she wanted the parade, because when she brought the matter up, the City Manager indicated that the Mayor wanted to plan a Memorial Day parade.

Vice Mayor Vick inquired whether there was consensus among City Council to approve the Christmas Parade.

City Manager Bourey stated that he was not going to approve the parade because it posed a major problem.

Councilwoman Scott pointed out that Vice Mayor Vick was inquiring whether members of City Council would support the parade; not the City Manager.

Councilwoman Cherry inquired whether funding for the parade could be taken out of the City Council Contingency fund. City Manager Bourey replied that funding could be taken out of the City Council Contingency fund, but voiced concern about the time and safety.

Councilwoman Cherry pointed out that she would not be in attendance because it was scheduled on the same day as her "Christmas for the Children" event. Councilwoman Scott understood.

Councilwoman Scott believed the Christmas Parade would be a great thing for the community and it tied into the 15<sup>th</sup> Anniversary of the Denbigh Food Drive event. The Denbigh Food Drive Party generated several thousand people and had not posed any traffic or safety problems in Denbigh during the holiday season. She did not buy into the fact that there was a problem with traffic, especially when the City was shut-down for a Marathon on a Sunday which prevented people from going to their places of worship. Now all of a sudden, this was Jesus' birthday party, and it was an issue. She just had a problem with the matter. She believed that the City's Engineering Department was one of the best and could work out the details. The parade route details were not that complicated. She asked that City Council support the matter as there was not much time left.

Councilman Harris and Vice Mayor Vick agreed that there was not much time left to organize the parade. Councilwoman Scott stated that all that was needed were the applications from those who wanted to participate in the parade.

Vice Mayor Vick inquired whether there was consensus among City Council to approve City Council Contingency funding for the Christmas Parade.

Councilman Harris voiced support for the parade.

Councilwoman Cherry voiced support for the parade and questioned whether it could be done in 2017, if not 2016. City Manager Bourey encouraged members of City Council to plan the parade for a different time and location in 2017.

Vice Mayor Vick asked whether there was consensus among City Council to approve the parade.

Councilwoman Cherry stated that she would support providing \$20,000 out of City Council Contingency funding for the parade.

Councilman Harris stated he would support the matter.

Councilman Bateman was not in support of the matter.

Vice Mayor Vick was not in support of the matter.

The vote failed as there was no consensus among City Council.

Councilman Bateman stated he wanted to postpone the vote to provide Mayor Price the opportunity to state whether he was in support of the matter.

Vice Mayor Vick stated that the vote would be continued when the Mayor returned.

Vice Mayor Vick stated she sent a letter to the members of City Council asking for a \$25 donation in support of the Transitions Family Violence Services Annual Casino Night scheduled for October 15, 2016. She advised that Transitions Family Violence Services assisted women and men who were in abusive relationships.

Councilman Harris asked that the City Manager have someone look at Industrial Drive from Jefferson Avenue. He stated the traffic markings near the train tracks needed to be redefined as they were difficult to see in the dark. Also, additional lighting was needed in the area.

City Clerk Mabel Washington Jenkins reminded about the Ribbon Cutting Ceremony of the 1<sup>st</sup> Floor of the City Jail scheduled for October 14, 2016. She asked members of City Council to let her know whether they planned to attend the event.

Councilwoman Cherry asked about the Newport News Police Department Promotion Ceremony that was scheduled for October 20, 2016, and whether it had been rescheduled to November. She asked that the City Clerk check on the date and let her know as she was scheduled to do the prayer. City Clerk Jenkins stated she would check on the matter. City Manager Bourey confirmed that the event had been rescheduled to November 15, 2016.

Councilwoman Cherry asked members of City Council to purchase a candy bar from her or provide a donation of \$6 in support the Mayor's Book Club fundraiser.

Councilwoman Cherry stated that the Sherwood Shopping Center had been sold and inquired about the current lease-holders and whether they would be able to continue operating through their lease term. City Manager Bourey replied the current lease-holders would be able to continue operating through their lease terms.

Councilwoman Cherry inquired whether the lease-holders would be able renew their leases. City Manager Bourey replied that it depended upon the lease-holders individual circumstances whether their leases would be renewed.

Councilwoman Cherry inquired whether the City would honor their current lease if there was a renewal clause attached to their lease for an additional one-to-two years. City Manager Bourey replied yes; it would be the lease-holder's option to continue or not if it was noted in their lease. The City would have to honor the lease.

Councilwoman Cherry inquired whether any decision had been made on what the EDA would do with the property. City Manager Bourey replied that no decision had been made as to what the EDA would do with the property. He did not believe any changes would be made within the next two to three years.

THERE BEING NO FURTHER BUSINESS  
ON MOTION, COUNCIL ADJOURNED AT 6:24 P.M.

  
Jennifer D. Walker, MMC  
Chief Deputy City Clerk

McKinley L. Price  
Mayor  
Presiding Officer

A true copy, teste:

City Clerk

## **F. Consent Agenda**

### 2. Minutes of the Special Meeting of October 11, 2016

ACTION: N/A

BACKGROUND: N/A

FISCAL IMPACT: N/A

#### ATTACHMENTS:

##### Description

Minutes of the Special Meeting of October 11, 2016

MINUTES OF SPECIAL MEETING  
OF THE NEWPORT NEWS CITY COUNCIL  
HELD IN THE 10<sup>TH</sup> FLOOR CONFERENCE ROOM  
2400 WASHINGTON AVENUE  
OCTOBER 11, 2016  
5:00 P.M.

PRESENT: Sharon P. Scott; Tina L. Vick; Herbert H. Bateman, Jr.; Sandra N. Cherry, D. Min.; Marcellus L. Harris III; and McKinley L. Price, DDS-----6

ABSENT: Dr. Patricia P. Woodbury-----1

OTHERS PRESENT: James M. Bourey; Collins L. Owens, Jr.; Mabel Washington Jenkins; Darlene Bradberry; Robert Pealo; Cynthia Rohlf; Alan Archer; Florence Kingston; Derek Perry; Carol Meredith; Karen Wilds; Scott Dewhirst; and Jennifer Walker.

After ascertaining that proper meeting notice had been provided to each member of City Council, Mayor Price called the meeting to order and stated the meeting was being held for the following purposes:

- (1) To call a closed meeting pursuant to Section 2.2-3711(A) of the Code of Virginia, 1950, as amended, subsections: (3) Discussion or consideration of the acquisition/disposition of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City, the subject of which is the acquisition/disposition of real property in the southern portion of the City; (5) Discussion of a prospective business or industry where no previous announcement has been made of the business' or industry's interest in locating a facility in the community, the subject of which is a prospective new business in the central section of the City and the potential expansion of an existing business in the southern section of the City; and (7) A consultation with legal counsel pertaining to actual and probable litigation, where such consultation in open meeting would adversely affect the negotiating posture of the public body, the subjects of which were cases involving allegations of civil rights violations, contractual claims and tort claims.

Councilwoman Cherry moved for a closed meeting under section and reasons cited above; seconded by Vice Mayor Vick.

Vote on Roll Call:

Ayes: Scott, Vick, Bateman, Cherry, Harris, Price

Nays: None

(Closed Session 5:00 p.m. – 6:15 p.m.)

After reconvening in open session, Councilwoman Cherry moved to certify that to the best of each member's knowledge (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and (2) only such public business matters as were identified in the motion by which the closed

**DRAFT**

Page 2  
Minutes of Special Meeting  
October 11, 2016

meeting was convened were heard, discussed or considered in the closed meeting by the Council.  
Motion seconded by Vice Mayor Vick.

Vote on Roll Call:

Ayes: Scott, Vick, Bateman, Cherry, Harris, Price

Nays: None

THERE BEING NO FURTHER BUSINESS,  
ON MOTION, COUNCIL ADJOURNED AT 6:15 P.M.



Mabel Washington Jenkins, MMC  
City Clerk

McKinley L. Price, DDS  
Mayor  
Presiding Officer

A true copy, teste:

City Clerk

CERTIFICATE OF CLOSED MEETING

**MEETING DATE:** October 11, 2016  
**MOTION:** Councilwoman Sandra N. Cherry, D. Min.  
**SECOND:** Vice Mayor Tina Vick

WHEREAS, the City Council of the City of Newport News has convened a closed meeting on this date pursuant to an affirmative recorded vote as required under the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia, 1950, as amended, requires a certification by this City Council that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newport News does hereby certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the City Council.

VOTE

AYES: Scott, Vick, Bateman, Cherry, Harris, Price  
NAYS: None  
ABSTENTION: None

ABSENT DURING VOTE: Woodbury

ABSENT DURING MEETING: Woodbury

ATTEST:

  
\_\_\_\_\_  
Mabel Washington Jenkins, MMC  
City Clerk

## **F. Consent Agenda**

### 3. Minutes of the Regular Meeting of October 11, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

#### ATTACHMENTS:

##### Description

Minutes of Regular Mtg - October 11, 2016

**MINUTES OF REGULAR MEETING  
OF THE NEWPORT NEWS CITY COUNCIL  
HELD IN THE CITY COUNCIL CHAMBERS  
2400 WASHINGTON AVENUE  
OCTOBER 11, 2016  
7:00 P.M.**

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PRESENT: Sharon P. Scott; Tina L. Vick; Herbert H. Bateman, Jr.; Sandra N. Cherry, D. Min.; Marcellus L. Harris III; and McKinley L. Price, DDS-----6

ABSENT: Dr. Patricia P. Woodbury-----1

A. Call to Order

Mayor Price called the meeting to order and welcomed all. He stated the City Code identified the procedure for citizen participation regarding items on the Council agenda, as well as the opportunity for citizens to address City Council on matters germane to the business of the Council. He explained matters that were germane to the business of Council meant matters that the City Council, by law, were empowered to act upon. This did not include announcements that were personal to an individual, business, or organization. He pointed out copies of the ordinance highlighting citizen participation and encouraged citizens to review the document.

Mayor Price requested that cell phones and/or pagers be silenced or turned off.

B. Invocation

The invocation was rendered by Reverend Bert Cloud, Warwick Memorial United Methodist Church.

C. Pledge of Allegiance to the Flag of the United States of America

The Pledge of Allegiance to the Flag of the United States of America was led by Councilwoman Scott.

*MOTION MADE BY COUNCILWOMAN SCOTT; SECONDED BY COUNCILWOMAN CHERRY; AND CARRIED UNANIMOUSLY TO EXCUSE COUNCILWOMAN WOODBURY FROM THIS MEETING.*

D. Presentations

1. Resolution of Recognition: Trinity United Methodist Church – 130<sup>th</sup> Anniversary

Pastor Donald Blagg, First Lady Nancy Blagg, and Ms. Diane Walker, a member of the Trinity United congregation accepted the resolution.

Mayor Price shared that the City Council wished to honor and recognize the 130<sup>th</sup> Anniversary of the Trinity United Methodist Church. He shared, in 1881, a small group began meeting on the docks of Newport News to worship. The congregation moved its services to the Union Chapel built by the Old Dominion Land Company and shared by all denominations.

D. Presentations Continued

1. Resolution of Recognition: Trinity United Methodist Church – 130<sup>th</sup>  
Anniversary Continued

In 1886, a Methodist Society was formed and approved at an annual conference; and in 1887, the cornerstone was laid for the Washington Avenue Methodist Episcopal Church South, with the first service held in January 1888.

Mayor Price advised that the congregation grew such that a larger place of worship was required, and in 1900, the Trinity Methodist Episcopal Church South was built and dedicated in the 200 block of 29<sup>th</sup> Street. This remained the home of what is now known as Trinity United Methodist Church. Trinity United Methodist Church had served the Newport News Community since its inception. In the 1890's, Reverend James Cannon, Jr. initiated the building of housing for men working in local industries, such as shipbuilding, enabling the workers to bring their wives and children to Newport News to live together as families.

During World War II, the Fellowship Hall of Trinity United Methodist Church was opened to servicemen waiting to depart overseas as a place to relax on Saturday evenings, spend the night if needed, and have breakfast the following morning. Trinity United Methodist Church led the establishment of Susannah Wesley Hall, which originally served as a dormitory for women working in downtown Newport News, and subsequently became the Youth Challenge Women's Home.

Trinity United Methodist Church continued to serve the community, providing contributions and a facility to feed the hungry through "Teens Opposing Poverty," and providing Youth Challenge women with food, supplies, computer classes, and Bible Studies.

Mayor Price, on behalf of the members of the Newport News City Council, recognized and congratulated the Trinity United Methodist Church family on its 130<sup>th</sup> Anniversary, for its dedicated service to the citizens of Newport News, and acknowledged the many individuals who supported the church and its leaders in its commitment to mankind through the many ministries, programs, and services offered to the citizens of Newport News. Mayor Price extended best wishes for continued success and development in the City of Newport News.

2. Proclamation: Walk to End Alzheimer's Day, Newport News – October 15,  
2016

Ms. Carla Morin-Diehl, Volunteer Chair, Mr. Roger Diehl, Volunteer Co-Chair, 2016 Peninsula Walk to End Alzheimer's, and Mr. Gino Colombara, Executive Director, Alzheimer's Association Southeastern Virginia Chapter accepted the Proclamation

Mayor Price indicated that the Alzheimer's Association was the world's leading voluntary health organization in Alzheimer's care, support, and research. The Southeastern Virginia Chapter of the Alzheimer's Association served a territory of over 7,400

D. Presentations Continued

2. Proclamation: Walk to End Alzheimer's Day, Newport News – October 15, 2016 Continued

square miles, and provided a wide array of services, including a 24-hour help line, monthly orientations, and caregiver support groups.

Mayor Price stated that the Alzheimer's Association Walk to End Alzheimer's was the world's largest event to raise awareness and funds for Alzheimer's care, support, and research. The theme for the 2016 Walk to End Alzheimer's was "The End of Alzheimer's Starts With Me."

Mayor Price, on behalf of the members of the Newport News City Council, proclaimed October 15, 2016 as "Walk to End Alzheimer's Day" in the City of Newport News, and urged all citizens to show their support and join in thanking all involved in the walk for their contributions to research, and for the services provided to those affected, and their caregivers. Significant progress would continue to be made in the fight against Alzheimer's.

E. Public Hearings

1. Resolution Authorizing the City Manager to Execute an Amendment to a Ground Lease By and Between the City of Newport News, Virginia, and Alltel Communications, LLC (d/b/a Verizon Wireless)

A RESOLUTION 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 FIRST AMENDMENT TO LEASE TO THAT LEASE BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND ALLTEL COMMUNICATIONS, LLC, D/B/A VERIZON WIRELESS, DATED THE 12<sup>TH</sup> DAY OF SEPTEMBER, 2011, FOR LEASE OF GROUND SPACE AT 100 TOWER LANE, YORK COUNTY, VIRGINIA. This resolution authorized and directed the City Manager to execute an amendment to a ground lease by and between the City of Newport News, Virginia, and Alltel Communications, LLC (d/b/a Verizon Wireless). The requested lease amendment was to continue to provide Alltel use of 2,500 square feet of land at the Ground Air Transmitter (GAT) site located at 100 Tower Lane, York County, Virginia. The land had been leased to Alltel (and its predecessor, Virginia Metronet, Inc.) since 1986. This amendment extended the lease for a five-year period, from November 1, 2016 through October 31, 2021. Rent would begin at \$23,185.48 per annum and continue to be increased annually by an amount equal to three percent (3%) of the rent for the prior lease year. The amendment provided that Alltel also pay to the City a separate, one-time payment of \$20,000 within thirty (30) days of the effective date of the amendment. The City Manager recommended approval.

(No registered speakers)

E. Public Hearings Continued

1. Resolution Authorizing the City Manager to Execute an Amendment to a Ground Lease By and Between the City of Newport News, Virginia, and Alltel Communications, LLC (d/b/a Verizon Wireless) Continued

Vice Mayor Vick moved closure of the public hearing; seconded by Councilman Harris.

Vote on Roll Call:

Ayes: Scott, Vick, Bateman, Cherry, Harris, Price

Nays: None

Vice Mayor Vick moved adoption of the above resolution; seconded by Councilman Bateman.

Vote on Roll Call:

Ayes: Scott, Vick, Bateman, Cherry, Harris, Price

Nays: None

F. Consent Agenda

Councilman Bateman moved adoption of the Consent Agenda, Items 1 through 3, both inclusive, as shown below; seconded by Vice Mayor Vick.

1. Minutes of the Work Session of September 27, 2016

(No registered speakers)

Vote on Roll Call:

Ayes: Scott, Vick, Bateman, Cherry, Harris, Price

Nays: None

2. Minutes of the Special Meeting of September 27, 2016

(No registered speakers)

Vote on Roll Call:

Ayes: Scott, Vick, Bateman, Cherry, Harris, Price

Nays: None

3. Minutes of the Regular Meeting of September 27, 2016

(No registered speakers)

F. Consent Agenda Continued

3. Minutes of the Regular Meeting of September 27, 2016 Continued

Vote on Roll Call:

Ayes: Scott, Vick, Bateman, Cherry, Harris, Price

Nays: None

G. Other City Council Actions

1. Receipt of Bids for Granting a 15-Foot Wide Easement over City-owned Property Located at 15402 Warwick Boulevard

One (1) bid was received and opened from Dominion Virginia Power in the amount of \$1.00, granting a 15-foot easement over City-owned property located at 15402 Warwick Boulevard. A request to receive bids for a utility easement over City-owned property at 15402 Warwick Boulevard was properly advertised in the Daily Press on September 26, 2016 and October 3, 2016. The easement request accommodated improvements as part of a larger project to provide the Atkinson Boulevard and Bridge Project. A public hearing was advertised for the October 25, 2016 Regular Meeting of City Council for consideration of the ordinance which would grant the easement to the successful bidder. No action was required of City Council. The bid was forwarded to the City Manager for review and evaluation.

2. Resolution Supporting the City's Application to the Virginia Department of Transportation (VDOT) for FY 2018 Revenue Sharing Program Funding

A RESOLUTION SUPPORTING AN APPLICATION TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) FOR AN ALLOCATION OF \$10,000,000.00 THROUGH THE VDOT REVENUE SHARING PROGRAM FOR FY 2018. This resolution supported the City's application to the Virginia Department of Transportation (VDOT) for an allocation of \$10 million through the VDOT Revenue Sharing Program for FY 2018. VDOT accepted applications for FY 2018 State Transportation Revenue Sharing Funds. The City applied for \$10 million in VDOT funds for seven construction projects at a cost of \$20 million. The program required at least a 50/50 City/State match. Applications were due November 2016, with a decision being made by June 2017. The City had applied in the past with success, and had several Revenue Sharing Program projects underway. The City Manager recommended approval.

Vice Mayor Vick moved adoption of the above resolution as revised; seconded by Councilman Harris.

Councilwoman Cherry expressed opposition to the Hogan Drive Extension and Habersham Drive Extension Projects, but would vote in favor of the resolution to support the FY 2018 Revenue Sharing Program.

G. Other City Council Actions Continued

2. Resolution Supporting the City's Application to the Virginia Department of Transportation (VDOT) for FY 2018 Revenue Sharing Program Funding Continued

Vote on Roll Call:

Ayes: Scott, Vick, Bateman, Cherry, Harris, Price

Nays: None

3. Resolution Endorsing a Transportation Alternatives Program (TAP) for the Washington Avenue Streetscape and Pedestrian Improvements Project

A RESOLUTION ENDORSING THE CONTINUATION OF A TRANSPORTATION ALTERNATIVES PROJECT FOR THE WASHINGTON AVENUE STREETScape AND PEDESTRIAN IMPROVEMENTS, PHASE II, PROJECT IN THE CITY OF NEWPORT NEWS. This resolution endorsed the City's Transportation Alternatives Program (TAP) application for the Washington Avenue Streetscape and Pedestrian Improvements, Phase II, Project. VDOT accepted applications for the FY 2018 MAP-21, TAP Funds. The City applied for \$400,000 in TAP grant funds for Phase II of this project, to improve the sidewalks, crosswalks, and lighting on Washington Avenue between 30<sup>th</sup> Street and 34<sup>th</sup> Street. The Washington Avenue project grant request was \$400,000, with a 20% City match of \$100,000 for a total project allocation of \$500,000. Applications were due November 2016, and a decision made in June 2017. The City Manager recommended approval.

(No registered speakers)

Councilwoman Scott moved adoption of the above resolution; seconded by Vice Mayor Vick.

Vote on Roll Call:

Ayes: Scott, Vick, Bateman, Cherry, Harris, Price

Nays: None

H. Appropriations

None Submitted

I. Citizen Comments on Matters Germane to the Business of City Council

Dr. Angela Herring, 11 Digges Drive, Newport News, commented about the City Farm and the barn, and spoke for several friends that could not be present. She stated that the City Farm was a place of beauty, and citizens were lucky to have such a place in Newport News. Dr. Herring indicated that the City Farm belonged to the citizens. It was once designated for park use in the Framework for the Future. She indicated that the barn should be restored and should have been maintained all along as a landmark. What was currently Riverview Farm Park was a

I. Citizen Comments on Matters Germane to the Business of City Council  
Continued

wonderful park and was well utilized by the public. Dr. Herring stated the park should be expanded, to include the waterfront, which would serve the citizens well, and would be a successful park. Dr. Herring urged City Council to keep the City Farm usage as a park.

Ms. Carolyn Hughes, 335-60<sup>th</sup> Street, Newport News, advised that she first moved from rural Kentucky to Newport News to be a City employee in 1970, and worked at the Main Street Library. She was surprised that Newport News had barns and cows in 1970. She left in 1974, returned in 1993, but never lost track of the City. There was a Framework for the Future, and there were plans to have parks. It was taken for granted when City Farm was closed; the area would revert to being a public park. The City had also invested money in a plan for Downtown Newport News, which somehow got shoved aside. Ms. Hughes advised that she had attended church for the past 21 years in the Downtown area as she lived in one of the two historic areas in the City (Hilton and North End Huntington Heights), which came about as a result of a great deal of hard work by the citizens, and were on the National Register.

Citizens were concerned about housing values, and that the middle class was moving from Newport News to Poquoson and York County. She advised that there were many things that the City could do, but had not been doing to raise the value of the houses that were already here, to include: (1) encouraging the residents and investors to use Federal and State Tax Credits for investing in North End Huntington Heights and Hilton. She indicated that Architectural Review Boards (ARBs) had been of great help in holding housing values. City Council needed to be more engaged in the process; (2) look for new areas such as Stoney Brook. Neighborhoods had to be unique to be on National Registers, which Stoney Brook was. It also had a historic connection, which was where astronauts lived. If City Council was concerned about housing values increasing, and attracting more people to live in Newport News, there were a lot of things that could be done besides taking the only open waterfront left. She urged members of Council to leave Riverview Farm Park as a park, expanding it, making it a place for all citizens to enjoy, and a safe place for recreation. Ms. Hughes advised that there were many rumors going around – she asked that there be full disclosure amongst City Council.

Mr. Joe A. Leming, 377 DeShazor Drive, Newport News, commented about the City Farm. He reminded that he appeared before City Council at the September 27, 2016 Regular Meeting, where he expressed opposition to the demolition of the brick barn that sat on the old City Farm/Jail property. He suspected that City Council made the decision to demolish the barn based on information that was accurate, but incomplete. Mr. Leming shared additional information about the situation, hoping City Council would change their mind about demolishing the City Farm barn. The Framework for the Future 2030 was in place and was the guide and the way the City did business until the new Comprehensive Plan was completed. He shared the following from the Framework for the Future 2030, under Parks, Recreation, and Tourism, Goal #1: Provide adequate park space to serve the recreational needs of the residents of Newport News. Policy 1-9; continue to implement the park design master plan developed by the Riverview Farm Park Task Force, adopted by the City Council on July 23, 1991. Strategy 1-9.2: Provide for regular citizen and staff review of the Riverview Farm Park Master Plan, to insure it

I. Citizen Comments on Matters Germane to the Business of City Council  
Continued

remained compatible with its original design. Recommend revisions to City Council as appropriate. Strategy 1-9.3, Implementation or Strategy. Evaluate the cost effectiveness and feasibility of reusing existing building facilities on the Riverview Farm Park property to use and to house environmental education programs. The program would create awareness of environmental concerns and educate the public about local flora.

Mr. Leming shared notes from a meeting with the topic being the Riverview Farm Park and City Farm. The Plan made several recommendations for the development of the park, including preserving the historic character. Major concerns regarding development were the loss of the rural feel, the loss of neighborhood characteristics, and the visual impacts. The barn was the last visual symbol of a farming community.

Mr. Adrian Whitcomb, 316-54<sup>th</sup> Street, Newport News, President of “Citizens for Riverview Farm Park,” shared a photo of the City Farm Brick Barn (a copy is attached and made a part of these minutes). He recalled that the City Farm property was rezoned as parkland 25 years prior. Any type of development on this land would detract from its usefulness. He stated there were other areas of the City that were suitable for development and redevelopment along the City’s major highways. Mr. Whitcomb stated that the brick barn was of substantive value to Riverview Farm Park. The water and the farm were important to the park. The apparent decision to demolish the barn came as a result of a limited presentation at a City Council Work Session, with no advance notice to the public of what was about to occur, nor any chance to participate in the discussion by the few members of the public that were in attendance. Mr. Whitcomb indicated that the brick barn was historic as shown on the Master Plan: The Deep Creek Menchville Plan was adopted by the City Council in 1990 (a copy is attached and made a part of these minutes). Mr. Whitcomb urged City Council to set up a committee and let the committee bring forth different ideas. The Master Plan for Riverview Farm Park was adopted on July 23, 1991. He felt that City Council should be true to what was promised in 1991, as there was even an greater need for the park for all of the citizens, and for generations to come.

Mr. George Harrison, 123 Longwood Drive, Newport News, addressed two related issues: (1) asked that City Council delay demolition of the brick barn located on the former City Farm property. Delaying demolition would provide City Council the opportunity to seek citizen input on whether the barn should be restored, and how; and (2) asked that City Council act to make the City Farm property a permanent part of Riverview Farm Park. By making the parcel an official part of the Park provided the opportunity to preserve the area for Newport News citizens, which would improve the quality of life for all of the neighbors, and allow public access to the James River in the northern part of the City. Millennials will be more concerned about the quality of the City’s schools and access to the river, and parks, than they would with having one additional grocery store or an additional shopping center. When he first moved to Newport News in 1969, there were working farms within the City limits. It was Mr. Harrison’s belief that citizens should appreciate their heritage, both good and bad. He also believed that the city would benefit more from preserving the brick barn and providing public access to the James River than the marginal increase in property tax revenues provided from

I. Citizen Comments on Matters Germane to the Business of City Council  
Continued

developing the City Farm property. The only way to stop development was to make the City Farm a permanent part of Riverview Farm Park. To allow the barn to be demolished would be the first step to turning the valued parcel over to developers. He urged members of City Council to preserve the property for public use, not only for current residents of Newport News, but for those to come in future generations.

Mr. Antonio Thompson, 1211-25<sup>th</sup> Street, Newport News, addressed City Council on the topic of the City's treasury enrichment, public safety and security, as well as the importance of recycling, commodity investment and the legalization of marijuana.

Mr. Mark Perreault, 950 Hanover Avenue, Norfolk, commented about the Riverview Park Brick Barn located on the former City Farm property. He referenced a book by Jane Jacobs entitled the Death and Life of Great American Cities, where she stated that cities needed old buildings so badly that it was probably impossible for vigorous cities to grow without them. He stated, looking around, one saw cities with vibrant historic districts growing and thriving, e.g. Washington, DC; Boston, Massachusetts; San Francisco, California; and New York, New York. The cities without historic preservation were not doing well, e.g. Jacksonville, Florida and Gary, Indiana, which had not thrived because they had not attended to their historic districts or done what was necessary to attract people to them. Mr. Perreault indicated that Norfolk was infamous for tearing down old buildings, and applied for federal money to demolish districts of old buildings, where some were to become slums and irredeemable. The City of Norfolk learned its lesson and had not torn down anything in the past 10 – 12 years, and as a result, Downtown Norfolk was booming. He urged Newport News to take heed to what was happening in the region. He indicated that Downtown Newport News had basically been demolished and abandoned, with many depressed neighborhoods. There was ugly and massive suburban sprawl lining major roadways for miles, such as Jefferson Avenue and Mercury Boulevard. Every historic asset remaining should be considered important, such as Hilton and North End Huntington Heights. These neighborhoods should be preserved at all costs. Likewise, the Brick Barn on the former City Farm. It would take money to fix it, but was an investment the City should make for its future, as was done with renewing City Center, a resurgent Southeast, and hopefully a renewed and vibrant Downtown Newport News.

J. New Business and Councilmember Comments

City Manager Bourey, addressed earlier comments made regarding the City Farm and the City Farm Barn. He stated that the City Council was committed to preserving historic resources. He shared that City Council did discuss the City Farm Barn in previous meetings. It was scheduled on the agenda for discussion. The Barn suffered significant roof damage. When work for the roof was scheduled, other issues were discovered with the entire structure, i.e. termite damage and other issues that called for a closer look. An Engineer was called in, and concluded that it would cost at least \$330,000 to restore and preserve the structure so that it would not fall down. Millions of dollars would be needed to preserve the Barn for any additional use. The Barn was old, not historic. City Council discussed the matter of whether to spend the

J. New Business and Councilmember Comments Continued

\$330,000 to restore a building that had no use and would cost millions of dollars to maintain. City Council, at that point, decided against moving forward spending \$330,000. City Manager Bourey felt this was a prudent decision and was wise for the taxpayers.

The issue of what to do with City Farm was a conversation for City Council to have in the future. No use, plan and or decision had been made for the City Farm.

City Council would have a conversation with deliberate public input. This would take place in a thoughtful decision-making process. The Barn was an immediate need. To spend \$330,000 would be throwing money at a very negative situation. He had major concerns about the structural integrity and safety of the Barn.

City Manager Bourey announced that Mayor Price would present his Annual State of City Address on Tuesday, October 18, 2016, 12:00 noon, at the Marriott Hotel City Center. Citizens were encouraged to attend.

City Manager Bourey advised as a result of the Summer Training Enrichment Program (STEP) and the Schools SPARK program, and the advent of the juvenile curfew program stepped up enforcements, there had been a significant downturn in the amount of juvenile crime over the summer. Looking at the same number of juvenile arrests, 2015 showed a nine percent (9%) decrease in the amount of juvenile arrests over the summer; and in 2016 for the same time period, there was a 27% decrease in juvenile arrests. There had been an increase in the amount of gun violations over the summer. Guns in the hands of youth continued to be a major problem in Newport News and needed to be addressed.

Councilwoman Scott thanked the Department Heads and the City employees who played any role in keeping the City safe over the period of time that Hurricane Matthew impacted the City. There was a great deal of wind and rain, and there were many citizens still without utilities. She asked for citizens' patience as the City did its part to remove trees, debris, and whatever made their neighborhood unsafe. She also thanked the First Responders, as well as the Fire and Police, who were on the frontline to ensure the residents were safe (The City began to feel the effects of Hurricane Matthew on Friday, October 7, 2016). Councilwoman Scott encouraged citizens to utilize the 3-1-1 Center to report additional issues as a result of Hurricane Matthew.

Councilwoman Scott extended belated birthday wishes to Ms. Clede Jones, Director, Department of Communications, who celebrated her birthday with Councilwoman Scott on Monday, October 10. She also extended belated birthday wishes to Ms. Geneva Brown, Mr. Melvin Allen, Ms. Sherron Walker, North District Volunteer, and Mr. Antonio Thompson.

Councilwoman Scott announced that the next North District Town Hall Meeting was scheduled for Monday, October 24, 2016, 7:00 p.m., at the Denbigh Community Center (15198 Warwick Boulevard).

## J. New Business and Councilmember Comments Continued

Vice Mayor Vick attended the Virginia Municipal League (VML) Annual Conference, held October 9 - 12, 2016, at the Sheraton Virginia Beach Oceanfront Hotel (3501 Atlantic Avenue). VML is a statewide non-profit, nonpartisan association of City, town, and county governments established to improve and assist local governments through legislative advocacy, research, education, and other services. The City of Newport News' Summer Training and Enrichment Program (STEP) received a public safety award at the VML's Annual Innovation Awards for Excellence in Local Government banquet. The statewide competition recognized innovative problem-solving, excellence in management, increased citizen participation, and improved services to citizens. Awards were given in five (5) fields within local government: infrastructure, economic development, public safety, working with youth, and communications. She explained that STEP was one component of the Building Better Futures – Youth and Gang Violence Prevention Initiative to increase positive outcomes for youth and young adults between the ages of 16 to 24. The 10-week summer program provided meaningful work readiness training, offered participants paid work experience, workshops, financial literacy, and GED preparation classes. Many of the participants requested information about STEP. Vice Mayor Vick advised that she was joined by Assistant City Manager Alan Archer, and Ms. Marhonda Echols, Building Better Futures Program Coordinator, and Ms. LaToya Delk, Street Outreach Worker, to accept the award. Vice Mayor Vick also thanked the businesses that stepped up to make the program successful.

Councilman Bateman thanked the citizens for their attendance and participation and for sharing their thoughts and concerns about the Brick Barn located on the former City Farm site. He shared his knowledge about Jamestown, which was tilled by a group of farmers. The farmers dug and found a lot of relevant items and artifact about the sites past. Not comparing Jamestown to the City Farm site, Councilman Bateman advised that there was a lot more history than the barn. He thanked the citizens for their attendance and participation and for sharing their concerns with City Council. He stated that he too shared much of their beliefs. He advised that he would like to work with them on how the City Farm land was used in the future. He did not feel, if the Barn was demolished, that it could not be reconstituted or remodeled and put somewhere other than in the center of the property, where it could be a full-functioning barn and have the same use. Archeological surveys were being done on the property. Councilman Bateman stated that there was untold history on that land that citizens needed to learn about. He commented on remarks made by Mr. Perreault, sharing that Newport News restored Lee Hall Mansion, Endview Plantation, preserved the battlefield and the earthworks of the Newport News City Park, where the Battle of Burnt Chimney was fought (Dam Number 1). Newport News had a long and proud history of preservation and restoration. Speaking to those citizens that were a part of the Riverview Farm Task Force, Councilman Bateman advised that the information had extraordinary relevance and did not think that it could not be a full-functioning farm where people could come and see how things used to be. He stated there might be other uses that tied the history of what was on the land long before the barn was there. He pledged to work with the citizens and asked them to do away with their suspicions. He supported the vote to demolish the barn, but could see a way to rebuild it at a fraction of the cost, utilized, and it could still be iconic and useful. The process to come was one where there was consensus, and the contributions would be heard again.

J. New Business and Councilmember Comments Continued

Councilwoman Cherry thanked all of the citizens for their attendance and participation at the meeting to express their points of view. She reiterated that their voices mattered. Members of City Council were concerned about the issues presented.

Councilwoman Cherry congratulated Assistant City Manager Alan Archer, Ms. MaRhonda Echols, and her team, for the hard work to make STEP successful and to be an award winner at the VML Conference. This award said a great deal about the City, and the commitment to the youth.

Councilwoman Cherry shared, during the timeframe of STEP and SPARK programs, there was a photography program for youth – “Point Aim & Shoot,” held at the Downing-Gross Cultural Arts Center, with the LeMelle Group. She advised that the group remained out, at different events, taking photographs. She indicated this was a rewarding time for the youth, who learned various skills.

Councilwoman Cherry extended congratulations to Apostle Charlie Ammons, Founder of Restoration Christian Church, on his Apostolic Confirmation and Commissioning Ceremony held on Sunday, October 2, 2016.

Councilwoman Cherry announced the next South District “Your Voice Matters” Town Hall Meeting, would be held on Thursday, October 13, 2016, 6:00 – 7:30 p.m., at the Brittingham Midtown Community Center (570 McLawhorne Drive), for residents from Mercury Boulevard South to the waterfront. The Guest Speaker would be Mr. John Eley, member of the Newport News School Board. The topic of discussion would be the progress of Newport News Public Schools (NNPS). The “Your Voice Matters” Town Hall Meeting, usually held at the Downing-Gross Cultural Arts Center, would be on Thursday, October 20, 2016, 6:00 – 7:30 p.m., at Jim’s Local Market (3101 Jefferson Avenue). The topic of discussion would be the progress of Newport News Public Schools (NNPS). The title and dialogue for both meetings would be about the progress of Newport News Public Schools (NNPS). The Guest Speakers would be Mr. Carlton Ashby, member of the Newport News School Board, and Dr. Ashby Kilgore, Superintendent, NNPS. All citizens were welcome to attend.

Councilwoman Cherry congratulated Deer Park Elementary School, which was selected and named as a 2016 National Blue Ribbon School by the Department of Education, for strong academic performance. Deer Park was listed as one of the top performing schools in the nation. She extended kudos to the Newport News School Board, and the staff and faculty at Deer Park Elementary School.

Councilwoman Cherry announced that the Community Fall Fest would be held on Saturday, October 29, 2016, 1:00 p.m. – 3:00 p.m. This would be a fun day for the children, who were welcome to attend, and dress in costume. There would be pony rides, face painting, games, and prizes for all. Donations of candy were sought and could be delivered to the City Clerk’s Office. Each child would leave with a miniature pumpkin to take home. Citizens were advised to contact the City Clerk’s Office for additional details, at 926-8634.

J. New Business and Councilmember Comments Continued

Councilman Harris thanked the citizens for their attendance and participation and for voicing their concerns, and to those watching in from the comfort of home.

Councilman Harris reiterated the remarks made by Councilwoman Scott, about the great job that the City departments did to make sure that the City was safe and secure throughout the course of the inclement weather (rain and flooding) that took place as a result of Hurricane Matthew. He also commended Newport News citizens, who were out during the storm with a spirit of generosity – helping to pick up trees, debris, and helping one another in their neighborhoods, to ensure that the City was back together in one piece.

Councilman Harris commended the members of the “STEP Team,” Ms. Delk and Mr. Terry, who visited Denbigh High School and Heritage High School to check up on some of the youth whom they worked with throughout the course of the summer. The students were excited to see their mentors come into the building. Councilman Harris thanked Ms. Delk and Mr. Terry for their work as they continued to build relationships with the youth.

Councilman Harris also congratulated Deer Park Elementary School, which was named a 2016 National Blue Ribbon School by the Department of Education, for strong academic performance, and was excelling with the youth (Deer Park was listed as one of the top performing schools in the nation). He also commended other Newport News schools that continued to work with the youth as the first nine week of school came to a close. He asked citizens to continue to encourage and motivate the youth.

Mayor Price advised that City Council would have a regularly scheduled meeting on Tuesday, October 25, 2016, but reminded that the November 8, 2016 Regular Meeting of City Council had been canceled for Election Day.

Mayor Price reminded of a scheduled Walk To End Alzheimer’s. Alzheimer’s was personal to his family and he was sure that other citizens were aware of others affected by the disease. Mayor Price stated that the Alzheimer’s Association Walk to End Alzheimer’s was the world’s largest event to raise awareness and funds for Alzheimer’s care, support, and research. He announced the Walk To End Alzheimer’s would be held on Saturday, October 15, 2016, at Port Warwick. He urged all citizens to join and show their support. The theme for the 2016 Walk to End Alzheimer’s was “The End of Alzheimer’s Starts With Me.”

Mayor Price announced, due to inclement weather, the “1000 Youth Stop Bullying March” had been rescheduled to Sunday, October 16, 2016, 2:00 p.m., at Todd Stadium (12465 Warwick Boulevard). He invited all citizens to participate and show their support. Mayor Price announced that the City had joined with the U. S. Conference of Mayors, and Parents Against Bullying in an attempt to prevent bullying, which occurred regularly in the NNPS. Bullying occurred, physically, mentally, and through social media. The City wanted to educate the youth and provide another outlet.

**DRAFT**

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Minutes of Regular Meeting  
October 11, 2016

K. Adjourn

Mayor Price adjourned the meeting by addressing the citizens. He stated, "May what you say and do uplift the City of Newport News."

THERE BEING NO FURTHER BUSINESS,  
ON MOTION, COUNCIL ADJOURNED AT 8:10 P.M.



Mabel Washington Jenkins, MMC  
City Clerk

McKinley L. Price, DDS  
Mayor  
Presiding Officer

A true copy, teste:

City Clerk

## F. Consent Agenda

### 4. Resolution in Memoriam: Arnold Ron Coates, II

ACTION: A REQUEST TO APPROVE A RESOLUTION IN MEMORIAM IN HONOR OF MR. ARNOLD RON COATES, II

- BACKGROUND:
- This Resolution in Memoriam records with deep and profound sadness the tragic and untimely death of Arnold Ron Coates, II, on July 29, 2016.
  - Mr. Coates was born in Bad Kreuznach, Germany in 1973, and moved to Virginia with his family, graduating from Denbigh High School in 1992.
  - Mr. Coates served his country in the U.S. Army, including four deployments to Iraq and Afghanistan, and he received numerous medals recognizing his service.
  - He was an avid soccer enthusiast and was involved with the sport throughout his life, mentoring young players as well.
  - Mr. Coates was a generous, caring, and well-regarded member of the community who regularly put the needs of others before his own.
  - This Resolution recognizes and honor Mr. Arnold R. Coates, II, for all he has done to serve the City of Newport News and the United States.
  - The City Manager recommends approval.

FISCAL IMPACT: • N/A

#### ATTACHMENTS:

Description

sdm14726 Memoriam re Arnold Ron Coates, II

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION IN MEMORIAM**

**ARNOLD RON COATES, II**

WHEREAS, the Council of the City of Newport News, Virginia, records with deep and profound sadness the tragic and untimely death of Arnold Ron Coates, II, on July 29, 2016; and

WHEREAS, Arnold R. Coates, II, was born in Bad Kreuznach, Germany in 1973, the son of the late Arnold R. Coates and Kay Frances Coates; and

WHEREAS, Arnold R. Coates, II moved to Virginia, where he graduated from Denbigh High School in 1992. He went on to study psychology at Thomas Nelson Community College; and

WHEREAS, Arnold R. Coates, II bravely served his country in the U.S. Army, including four deployments to Iraq and Afghanistan. He received numerous medals recognizing his service, including the National Defense Service Medal, the Global War on Terrorism Expeditionary Medal, and the Global War on Terrorism Service Medal; and

WHEREAS, Arnold R. Coates, II was an avid soccer enthusiast, and was involved in soccer throughout his life. In his youth, he played with the Newport News Aztecs and the Denbigh High School Varsity team. As an adult, Arnold R. Coates, II continued to be involved in soccer and helped to mentor young players including those with FC Richmond Mystx; and

WHEREAS, Arnold R. Coates, II is survived by his son, Devyn Coates; his mother, Kay Frances Coates; his sister, Sharon B. Herring; two brothers, Eric W. Gibson and Gregory Gibson; along with numerous other relatives and close friends; and

WHEREAS, Arnold R. Coates, II, was a generous, caring, and well-regarded member of the community who regularly put the needs of others before his own, and whose life and years of service in defending his country this Council wishes to recognize and honor.

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

1. That it hereby recognizes all that Arnold Ron Coates, II has done to serve the City of Newport News, the Commonwealth of Virginia, and the United States of America, and honors him for his service to this community and to his country.

2. That it is ordered that the City Clerk shall record this resolution in the minutes of this body and that a copy be presented to the family of the late Arnold Ron Coates, II.

## F. Consent Agenda

### 5. Resolution Confirming, Ratifying and Terminating the Declaration of a Local Emergency Made Necessary by Hurricane Matthew

ACTION: A REQUEST TO APPROVE A RESOLUTION CONFIRMING, RATIFYING AND TERMINATING THE DECLARATION OF A LOCAL EMERGENCY ISSUED BY THE NEWPORT NEWS DIRECTOR OF EMERGENCY MANAGEMENT ON OCTOBER 8, 2016, MADE NECESSARY BY HURRICANE MATTHEW.

BACKGROUND:

- On October 8, 2016, the National Hurricane Center (NHC) was predicting the possibility of significant impacts to the Hampton Roads region due to the predicted path of Hurricane Matthew.
- As a result of this forecast and Governor Terry McAuliffe's Declaration of Emergency for the Commonwealth of Virginia, the Acting Director of Emergency Management issued a Declaration of Local Emergency on October 8, 2016.
- The Declaration was necessary to coordinate local government response, ensure public safety, and adequately manage any unusual emergencies related to the storm.
- In accordance with the *Code of Virginia*, the governing body has 45 days from the date of issuance to ratify the Declaration.
- The Declaration was terminated on October 10, 2016.
- The City Manager recommends approval.

FISCAL IMPACT: • N/A

#### ATTACHMENTS:

##### Description

CM Memo re Declaration of Local Emergency

sdm14745 Confirming, Ratifying and Terminating the Declaration of Emergency

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

October 19, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Declaration of Local Emergency

On October 8, 2016, the National Hurricane Center (NHC) was predicting the possibility of significant impacts to the Hampton Roads region due to the predicted path of Hurricane Matthew. Matthew was a powerful hurricane moving parallel to the east coast of the United States with Hampton Roads falling within the cone of uncertainty of the NHC's forecast.

As a result of this forecast and Governor Terry McAuliffe's Declaration of Emergency for the Commonwealth of Virginia, the Acting Director of Emergency Management issued a Declaration of Local Emergency at 5:50 p.m., Saturday, October 8, 2016 for the City of Newport News due to the imminent threat posed by the hurricane.

The declaration of a local emergency was necessary to coordinate local government response, ensure public safety, and adequately manage any unusual emergencies related to the storm. In accordance with the *Code of Virginia*, § 44-146.21, the governing body has 45 days from the date of issuance to ratify the Declaration.

Therefore, I recommend approval of the Resolution to confirm and ratify the Declaration of a Local Emergency issued on October 8, 2016 and ratify the termination notification issued on October 10, 2016.

  
James M. Bourey

JMB:AKA:jlt

cc: Alan K. Archer, Assistant City Manager  
Robert B. Alley III, Chief, Newport News Fire Department (NNFD)  
Tom Mitchell, Director, Finance Department

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, CONFIRMING, RATIFYING AND TERMINATING THE DECLARATION OF A LOCAL EMERGENCY ISSUED BY THE NEWPORT NEWS DIRECTOR OF EMERGENCY MANAGEMENT ON OCTOBER 8, 2016, MADE NECESSARY BY HURRICANE MATTHEW.

WHEREAS, Section 44-146.21 of the Code of Virginia, 1950, as amended, prescribes necessary actions precedent to a declaration of a local emergency; and

WHEREAS, Section 16-70 of the Code of the City of Newport News designates the city manager as the Director of Emergency Management; and

WHEREAS, the Section 44-146.21 prescribes two methods for declaring an emergency: the first is accomplished by the local Director of Emergency Management with the consent of the governing body; the second is accomplished by the Director of Emergency Management without the initial consent of the governing body, but such declaration must be confirmed by the governing body at a meeting within forty five days of the emergency declaration; and

WHEREAS, it was necessary and proper for the city manager, in his capacity as Director of Emergency Management, on October 8, 2016, to declare a local emergency in Newport News, Virginia, arising from Hurricane Matthew, without first obtaining the consent of the Council of the City of Newport News, Virginia (the "Council") and confirmation by the Council is now required by law; and

WHEREAS, the Council is satisfied that the size, strength and volume of rain and winds generated by Hurricane Matthew constituted a real and substantial threat to health and safety of persons and property in the City of Newport News, Virginia, and that it necessitated a declaration of local emergency; and

WHEREAS, City Council is satisfied that the threat posed by Hurricane Matthew has passed and that a declaration of local emergency is no longer warranted or necessary for the health and safety of the City's residents.

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

1. That it hereby confirms and ratifies the Declaration of Local Emergency made on October 8, 2016, by the Director of Emergency Management.

2. That it understands and confirms that the Declaration of Local Emergency empowered the Director of Emergency Management with special authority and duties, said authority and duties being defined by the laws, rules, regulations and plans of the United States of America, the

Commonwealth of Virginia and the City of Newport News.

3. That it understands and confirms that, in judgment of this Council, all needed emergency actions have been taken.

4. That City Council is satisfied that the declaration of local emergency is no longer warranted or necessary for the health and safety of the City's residents, and hereby ratifies the termination of the declaration of local emergency, effective October 10, 2016.

5. That this resolution shall be in effect on and after the date of its adoption, October 25, 2016.

## **G. Other City Council Actions**

### 1. Resolution Approving and Adopting the City of Newport News, Virginia Legislative Program for the 2017 Virginia General Assembly

**ACTION:** A REQUEST TO APPROVE A RESOLUTION APPROVING AND ADOPTING THE CITY OF NEWPORT NEWS, VIRGINIA LEGISLATIVE PROGRAM FOR THE 2017 VIRGINIA GENERAL ASSEMBLY

**BACKGROUND:**

- The City prepares a State Legislative Package annually for presentation to the Virginia General Assembly.
- City Council was presented the City's State Legislative Priorities Package to the 2017 Virginia General Assembly at its October 11, 2016 Work Session.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

#### **ATTACHMENTS:**

##### Description

CM Memo re 2017 State Legislative Package

sdm14747 Adopting the City's Legislative Program for the 2017 VA General Assembly

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

October 19, 2016

**TO:** The Honorable City Council

**FROM:** City Manager

**SUBJECT:** 2017 Legislative Priorities

Please find attached a draft of the City's 2017 State Legislative Priorities for the Virginia General Assembly which was presented for your review at your October 11th Work Session.

This year's legislative priorities package includes a message from the Council that asks the General Assembly to refrain from creating restrictions on local authority and to avoid enacting legislation that will result in a negative impact on local revenue.

In addition, there are four specific requests to change language used in the *Code of Virginia*. The first request will add Municipal Park Rangers to several sections of the Code for the purposes of granting them specific law enforcement powers. The changes requested will also resolve issues regarding the training and records required for them to be certified to perform the duties of their job. This request will require a companion budget amendment to cover the indeterminate cost of \$50,000 assigned by the Sentencing Commission. The second request seeks clarifying language about underage possession of handguns and assault weapons by persons under 18 years of age who reside in the home of a parent, grandparent, or legal guardian; the current statutory language seems to omit a requirement for parental or guardian permission when the juvenile resides in their home. The third request asks for local authority to place liens against properties for nonpayment of waste and recycling collection fees and charges consistent with the authority granted for water and sewer services. The fourth request seeks to add language to affirm a court's authority to choose whether or not to reinstate a discontinued civil case.

The proposed draft includes several position statements in support of other initiatives:

- Expanding Medicaid in Virginia
- Identifying a dedicated funding stream for public transportation and allowing the use of regional transportation funds for transit projects
- Allowing Magistrates to order testing in cases of exposure to blood borne pathogens
- Removing the Restoration restriction on emergency psychiatric treatment
- Studying Port of Virginia economic impact to host cities
- Funding local youth employment programs
- Restricting Predatory Lending
- Funding the Stormwater Local Assistance Fund
- Legalizing Medical Marijuana for the treatment of Neuropathy

This year in lieu of restating each item, the City's package includes notice that, unless otherwise stated, the City supports the legislative priorities of the Hampton Roads Planning District Commission, the Hampton Roads Transportation Planning Organization, and the Hampton Roads Transportation Accountability Commission.

Once you have approved the legislative priorities, copies of the City's legislative package will be distributed to our General Assembly delegation. I recommend your approval of this legislative package.

  
James M. Bourey

JMB:JGW:wmp

cc: Collin L. Owens, Jr., City Attorney  
Jerri Wilson, Legislative Liaison

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, APPROVING AND ADOPTING THE CITY OF NEWPORT NEWS' LEGISLATIVE PROGRAM FOR THE 2017 VIRGINIA GENERAL ASSEMBLY.**

WHEREAS, the Newport News City Council analyzes and adopts both specific legislative proposals and general policy positions as a part of its legislative program during its deliberations concerning positions to be presented for use by the Virginia General Assembly; and

WHEREAS, the legislative proposals are specific initiatives which the Newport News City Council believes should be acted upon as a part of the work of the 2017 Virginia General Assembly legislative session; and

WHEREAS, the Newport News City Council requests that the Virginia General Assembly consider and act upon the legislative proposals identified in the Newport News 2017 Legislative Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News, Virginia, that it hereby approves and adopts the Newport News 2017 Legislative Program, a copy of which is attached hereto and made a part hereof.

BE IT FURTHER RESOLVED that it is the City Council's express desire that the legislative proposals approved and adopted hereby be considered and acted upon during the legislative session of the 2017 Virginia General Assembly.

BE IT FURTHER RESOLVED that the City Manager is directed to provide a copy of the 2017 Legislative Program to each member of the City's Virginia General Assembly delegation.

BE IT FURTHER RESOLVED that the City Manager, the City Attorney and/or their designee(s) is/are hereby authorized and directed to provide necessary input and clarification during the 2017 Virginia General Assembly session and to carry out other activities as needed to assist in attaining the goals and objectives contained in the City's 2017 Legislative Program.

# State Legislative Priorities

2017 Session

Virginia General Assembly

**SENATE OF VIRGINIA**

**1st Senate District  
To Be Determined**

**Mamie E. Locke, Ph.D. (D)**

**2nd Senate District**

P.O. Box 9048

Hampton, VA 23670

757.825.5880

[district02@senate.virginia.gov](mailto:district02@senate.virginia.gov)

In Session: 804.698.7502

General Assembly Building Room 427

**Committee Assignments:**

- Education and Health
- General Laws and Technology
- Local Government
- Rehabilitation and Social Services

**VIRGINIA HOUSE OF DELEGATES**

**Monty Mason (D)**

**93rd District**

P.O. Box 232

Williamsburg, VA 23187

757.229.9310

[delmmason@house.virginia.gov](mailto:delmmason@house.virginia.gov)

In session: 804.698.1093

General Assembly Building Room 806

**Committee Assignments:**

- Counties Cities and Towns
- Courts of Justice

**David Yancey (R)**

**94th District**

P.O. Box 1163

Newport News, VA 23601

757-897-3953

[DelDYancey@house.virginia.gov](mailto:DelDYancey@house.virginia.gov)

In Session: 804.698.1094

General Assembly Building Room 717

**Committee Assignments:**

- Education
- General Laws
- Transportation

**Marcia Price, (D)**

**95th District**

P.O. Box 196

Newport News, VA 2360

District: 757.266.5935

[DelMPrice@house.virginia.gov](mailto:DelMPrice@house.virginia.gov)

In Session: 804.698.1095

**Committee Assignments:**

- Health, Welfare & Institutions
- Privileges and Elections

**City Council**

McKinley L. Price, DDS  
Mayor, At Large

Tina L. Vick  
Vice-Mayor, South District

Herbert H. Bateman, Jr.  
Central District

Sandra Cherry, D. Min.  
South District

Marcellus L. Harris, III  
North District

Sharon P. Scott  
North District

Dr. Pat Woodbury  
Central District

**Contact City Council**

council@nnva.gov

757.926.8634

**City Manager**

James M. Bourey

**City Information**

757.933.2311

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**Newport News City Hall**

2400 Washington Avenue  
Newport News, VA 23607

**City Center Offices**

700 Town Center Drive  
Newport News, VA 23606

**A MESSAGE FROM THE NEWPORT NEWS CITY COUNCIL**

In assembling our list of legislative priorities for the 2017 General Assembly session there were quite a few items that, although the specific subjects varied, seemed to fall into one of two categories: issues that pertain to local government authority and/or issues tied to revenue. In lieu of discussing each topic in extensive detail, only to repeat the same tenets for each entry, the Council would like to summarize our long-standing positions on the overarching issues so that as you consider legislation in this upcoming session, it will be easy for you to know where your City stands on many of the proposals being offered.

**Local Government Authority** ~ Although Virginia adheres to the Dillon Rule which gives localities only those powers expressly granted by the Commonwealth, it is a generally accepted principle that “what works” in one City or area of Virginia may not work in others. The great diversity of our natural resources, communities, and needs often dictates governance that varies from place to place. However, there is an alarming trend in recent legislation to remove or restrict local government authority, particularly in the realm of zoning and land use decisions. Such bills are typically drawn to favor a specific interest without regard for the local impact or unintended consequences that can occur to the health, welfare, and safety of the community. In some cases, compromises have been reached to balance the interests of all concerned. In other cases, the outcry of multiple stakeholders has been insufficient to prevent the blanket application of one-size-fits-all legislation. So, to the point, whether the issue concerns ride-sharing, home-sharing, wireless infrastructure, fireworks, or any number of other things, the General Assembly should not pass legislation that supersedes the existing authority of localities to determine the regulatory framework that best serves their community.

*Continued on Page 4*

**A MESSAGE FROM THE NEWPORT NEWS CITY COUNCIL**

*Continued from Page 3*

**Revenue** ~ Despite the anticipated State budget shortfall, the General Assembly should make every effort to preserve funding for core government services, particularly K-12 education, transportation, and public safety. To that end, the General Assembly should refrain from making reductions in Aid to Localities as those reductions directly impact core services. It is also important that investments in economic development tools such as the Commonwealth Opportunity Fund, the Enterprise Zone Program, and GO Virginia be protected as they are critical for cultivating a Virginia economy that is financially robust. In addition, the General Assembly should not pass legislation that constitutes an unfunded mandate to localities. Legislation that includes State mandated exemptions for local taxes and fees (such as property taxes or stormwater fees) does not incrementally reduce the costs for City services; it simply creates a larger financial burden for those that are not exempt. Finally, because City services benefit equally our businesses and residents, we urge the General Assembly to reject legislation that will negatively impact local government revenue streams and/or cause the tax burden to be shifted to the citizens.

In these two brief paragraphs lay the foundation for the legislative priorities of the City of Newport News. We hope that you will keep these guidelines in mind as you consider legislation and that they will be helpful to you as you serve the Commonwealth and the citizens of Newport News.

### **2017 LEGISLATIVE REQUESTS**

1. Law Enforcement Authority for Municipal Park Rangers
2. Underage Possession of Handguns and Assault Weapons in the Home or on the Property
3. Liens for Nonpayment of Waste and Recycling Fees
4. Court Discretion to Reinstate Discontinued Civil Cases

### **2017 POSITION STATEMENTS**

- ⊙ Expand Medicaid in Virginia
- ⊙ Fund Public Transportation
- ⊙ Authorize Magistrates to order testing in cases of exposure to infection with human immunodeficiency virus or hepatitis B or C viruses
- ⊙ Remove Restoration Restriction on Emergency Psychiatric Treatment
- ⊙ Study Port of Virginia Economic Impact to Host Cities
- ⊙ Fund Local Youth Employment Programs
- ⊙ Restrict Predatory Lending
- ⊙ Fund Stormwater Local Assistance Fund
- ⊙ Legalize Medical Marijuana for Treatment of Neuropathy

## **1. Law Enforcement Authority for Municipal Park Rangers**

Request:

The City of Newport News asks that the General Assembly amend §§ 15.2-1706, 18.2-250, 18.2-250.1, 18.2-460, 18.2-461, 18.2-479, 5 19.2-71, 19.2-72, 19.2-389, 46.2-817, 46.2-920, and 46.2-1022 of the Code of Virginia to include municipal park rangers in the list of officers authorized for the purposes of enforcement powers.

Justification:

Newport News municipal park rangers enforce the laws of the Commonwealth and the Ordinances of the City. Current orders from Circuit Court validate this as their responsibility. They work in multiple jurisdictions, protect large geographic areas, and protect over 3.8 million park visitors per year. Rangers are responsible for protecting the water supply, natural and historical resources, and other municipal properties. They also work during natural disasters and during incidents that activate the City's Emergency Operation Plan. The City's Emergency Operation Plan tasks rangers with duties that include assisting other public safety entities during a hurricane, and should the need arise, providing law enforcement presence at mass medication dispensing at school sites.

Several sections of the Code of Virginia do not include municipal park rangers in the list of officials authorized to act. This omission creates barriers for rangers in performing their duties as there are many code sections that grant enforcement powers only to law enforcement officers as defined in §9.1-101. The requested changes will resolve issues with: DCJS oversight and recordkeeping, seizing and possession of controlled substances when performing official duties, obtaining criminal history information, issuing warrants, and the authority to operate an emergency vehicle/use flashing blue lights. The changes will also include rangers for the purposes of enforcing violations for obstruction of justice, giving a false statement or false identity, and resisting arrest/fleeing.

This request will require a Budget Amendment of \$50,000 as the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation cannot be determined. In such cases, Chapter 665 of the 2015 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

## **2. Underage Possession of Handguns and Assault Weapons in the Home or on the Property**

### Request:

The City of Newport News asks that the General Assembly clarify the language in section 18.2-308.7 of the Code of Virginia such that it is clear that a person under 18 who resides with a parent, grandparent, or legal guardian, must have their permission to possess a handgun or assault firearm while in the home or on the property.

### Justification:

In several recent instances in Newport News, persons under the age of 18 were found to have handguns in their home without the knowledge or consent of the parent with which they reside. Even at the request of the adult, the juveniles were not charged with unlawful possession because language in the Code of Virginia § 18.2-308.7 states that possession of certain firearms by persons under the age of 18 is to be allowed, “(i) while in his home or on his property; (ii) while in the home or on the property of his parent, grandparent, or legal guardian; or (iii) while on the property of another who has provided prior permission, and with the prior permission of his parent or legal guardian if the person has the landowner's written permission on his person while on such property...” Although (i) could be interpreted to require some ownership interest, that is unclear. Section (ii) makes no mention of consent by the parent, grandparent, or legal guardian and section (iii) seems drawn to apply to the property of another landowner with which the minor does not reside.

The City of Newport News asks that the General Assembly clarify the language in section 18.2-308.7 such that it clearly requires persons under the age of 18 who reside with a parent, grandparent, or legal guardian to have the express permission of such adult in order to possess a handgun or assault firearm in the home.

### 3. Liens for Nonpayment of Waste and Recycling Fees

Request:

The City of Newport News asks that the General Assembly amend section 15.9-925 of the Code of Virginia to allow municipalities the option of placing liens against properties for nonpayment of waste and recycling collection fees and charges consistent with the authority granted in VA Code 15.2-2119 E for water and sewer services.

Justification:

The City of Newport News, Department of Public Works, Solid Waste Division provides a wide variety of waste collection and recycling services to approximately 41,000 households in Newport News. This program is financed by a revolving fund dedicated to the continual operation of these services. Collection of fees is administered by the Department of Public Utilities. In recent years, projected revenues have fallen short, due to nonpayment of fees.

Revenue shortfall by fiscal year:

FY2015	FY2014	FY2013	FY2012	FY2011	FY2010
-\$286,649.26	-\$270,755.32	-\$586,904.06	-\$298,476.49	-\$429,620.62	-\$1,656,178.00

Although disruption of services can be implemented for nonpayment, the City feels that it is more important to protect the overall health of the general population and the regional waterways by properly disposing of waste products and pollutants thereby providing residential solid waste collection services. The Code of Virginia § 15.2-2119 addresses nonpayment of fees and charges for water and sewer services by allowing municipalities the option of placing liens against properties for nonpayment of said fees and charges, as well as ensuring fair and reasonable rate structure. The City of Newport News requests that the Code of Virginia be amended so that waste and recycling collection services can be afforded the same collection avenue for delinquent fees.

#### **4. Court Discretion to Reinstate Discontinued Civil Cases**

Request:

The City of Newport News asks that the General Assembly amend Code of Virginia section 8.01-335 by adding language to affirm a court's authority to choose whether or not to reinstate a discontinued civil case.

Justification:

For many years, Code of Virginia section 8.01-335 provided a means for courts to dismiss civil cases when parties fail to take any action on them for several years. The statute provides that on motion of a party within 12 months of discontinuance, a circuit court "may" reinstate the case. However, in a recent decision the Virginia Supreme Court ruled that courts have no discretion, but must reinstate. Although the word "may" is used repeatedly throughout the Code section the recent ruling conflicts with the law as written.

The City of Newport News asks that the General Assembly amend section 8.01-335 by adding language beyond "may" to include "in the court's discretion" in several places for the purposes of affirming the court's authority to act in these cases.

## **2017 Position Statements**

### **Expand Medicaid in Virginia**

The City Council of Newport News urges the Virginia General Assembly to act expeditiously to implement Medicaid expansion as provided by the Affordable Care Act. Expanding Medicaid or creating a state solution to use federal dollars would be good for Virginia's economy, bringing an estimated \$6.2 million per day to the Commonwealth, resulting in billions of dollars to support the health care industry, supportive health care industries, and employment.

Virginia has forfeited billions of dollars in Federal funds since the availability of funding for Medicaid expansion in 2014. Expanding Medicaid as of July 1, 2017 would have the net effect of saving the Commonwealth \$71 million in general fund dollars for the 2017-2018 biennium. The Virginia Department of Medical Assistance Services estimates that Virginia would see a net savings of \$265 million through fiscal year 2022. The State match would be more than offset by savings in health care for indigent care, community mental health, prisoners, and other state funded health care services.

The Virginia Medicaid program's current eligibility criteria excludes approximately 400,000 low income Virginians from receiving affordable health insurance coverage. In Newport News there are an estimated 7,100 people without health insurance coverage who would be eligible if Virginia accepted expansion of the Medicaid program.

### **Fund Public Transportation**

The General Assembly should identify a dedicated revenue source independent of local general funds to sustain and improve regional transit services and should allow Hampton Roads to use regional transportation funds for public transportation purposes. Funding for public transportation is a priority policy issue because a robust regional transit system will support regional economic competitiveness and mobility. The existing funding structure for public transportation in Hampton Roads hinders the planning and delivery of the region's transit system and jeopardizes its ability to continue to provide service at current levels, much less make anticipated expansions.

The City of Newport News is served by Hampton Roads Transit. Local revenue provides more than 40% of HRT funding. The cost to the City of Newport News for public transit increased from \$5,887,924 in FY 2015 to \$6,529,867 in FY 2016. In the current fiscal year (2017), the City has budgeted \$7,536,222. Most of the 2017 increase covers increased operating costs and capital contributions required to maintain the same level of service as FY 2015. Relying on local general fund revenue puts public transit in competition with education and public safety for limited local dollars. Therefore, a dedicated revenue source independent of local general funds is necessary to sustain and improve regional transit services.

HB2313, the landmark Transportation bill passed by the General Assembly in 2013 allows Northern Virginia to use 70 percent of its regional revenues for regional road and transit projects. This same legislation does not allow Hampton Roads to use regional money for public transportation purposes. This inequity puts our region at a distinct disadvantage. For this reason, the City supports amendments needed to allow Hampton Roads regional transportation funds to be used for public transportation purposes.

### **Authorize Magistrates to order testing in cases of exposure to infection with human immunodeficiency virus or hepatitis B or C viruses**

Under current law when health care providers, public safety personnel, school board employees, or patients expose or are exposed to the bodily fluids of another, the person whose bodily fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the person who was exposed (Code of Virginia § 32.1-45.1). If the person refuses to provide a specimen or be tested, a General District Court judge may order them to provide a specimen or to submit to testing and to disclose the results. This may take time and can be further complicated when such person is not in custody. A simpler and less time consuming approach would be to allow local magistrates to order testing. Magistrates already issue Temporary Detention Orders and Emergency Commitment Orders, and they are authorized to issue warrants for blood testing in criminal matters. This change greatly simplifies the process and eliminates conflicting language in § 32.1-45.1 which includes law enforcement officers and § 32.1-45.2 that specifically addresses public safety employees.

## **Remove Restoration Restriction on Emergency Psychiatric Treatment**

The City supports legislation that would expedite emergency psychiatric treatment for an inmate of a local correctional facility so they may be hospitalized if necessary. Amending the Code of Virginia section 19.2-169.6 is necessary because current law prohibits emergency treatment in cases when an inmate has an existing order for restoration of competency. Restoration requires little or no urgency. The treatment provided is designed to bring the defendant to a point of capacity to understand the proceedings against him or to assist his attorney in his own defense. As the Code is currently written, existing restoration orders preclude a person who is actively suicidal or in urgent need of psychiatric services from being admitted to a hospital. The requested amendment will allow these two very different mental health issues to be treated appropriately.

## **Study Port of Virginia Economic Impact to Host Cities**

The General Assembly should update the 1999 JLARC study of the Port of Virginia. Although there have been numerous studies of the Port of Virginia since the 1999 JLARC report, all of the subsequent studies have focused on the Port's economic impact to the State. The 1999 JLARC study is the only report to date that provided a detailed and in-depth economic analysis of the Port's impact on its host cities. The 1999 study concluded that the host cities "suffer a substantial economic loss" as a result of lost revenues and infrastructure costs. Based on this study, legislation was passed by the 2000 General Assembly to calculate payments in lieu of taxes based on the assessed value of VPA property in the host communities and the amount of commercial shipping tonnage moving through these communities. Funding was to have come from the State General Fund and the new calculations would have provided a substantial increase in the PILOT fees paid to the host cities. The increased payments would have reduced fiscal stress experienced by host cities for services provided along with loss of real property taxes. However, sixteen years later, this formula has not been funded.

Numerous subsequent studies have shown that the majority of the economic benefits of the Port, such as employment and tax revenue, go to non-host cities. So, although the Port continues to be a major economic engine for the Commonwealth, its host cities remain somewhat disenfranchised from this success. Repeated requests for increased funding in

the existing PILOT have been unsuccessful. The City of Newport News respectfully requests that the General Assembly update the 1999 JLARC study focusing on the financial relationship between the Port and its host cities.

### **Fund Local Youth Employment Programs**

The City of Newport News supports legislation to establish a State funding stream to support local youth employment programs. Youth violence is a public safety issue in Hampton Roads. Over the years, Hampton Roads Cities have been successful in reducing youth violence by offering summer training and employment programs. In some cases programs were funded by grants and have floundered as resources have become more limited. In Cities where programs are on-going, although successful, they are constrained by the amount of local dollars available for funding. Research has shown that a lack of employment is one of the biggest predictors of justice system involvement for youth and that access to employment and job training opportunities can help young people to avoid a lifetime of negative justice system-related consequences. Programs such as Newport News Summer Training and Enrichment Program can have a significant positive impact on at-risk youth and help to disrupt the school-to-prison pipeline. If programs like STEP were available throughout our region, our combined efforts would greatly improve public safety and opportunities for youth across Hampton Roads.

### **Restrict Predatory Lending**

The General Assembly should restrict predatory lending practices. Predatory lending practices pose a threat to the well-being of the community. Many payday lenders charge excessive fees, fail to verify a borrower's ability to repay, and target high-cost loans to the elderly, low-income, and minority families. High rates and hidden fees can combine to make a payday loan difficult to repay. Borrowers often become caught in a cycle of short-term, high-interest debt which can undermine any attempt to save money and build good credit.

Legislation should impose an interest rate cap of thirty-six percent, calculated as an effective annual percentage rate including all fees or charges of any kind, for any consumer credit extended in the Commonwealth of Virginia; prohibit a creditor's use of a personal

check or other device as a means, directly or indirectly, to gain access to a consumer's bank account; incorporate into the Code of Virginia the protections regarding consumer credit to military person, as reflected in the Military Lending Act of 2007, 10 United States Code Section 987, to all Virginia residents; and allow localities to limit the number of such businesses that may operate within a specified geographic area.

### **Fund Stormwater Local Assistance Fund**

The General Assembly should provide funding of \$20 million in the second year of the biennium for the Stormwater Local Assistance Fund (SLAF). Stormwater management is one of local government's most pressing infrastructure challenges. This funding is consistent with FY 2017 and is needed to assist localities in developing effective stormwater controls on urban lands to reduce the flow of excess nutrients and sediments to local streams, rivers and the Chesapeake Bay.

The SLAF, managed by the Department of Environmental Quality, supports the efforts of local jurisdictions to reduce polluted runoff by providing funding for matching grants. It also provides an effective path forward to improve water quality by maintaining a strong partnership between the Commonwealth and local governments. The SLAF prioritizes cost-effective, low-impact practices and projects which are structured, when possible, to attract additional private investments. Continued investment in the SLAF will greatly assist localities in reducing pollution going into our streams and waterways.

### **Legalize Medical Marijuana for the Treatment of Neuropathy**

Neuropathy refers to numbness, weakness, and pain resulting from nerve damage. There are more than 3 million cases of neuropathy diagnosed in the U.S. each year, the majority of those occurring in adults aged 40 and over. Neuropathy can be caused by conditions such as diabetes, autoimmune diseases, tumors, bone marrow disorders, and many other illnesses. Current treatments for neuropathy vary widely and include anti-seizure medications, antidepressants, and pain relievers. In some cases, the side effects of the

treatments can be as impactful as the condition and can lead to reduced quality of life for many sufferers.

A National Institutes of Health review of studies that examined chronic neuropathic pain found that cannabinoids have demonstrated the ability to significantly lower pain levels in patients suffering from neuropathy that had previously proven difficult to treat. As demonstrated by 2016 session legislation, marijuana oil can be effective for the treatment of seizure disorders such as epilepsy. Therefore, the City of Newport News supports legislation to also legalize the use of medical marijuana for the treatment of neuropathy.



The City of Newport News is a voting member of the Hampton Roads Planning District Commission, the Hampton Roads Transportation Planning Organization, and the Hampton Roads Transportation Accountability Commission. Unless otherwise stated, the City of Newport News supports the legislative agendas of these organizations.

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## **G. Other City Council Actions**

2. Item 1 of 2: Resolution Authorizing the City Manager to Execute Any and All Agreements or Documents Necessary to Obtain Grant Funding from the Virginia Department of Environmental Quality (DEQ) for the Deep Creek Shoreline Restoration at Menchville Marina Project

**ACTION:** A REQUEST TO APPROVE A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AND ALL AGREEMENTS OR DOCUMENTS NECESSARY TO OBTAIN GRANT FUNDING FROM THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) FOR THE DEEP CREEK SHORELINE RESTORATION AT MENCHVILLE MARINA PROJECT.

**BACKGROUND:**

- The City has competed for and successfully secured the Water Quality Improvements Fund (WQIF) matching grant from DEQ to support the design and construction of the Deep Creek Shoreline Restoration at Menchville Marina Project.
- The DEQ requires the City to submit a signed grant agreement for use of the funding.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

### **ATTACHMENTS:**

#### **Description**

CM Memo re Grant Agreement for Deep Creek Shoreline Restoration

Map of Deep Creek Shoreline Project

sdm14752 Requesting Programming of a Project from VA DEQ - Deep Creek Shoreline

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

October 19, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Deep Creek Shoreline Restoration at Menchville Marina Project

City Council is requested to approve a resolution authorizing the City Manager to execute an agreement between the City and the Department of Environmental Quality (DEQ) for the Deep Creek Shoreline Restoration at Menchville Marina project and appropriate funds in the amount of \$324,000.

The proposed project is located at 494 Menchville Road South along Deep Creek adjacent to the Christopher Newport University Sailing Center and Menchville Marina. This project consists of restoration and stabilization of approximately 300 linear feet of shoreline along Deep Creek. The existing condition has old wooden posts and nuisance vegetation as well as erosion problems. The U.S. Army Corps of Engineers (USACE) has performed a feasibility study of the area to determine alternatives for the repair, restoration, and stabilization of the shoreline. The proposed improvements will enhance the shoreline through construction of a stone sill, vegetated marsh area, and a riparian buffer with natural vegetation. A portion of stormwater runoff from the marina site will be directed to the improvements to provide pollutant reduction to Deep Creek which outfalls into the James River and ultimately the Chesapeake Bay. The proposed improvements will enhance and improve the structural integrity of the shoreline.

This project is considered critical because, in spite of providing shoreline integrity and stability, it also provides pollutant reductions required through the Total Maximum Daily Load (TMDL) limit set by the Virginia Department of Environmental Quality (DEQ) delegated from the EPA.

The Honorable City Council

Page 2

Deep Creek Shoreline Restoration at Menchville Marina Project

October 19, 2016

Due to its reduction of pollutant loading, the City was successful in obtaining a Water Quality Improvements Fund (WQIF) matching grant from DEQ for this project's design and construction.

Funding of \$162,000 is available from the Virginia Department of Environmental Quality Water Quality Improvements Fund (WQIF). The remaining \$162,000 is available from the FY 2016 Bond Authorization, Stormwater Drainage Category.

I recommend City Council approve the resolution.

  
James M. Bourey

JMB:MHS:wjr

Attachment

cc: Everett Skipper, Director, Department of Engineering



CITY OF NEWPORT NEWS, VIRGINIA

# DEEP CREEK SHORELINE RESTORATION AT MENCHVILLE MARINA



**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION REQUESTING PROGRAMMING OF A PROJECT TO BE KNOWN AS THE DEEP CREEK SHORELINE RESTORATION AT MENCHVILLE MARINA PROJECT SUBJECT TO A GRANT FROM THE WATER QUALITY IMPROVEMENTS FUND FROM THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY.

WHEREAS, the City of Newport News (the "City") needs to restore the shoreline at the Menchville Marina, a project to be known as the Deep Creek Shoreline Restoration at Menchville Marina Project ("the Project"); and

WHEREAS, the Cost of the Project is \$324,000.00; and

WHEREAS, the Council of the City supports the worthy goals of the Project and encourages its expeditious implementation; and

WHEREAS, the Virginia Department of Environmental Quality (DEQ) has indicated a willingness to provide a grant from its Water Quality Improvements Fund (WGIF) in the amount of \$162,000,00, payable to the City upon the Completion of the Project, to partially reimburse the City's costs, with the understanding that the City will pay the full amount for the Project and will be responsible for all costs in excess of the grant funds, and that DEQ requires a resolution from City Council concurring with the terms of the grant and authorizing the City Manager to execute any and all contracts and other documents necessary to secure the award of the grant. .

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

1. That it hereby approves and endorses the Project within the City.
2. That it requests DEQ to make the grant to the City in partial reimbursement for the cost expended on the Project.
3. That it hereby authorizes and directs the City Manager to execute, and the City Clerk to attest on behalf of the City, any and all agreements or documents necessary to effectuate the design and construction of the Project and to obtain the grant funding from DEQ; provided that all such agreements and documents shall first have been reviewed and approved by the City Attorney.
4. That the City Manager shall ensure that the expenditure of Project funds is carefully monitored and controlled and, in particular, ensure that the easements necessary for construction are approved prior to the expenditure of the design and construction funds.

5. That this resolution shall be in effect on and after the date of its adoption, October 25, 2016.

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL QUALITY GRANT CONTRACT**

This grant award contract is made by and between the Department of Environmental Quality (hereinafter referred to as the "Department") and the City of Newport News (hereinafter referred to as the "Grantee"). The parties to this grant award contract, in consideration of the mutual covenants and stipulations set out herein, agree as follows:

**PROJECT DESCRIPTION:** The Grantee shall carry out the project as set forth in the Contract Documents.

**PROJECT PERIOD:** The project shall commence on September 15, 2016 and shall terminate no later than September 30, 2018.

**PAYMENTS:** The Department shall pay the Grantee quarterly on a cost reimbursement basis, a total not-to-exceed sum of \$162,000.00. The said sum, together with the matching funds provided, shall include all expenses for the project. Payment shall be made upon submission of invoices and/or other appropriate documentation of program expenditures, progress reports and final reports as specified in the "Contract Documents" referenced below, and their acceptance by the Department:

**Pre-Award Costs:** The Department will pay pre-award costs for eligible activities / components specified in the Scope of Work approved by the Department, and subsequent to July 1, 2016. The Grantee shall report on all DEQ approved all pre-award activities / components in accordance with the "Reporting" requirements specified in the "Contract Documents"; and shall report all approved pre-award activities / components with the first required report submittal.

The Department is under no obligation to reimburse unauthorized work performed after the expiration of the contracted time of performance. The Department reserves the right to withhold a minimum of 5% of the Grantee's total grant allocation until the final grant report and all services, reports and deliverables are received and approved by the Department.

Acceptance of work completed under this grant award contract shall be decided at the sole discretion of the Department and shall be final. The Grantee shall spend the funds according to the specified categories of the grant award contract budget set forth in the Attachments A and B. Minor shifts of the funds among categories by the Grantee, not to exceed 10% of any budget line item are permissible. Shifts in funds exceeding 10% of budget line items must be approved in writing by the Department. Any cost overruns incurred by the Grantee during the time of performance shall be the responsibility of the Grantee.

**INVOICE ORIGINALS SHALL BE SENT TO:**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
ATTENTION: ACCOUNTS PAYABLE  
P.O. BOX 1105  
RICHMOND, VIRGINIA 23218-1105

**THE REPORTING REQUIREMENTS ARE AS FOLLOWS:**

**Report Due Date**

Reports (Quarterly Progress – Financial /  
Additional Reporting / Final)

Per the "Project Workplan"





## SCOPE OF WORK

### City of Newport News: Deep Creek Shoreline Restoration Deep Creek Shoreline Restoration

Name of Organization:	City of Newport News		
Organizational FIN:	546022059	Duns & Brad Street Number	80975508
Mailing Address	2400 Washington Avenue Newport News Virginia 23607		
Contact Person:	James Clark	Work Title:	Engineer II
Contact Phone #:	757-926-8655	Email:	jclark@nnva.gov
Fiscal Contact:	Susan M. Goodwin, CPA	Fiscal Contact Work Title:	
Fiscal Contact Phone #:	757-926-8670	Fiscal Contact Email:	sgoodwin@nnva.gov
Start Date	09/15/16	End Date	09/30/2018
WQIF-NPS Award Total	WQIF-NPS BMP cost-share	WQIF-NPS Technical Assistance cost-share	Match
\$162,000	\$137,000	\$25,000	\$162,000

Pursuant to the Virginia Water Quality Improvement Act of 1997, the Virginia General Assembly created the Water Quality Improvement Fund (WQIF) to provide funding for point and nonpoint source water quality improvements throughout the Commonwealth. DEQ administers WQIF grants as allowed by 10.1 – 2130 of the *Code of Virginia*. This Agreement is a sub-grant award, from DEQ to the Grantee, of said state grant funds.

### PROJECT ABSTRACT

The proposed project will restore 300-linear feet of eroded shoreline along Deep Creek, a tributary of the Warwick River in the City of Newport News. Currently, the site is negatively impacted by past attempts to prevent erosion from boat traffic, including concrete rubble and the remains of a deteriorated bulkhead. In addition, the upland area is mostly impervious surfaces utilized by vehicular traffic that drain directly into Deep Creek without any measures to provide water quality control. By constructing a living shoreline with marsh grass plantings with an upland vegetative buffer, the local shoreline habitat will be restored for use by terrestrial and aquatic organisms while slowing the rate of erosion without shoreline hardening. Some impervious surface runoff will be redirected through a grass channel to the new upland buffer to slow and filter stormwater runoff. The local benthic habitat will be improved by removing all existing debris and by installing a stone sill to protect the shoreline improvements from boat wakes. The project site will be monitored long-term through a partnership with the Christopher Newport University Department of Organismal and Environmental Biology.

### SCOPE OF SERVICE

The Grantee, the City of Newport News, shall provide the services to DEQ set forth in the Agreement documents and, specifically, as defined in this Scope of Work, the attached proposal “*Deep Creek Shoreline Attachment A*”



*Restoration Deep Creek Shoreline Restoration*” and the accompanying milestone table. All deliverables shall conform to accepted standards and practices. The Grantee shall provide DEQ with a minimum of quarterly reports and a final report, in narrative and financial report form, detailing the progress of work set forth in the Agreement documents. Incomplete or inaccurate reports may result in reimbursement delays. These reports shall be certified by an authorized agent of the Grantee as being true and accurate to the best of the Grantee’s knowledge, as indicated by their signature on Financial Report Form B (Attachment B). Procedures for managing grant projects and electronic versions the associated reporting forms will be provided to the Grantee by the assigned DEQ Project Manager. The final report is due within 30 days after the Agreement termination date.

**A. Watershed, Geographic Description or Location of Project**

The proposed project will restore approximately 300-linear feet of eroded shoreline along Deep Creek, an estuarine tributary of the Warwick River in Newport News. Deep Creek has long been used by commercial watermen to access the Warwick and James rivers. Water depths in Deep Creek vary, but are generally less than ten feet with the exception of a federally-dredged channel that maintains access for vessels. The surrounding region is comprised of suburban and semi-rural development known as Menchville. The project shoreline is located at the north-northwestern end of a 201,247 square foot (4.6 acre) City-owned parcel at the end of Menchville Road South.

**B. General Program and Project Administration Goals**

The City of Newport News will serve as the lead organization and fiscal agent for the project. As the lead, the City of Newport News will provide organizational coordination for the partner agencies including organizational meetings over the grant cycle. All grant reporting will be undertaken by the City of Newport News. BMP installation (including construction) and tracking will be provided by the City of Newport News in a database for reporting purposes to DEQ.

- 1) Assure that all project expenditures are in compliance with grant terms and conditions and standard cost-principles.
- 2) Complete and submit quarterly reports to DEQ in accordance with the schedule specified in this agreement.
- 3) Coordinate reporting between project partners/contractors, ensure all project activities are captured in quarterly reports and that project milestones are met by partners/contractors.
- 4) Implementation of this project will restore 300-linear feet of eroded shoreline along Deep Creek in the City of Newport News.
- 5) Any applicable project outreach and engagement will be done through advertisement in local newspapers, announcements on the local radio station, and through the holding of regular public meetings at the Town Hall.

**C. The Proposal: Project Description, Objectives and Deliverables**

See Attachment A-2 “*Deep Creek Shoreline Restoration Deep Creek Shoreline Restoration*”.

**D. REPORTING**

This grant will be administered on a reimbursement basis; as expenditures occur, the grantee requests reimbursement from DEQ. The Grantee shall submit a quarterly report (accompanied by a cover letter) requesting reimbursement and reporting progress to DEQ on a minimum of a quarterly basis. Pre-award



costs incurred after July 1, 2016, that are consistent with an approved work plan, may be permitted with DEQ approval. Pre-award costs are incurred at the grantee's own risk, however they can be reimbursed if it is found those costs are in line with the executed agreement.

Minimum documentation requirements for quarterly reports are addressed in this contract and can also be provided by the assigned DEQ Project Manager upon request.

Each quarterly report, due on the 15th of the month following the completion of each quarter, shall contain the following:

- Progress Report Form A
- An updated Project Financial Report Form B (Attachment B)
- Financial Narrative and other financial back-up documentation
- NPS Pollution Tracking Data for BMPs Form D (Attachment D) (if applicable)

The final report, due within 30 days after the Agreement termination date, shall summarize all major project accomplishments and challenges, as well as expenditures and matching contributions during the period after the project began through the completion of all required work. Photographs taken before, during and after project implementation should be included in the final report. The final reimbursement request must be submitted with the final report. DEQ will not reimburse any requests received more than 30 days after the Agreement termination date

**Each quarterly report shall include the following components:**

- 1) **Progress Report:** The Grantee shall report progress to DEQ through a narrative summary of accomplishments that relates to the scope of service and any key milestones; and shall submit a completed "Progress Report" which shall include a brief summary of key accomplishments. Provide both accomplishments and challenges and progress in fulfilling the Scope of Work (Attachment A, A-1, etc.) and activities for each deliverable listed in the Milestone Table. The contents from this form will be used for publically reporting on the status of the project
- 2) **Financial Reports:** The Grantee shall submit a financial narrative and a financial reporting form or invoice (Attachment/Form B, signed and scanned and included as the 2nd page of the report), which shall be used to track expenditures throughout the grant agreement and reimbursement requests from the Grantee; and shall submit a breakdown of expenditures and activities. A financial narrative must accompany the report and include itemized details of expenditures by budget category. DEQ may request receipts and detailed financial accounting if the financial narrative does not provide enough detail to justify expenditures.

**Reimbursement requests shall:**

- Be submitted for the Grantee's actual costs
- Relate to the grant scope of work.
- Be included in the Grantee's quarterly report, which shall include Grantee's receipt, purchase order, invoice or other appropriate form of documentation for each expense; each reimbursement request shall be for a minimum of \$1,000 (i.e. an aggregate of all applicable budget categories / line items). The DEQ will not process a reimbursement request for less than \$1,000.
- The DEQ will not reimburse the Grantee for any unauthorized expenses.



- 3) **Milestone and Timeline Reporting** The Grantee must keep track of the progress of meeting the intent and deliverables described in the scope of work (Attachment A) through the Progress Report Form. Enter “Actual Completion Date” for specific tasks on the table and provide relevant notes. Inform DEQ of any expected delays in accomplishment of milestones and provide revised completion dates.
- 4) **Best Management Practice Installation:** Grantees should record the BMP information on the Attachment D – NPS BMP Reporting Form. This is an Excel document and must be submitted in Excel format. The Grantee shall document BMP installation and shall ensure that required Operation and Maintenance Plans and Landowner Agreements are developed and submitted to DEQ if applicable.
- 5) **Submission Requirements:** The Grantee shall submit all quarterly reports and forms (including grant invoices {Form B} and reimbursement requests):
  - a. Via email to DEQ’s Office of Financial Management at [OFM@deq.virginia.gov](mailto:OFM@deq.virginia.gov) with a carbon copy to the assigned DEQ project manager, Laura Keys, [Laura.Keys@deq.virginia.gov](mailto:Laura.Keys@deq.virginia.gov)
  - b. The E-mail shall include the grant agreement (contract) number in the subject line.
  - c. A cover memo shall be included.
  - d. The Attachment B shall be a standalone document, separate from the rest of the report.
  - e. According to the following schedule:

<u>SUBMITTAL DATE</u>	<u>PERIOD COVERED</u>
October 15, 2016	September 15, 2016 (July 1, 2016 for pre-award costs) – September 30, 2016
January 15, 2017	October 1, 2016 – December 31, 2016
April 15, 2017	January 1, 2017 - March 31, 2017
July 15, 2017	April 1, 2017- June 30, 2017
October 15, 2017	July 1, 2017 – September 30, 2017
January 15, 2018	October 1, 2017 – December 31, 2017
April 15, 2018	January 1, 2018 – March 31, 2018
July 15, 2018	April 1, 2018-June 30, 2018
October 31, 2018	July 1, 2018 – September 30, 2018 (Final Report)

- 6) **Payment Reserve:** DEQ reserves the right to hold payment on the last 5% (\$8,100) of the grant until all final products are delivered to and review and approved by DEQ.

**E. COMPENSATION**

DEQ shall release the grant award to the Grantee on a cost-reimbursement basis upon receipt and approval of the Grantee’s quarterly and final reports and deliverables as required by this Agreement (to include the milestone table), or at other times agreed to by DEQ. The Grantee shall spend the funds according to the specified categories of the Agreement budget set forth in the Attachments A and B; and shall obtain prior written approval from the DEQ Project Manager ([Laura.Keys@deq.virginia.gov](mailto:Laura.Keys@deq.virginia.gov)) or the DEQ Grant Manager ([Elizabeth.McKercher@deq.virginia.gov](mailto:Elizabeth.McKercher@deq.virginia.gov)) for any reallocation of funds among budget line items and categories.

This Agreement provides a grand total of **\$162,000** in State WQIF resources to the Grantee to be matched with **\$162,000** from the Grantee. These funds will be available for implementation of shoreline erosion control through September 30, 2018. As applicable, the Grantee shall consider this deadline when soliciting



new landowner signups for construction and BMPs and ensure that practices are completed and paid by the close of the grant. Funds for construction and BMPs are allocated under the ‘construction’ category of the budget as indicated in the financial narrative and the financial report form (Form B). The Grantee cannot use construction funds for technical assistance activities without prior approval from DEQ; and shall only use these funds for construction and BMP implementation.

Funds provided through this Agreement, including BMP funds, will be disbursed by DEQ quarterly (or through an “Interim Report” if approved through the use of a completed and signed “Financial Report” form (Form B). DEQ will disburse cost-share funds upon written request from the Grantee submission of quarterly or interim reports and a completed and signed Form B.

Any unspent funds remaining on September 30, 2018 will **revert to DEQ**. Any cost overruns incurred by the Grantee during the Agreement’s period of performance shall be the responsibility of the Grantee.

**F. SATISFACTORY PROGRESS**

There will be at least four evaluations of the City of Newport News performance and an assessment of implementation during the grant agreement, which will be held 12/31/16, 6/30/17, 12/31/17, and 6/30/18.

**G. PROJECT BUDGET NARRATIVE**

Please reference Attachment A-3 – Budget Detail

**H. PROJECT TIMELINE, MILESTONES AND OUTPUTS**

Milestones are also listed below:

Milestone Activity Description	Responsible Party	Target Completion Date	Key Deliverable
<b>General Project Administration</b>			
Submit financial and programmatic reports quarterly to DEQ on the 15 <sup>th</sup> day following the end of the calendar quarter. Final report due 30 days after the grant closes, September 30, 2018	City of Newport News	10/15/2016 1/15/2017 4/15/2017 7/15/2017 10/15/2017 1/15/2018 4/30/2018 7/15/2018 10/31/2018	8 quarterly reports, 1 final report
Meet with DEQ project manager for preliminary kick-off and semiannual progress review meetings	City of Newport News, DEQ	9/30/2016 12/31/2016 7/15/2017 12/31/2017 7/15/2018	Semiannual meetings
Operation and Maintenance Plan and, if	City of	12/30/2018	Operation and



applicable, Landowner Agreements	Newport News		Maintenance Plan and, if applicable, Landowner Agreements completed.
Project Closeout meeting with DEQ project manager	City of Newport News, DEQ	4/15/2018	1 meeting
<b>General Program Activities</b>			
Design of plans, technical specifications, permits, cost estimate, and SWPPP.	Annual Services Consultant	12/2/2016	hardcopies & files on CD
Acceptance/Approval of environmental permits from jurisdictional agencies	US Army Corps of Engineer/ VADEQ/ VMRC/ CNN Wetlands Board	2/1/2017	letters
Public meeting identifying the project scope	City of Newport News	11/30/2016	presentation of plans
City Council meeting; approval to execute grant agreement and appropriation of City funds	City of Newport News	7/26/2016	Resolution
Advertisement of project by City's Office of Purchasing	City of Newport News	1/24/2017	listing on Virginia.gov - eVA
Receipt of bids to the City	City of Newport News	1/24/2017	sealed bids
Review of qualified bidders & recommendation of award to lowest responsive bidder	City of Newport News	2/1/2017	memo to Office of Purchasing
Contract execution; review & acceptance of contractor bonds & insurances	City of Newport News	3/1/2017	contract; contractor documents
Pre-Construction meeting with City, contractor, & other parties involved with project	City of Newport News	3/6/2017	sign-in sheet; meeting minutes
Notice To Proceed letter issued to contractor	City of Newport News	3/13/2017	letter
Review & approval of submittals for construction items	contractor/City of Newport News	9/15/2017	cut sheets & shop drawings
Daily inspections of construction activities	City of Newport News	9/15/2017	log of inspections
Review & approval of Requests for Information (RFIs) & change orders	City of Newport News	9/15/2017	letter and/or digital



Review & approval of invoices for completed work	City of Newport News	9/30/2017	daily log & digital
Final inspection of facility	City of Newport News	9/1/2017	digital report
Submittal of As-built drawings of facility	contractor	9/29/2017	as-built plans
Monitoring of facility (CNU - Dept. of Biology)	City of Newport News	9/30/2020	inspection report
Inspection of facility (City's Environmental Services Division)	City of Newport News	9/30/2018	inspection checklist/report
Operation & Maintenance of facility (City's Public Works and Parks, Recreation, & Tourism Depts.)	City of Newport News	9/30/2018	logged activities in Cityworks

## PROGRESS REPORT FORM

### Water Quality Improvement Fund Nonpoint Source Implementation Project

*Please submit this form electronically, along with the rest of the report material to DEQ Office of Financial Management (OFM@deq.virginia.gov) and CC your DEQ Project Manager*

<b>Project Title</b>	Deep Creek Shoreline Restoration Deep Creek Shoreline Restoration		
<b>DEQ Grant #</b>	16383	<b>Date Report Completed:</b>	[Enter Date xx/xx/xxxx]
<b>Organization</b>	City of Newport News		
<b>Name &amp; Title of Individual Reporting</b>	[Enter Name and Title]		
<b>Reporting Period</b>	Select reporting quarter	<b>Interim</b>	[enter xx/xx -xx/xx] Select reporting year

**Quarterly Progress Summary:** Summarize major project accomplishments and challenges this quarter  
[Enter Summary]

#### Quarterly Report Narrative

- A. Provide a description of activities in support of the **shoreline restoration** in the watershed(s). Include status of: contracted and completed projects, site visits, and potential projects; describe outputs and outcomes of these activities (e.g. septic systems corrected, # of participants contacted, behavioral changes etc.). [Enter Information]
- B. Provide a description of **education and outreach** activities conducted this quarter. Note the nature and intent of each activity, the information shared at each event and outputs and outcomes achieved (number of people reached, changes in behavior following the event including BMP installation). [Enter Information]
- C. Describe any **critical challenges** you are facing in the project area with respect to meeting grant deliverables. Note potential solutions you are considering to these challenges. [Enter Information]
- D. Describe any issues regarding the established **timeline and/or milestones**. Include any comments on delays and changes or potential delays and changes. [Enter Information]
- E. **Financial Narrative:** Describe in detail the grant expenses and match recorded during the reporting period. Provide any critical information or explanation of the expenses occurred or the funds for which payment are being requested. This information should be an expanded description of the expenses and match reported in the Attachment B – Financial Report Form and is used in lieu of submitted detailed receipts and invoices (although those must be retained by the Grantee). Please refer to the Grant Project Management Manual for details on the required information for each budget category as well as on the other options available to meet the financial narrative requirement (optional excel form, quick books, etc.).

Check this box if Financial Narrative Information will be provided in **attached forms or documents**.

Check this box if Financial Narrative Information will be **provided here, in the Form A1**.

<b>Financial Narrative Overview:</b> [Enter financial narrative overview or summary]		
<u>Budget Category</u>	<u>NPS WQIF Funds</u>	<u>Match Funds</u>
<b>TA - Personnel:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>TA – Fringe Benefits:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>TA - Travel:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>TA - Supplies:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>TA - Contractual:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>TA - Other Direct:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]

<b>TA - Indirect:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>BMP Construction: Ag.</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>BMP Construction: Septic</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>BMP Construction: Urban</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]

Using as much space as necessary; provide a detailed description of all expenditures, by budget category, which are reported on the Attachment B Financial Report Form. Minimum information includes the following:

**Personnel:** Employee name, title/position, hourly rate, number of hours worked and total expenditures  
**Fringe/Benefits:** % fringe rate, describe coverage (e.g. health insurance, unemployment insurance, taxes, etc.)  
**Travel:** Mileage (# of miles @ \$0.xx mileage rate), Lodging (nightly rate x # of nights), Meals (per diem x # of meals)  
**Supplies:** List vendor/supplier and describe of supplies purchased and link to work plan (for higher dollar items)  
**Contractual:** non-construction contractors, consultants, name of organization and other details  
**Other Direct:** expenses or service provided, list vendor, events, etc.  
**BMP Construction:** BMP spec, BMP instance number, \$ of BMP, participant last name, etc.

F. **Milestone or Timeline:** Provide a progress report on the key milestones and timeline of the project, based upon what was in the Scope of Work. This replaces the Attachment C: Milestone table.

Milestone Activity Description	Responsible Party	Target Completion Date	Key Deliverable	Actual Completion Date	Comments on Status
Submit financial and programmatic reports quarterly to DEQ on the 15 <sup>th</sup> day following the end of the calendar quarter. Final report due 30 days after the grant closes, September 30, 2018	City of Newport News	10/15/2016 1/15/2017 4/15/2017 7/15/2017 10/15/2017 1/15/2018 4/30/2018 7/15/2018 10/30/2018	8 quarterly reports, 1 final report	[Enter Date]	[Enter Status Comments]
Meet with DEQ project manager for preliminary kick-off and semiannual progress review meetings	City of Newport News, DEQ	9/30/2016 12/31/2016 7/15/2017 12/31/2017 7/15/2018	Semi-annual Meetings		
Operation and Maintenance Plan and, if applicable, Landowner Agreements	City of Newport News	12/30/2018			
Project Closeout meeting with DEQ project manager	City of Newport News, DEQ	7/15/2018	1 meeting	[Enter Date]	[Enter Status Comments]
Design of plans, technical specifications, permits, cost estimate, and SWPPP.	Annual Services Consultant	12/2/2016	hardcopies & files on CD	[Enter Date]	[Enter Status Comments]
Acceptance/Approval of environmental permits from jurisdictional agencies	US Army Corps Of Engineer/ VADEQ/ VMRC/ CNN Wetlands	2/1/2017	letters	[Enter Date]	[Enter Status Comments]

	Board				
Public meeting identifying the project scope	City of Newport News	11/30/2016	presentation of plans	[Enter Date]	[Enter Status Comments]
City Council meeting; approval to execute grant agreement and appropriation of City funds	City of Newport News	7/26/2016	Resolution	[Enter Date]	[Enter Status Comments]
Advertisement of project by City's Office of Purchasing	City of Newport News	1/24/2017	listing on Virginia.gov - eVA	[Enter Date]	[Enter Status Comments]
Receipt of bids to the City	City of Newport News	1/24/2017	sealed bids	[Enter Date]	[Enter Status Comments]
Review of qualified bidders & recommendation of award to lowest responsive bidder	contractor	2/1/2017	memo to Office of Purchasing	[Enter Date]	[Enter Status Comments]
Contract execution; review & acceptance of contractor bonds & insurances	City of Newport News	3/1/2017	contract; contractor documents	[Enter Date]	[Enter Status Comments]
Pre-Construction meeting with City, contractor, & other parties involved with project	City of Newport News	3/6/2017	sign-in sheet; meeting minutes		
Notice To Proceed letter issued to contractor	City of Newport News	3/13/2017	letter		
Review & approval of submittals for construction items	City of Newport News	9/15/2017	cut sheets & shop drawings		
Daily inspections of construction activities	City of Newport News	9/15/2017	log of inspections		
Review & approval of Requests for Information (RFIs) & change orders	City of Newport News	9/15/2017	letter and/or digital		
Review & approval of invoices for completed work	Contractor, City of Newport News	9/30/2017	daily log & digital		
Final inspection of facility	City Of Newport News	9/1/2017	digital report		
Submittal of As-built drawings of facility	contractor	9/29/2017	as-built plans		
Monitoring of facility (CNU - Dept. of Biology)	City Of Newport News	9/30/2017	inspection report		

Inspection of facility (City's Environmental Services Division)	City Of Newport News	9/30/2018	inspection checklist/report		
Operation & Maintenance of facility (City's Public Works and Parks, Recreation, & Tourism Depts.)	City Of Newport News	9/30/2018	logged activities in Cityworks		

**G. Supplemental reporting materials (check all that are attached)**

- |                         |                          |   |                          |
|-------------------------|--------------------------|---|--------------------------|
| Project photos          | <input type="checkbox"/> | Financial Narrative Optional Form                 | <input type="checkbox"/> |
| Project publications    | <input type="checkbox"/> | Project reports                                   | <input type="checkbox"/> |
| Other (please describe) | <input type="checkbox"/> | [Enter description of other supplemental reports] |                          |



**2015 Virginia NPS Water Quality Improvement Fund  
Request for Assistance (RFA)  
ATTACHMENT A-1  
City of Newport News: Deep Creek Shoreline Restoration**

**I. Applicant/Organization Name:** City of Newport News

**II. Project/Proposal Title:** Deep Creek Shoreline Restoration

**III. Project Abstract (1-2 paragraphs)**

The proposed project will restore 300-linear feet of eroded shoreline along Deep Creek, a tributary of the Warwick River in the City of Newport News. Currently, the site is negatively impacted by past attempts to prevent erosion from boat traffic, including concrete rubble and the remains of a deteriorated bulkhead. In addition, the upland area is mostly impervious surfaces utilized by vehicular traffic that drain directly into Deep Creek without any measures to provide water quality control. By constructing a living shoreline with marsh grass plantings with an upland vegetative buffer, the local shoreline habitat will be restored for use by terrestrial and aquatic organisms while slowing the rate of erosion without shoreline hardening. Some impervious surface runoff will be redirected through a grass channel to the new upland buffer to slow and filter stormwater runoff. The local benthic habitat will be improved by removing all existing debris and by installing a stone sill to protect the shoreline improvements from boat wakes. The project site will be monitored longterm through a partnership with the Christopher Newport University Department of Organismal and Environmental Biology.

**IV. Project Description**

**A. Project Need and Location**

The proposed project will restore approximately 300-linear feet of eroded shoreline along Deep Creek, an estuarine tributary of the Warwick River in Newport News. Deep Creek has long been used by commercial watermen to access the Warwick and James rivers. Water depths in Deep Creek vary, but are generally less than ten feet with the exception of a federally-dredged channel that maintains access for vessels. The surrounding region is comprised of suburban and semi-rural development known as Menchville. The project shoreline is located at the north-northwestern end of a 201,247 square foot (4.6 acre) City-owned parcel at the end of Menchville Road South.

The parcel houses the Christopher Newport University Sailing Center, which is comprised of a 5,540 square foot building that the university leases from the City, a 62,228 square foot gravel parking lot, and a complex of floating docks used for sailboat mooring that are accessed by a narrow ramp. Currently, the majority of stormwater drainage from the site directly discharges into Deep Creek untreated by any stormwater management controls.

Scouring is evident along the project shoreline, likely caused by vessel traffic as commercial fishermen and resident boaters access Menchville Marina, an active public boat launch and marina located adjacent to and just downstream of the project. In addition to boat wakes, the shoreline is subject to tidal forces and rising



**2015 Virginia NPS Water Quality Improvement Fund  
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City of Newport News: Deep Creek Shoreline Restoration**

water levels. Past attempts to slow erosion at the site remain evident; a failed bulkhead and concrete rubble litter the shoreline and reduce both aesthetics and habitat quality. There is a need to stabilize the shoreline against continued erosion, and this project presents an opportunity to do so without shoreline hardening in an effort to responsibly restore a fringe wetland habitat.

A project proposal was developed for the site in February 2015 through a Planning Assistance to States Report by the U.S. Army Corps of Engineers. Through that analysis and report, it was recommended that construction of a living shoreline with marsh grass plantings, an upland riparian buffer, and a stone sill at the toe of the marsh would remedy the erosion and restore the quality of habitat. Thirty percent design drawings were supplied to the City with that report. Wetland marsh plantings, including *Spartina patens* and *Spartina alterniflora*, will naturally attenuate waves and combat erosion. The installation of a stone sill will protect the shoreline restoration against major storm events. It is anticipated that some settling of native oysters will occur on the stone sill which will further enhance the restoration and improve local water quality. The living shoreline will reduce 22.04 pounds per year of Nitrogen, 1.34 pounds per year of Phosphorus and 107,656.66 pounds per year of total suspended sediment, which will aid the City in meeting requirements of the Chesapeake Bay Total Maximum Daily Load (TMDL).

Subsequent to the Planning Assistance to States report, the City has determined that it would be preferable to expand the riparian buffer and redirect existing stormwater sheetflow towards the vegetative buffer in a grass channel to slow its velocity and filter stormwater pollutants. The addition of the grass channel will further reduce nitrogen, phosphorus and sediment pollutant loads.

**B. Objectives**

Environmental objectives:

- Improve infiltration of stormwater runoff by redirecting currently untreated runoff from impervious surfaces through pervious surfaces (grass channel, riparian vegetative buffer, marsh plantings)
- Reduce stormwater pollutant loading through shoreline stabilization, including Nitrogen (22.04 lbs/year), Phosphorus (1.34 lbs/year) and total suspended sediment (107,656.66 lbs/year)
- Reduce sediment entering Deep Creek from currently eroding shoreline through shoreline stabilization
- Promote site resiliency against wave action and rising water levels through wetland creation
- Improve benthic and riparian habitat for aquatic and terrestrial wildlife by planting native vegetation and removing derelict bulkhead and concrete debris



**2015 Virginia NPS Water Quality Improvement Fund  
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City of Newport News: Deep Creek Shoreline Restoration**

**Social and behavioral objectives:**

- Promote education of the benefits of living shorelines and riparian vegetation, including reduction in stormwater pollutants, through informational signage at the site
- Foster ongoing collaboration with the Christopher Newport University Department of Organismal and Environmental Biology through monitoring of plant and benthic communities
- Improve aesthetics for users of Christopher Newport University Sailing Center and Menchville Marina

**C. Project Description, Objectives, Deliverables and Timeline**

- Design Phase (6 months): complete 100% plans, technical specifications, cost estimate, and Stormwater Pollution Prevention Plan
- Permitting Phase (2 months): complete Joint Permit Application for submittal, establish contact point for questions/revisions to JPA from jurisdictional agencies
- Pre-Construction Phase (4 months): City Council appropriation of City funds, advertise for informal bid process to procure construction services, bid review, recommendation to award, contract execution, bonds and insurances review
- Construction Phase (6 months): Pre-Construction meeting; submittal reviews; removal of deteriorated shoreline protection; earthwork involving re-grading of shoreline; construct a stone sill, marsh wetlands area, and vegetated riparian buffer; planting of marsh grasses in wetland area; planting of native grasses, bushes, and trees in riparian buffer; construct drainage improvements (grass channel) to direct stormwater runoff from impervious surfaces through riparian buffer; daily inspections; provide as-builts of all improvements to the area
- Post-Construction Monitoring (5+ years): document condition of living shoreline and riparian buffer annually and provide a report on findings for 5+ years,

**D. Project Timeline**

See Attachment III "Timeline" tab for a detailed list of timeline activities.

**E. NPS Results, NPS Reductions, or Environmental Results**

See Attachment III "BMP" tab for a detailed list of best management practices (BMPs).

Stormwater best management practices (BMPs) to be constructed include shoreline stabilization (marsh grass plantings with a stone sill), vegetative buffer, and grass channel. These practices will be tracked through the City of Newport News Department of Engineering BMP database and inspected annually by DEQ-certified



**2015 Virginia NPS Water Quality Improvement Fund  
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City of Newport News: Deep Creek Shoreline Restoration**

Stormwater Management Inspectors, as required by regulation. A Memorandum of Understanding will be established between the Departments of Engineering, Public Works and Parks, Recreation and Tourism to ensure any required maintenance on structural improvements and vegetation are completed. In the event that maintenance cannot be performed by City staff, the work will be contracted out to a third party.

The 'Recommendations of Expert Panel on Shoreline Management, version of 7/13/2015,' is used as the basis for determining pollutant removal for the installation of the living shoreline, as detailed below. Pollutant removals for the grass channel will be calculated upon its design. Cost effectiveness can be determined by calculating cost per pound of pollutant removed.

*Protocol 1 – Prevented Sediment:*

Erosion rate = 0.8 ft/yr (avg. rate for James River – Bank Erosion Report, VIMS, 1992)  
Average bank height = 14 ft  
Length of shoreline = 300 ft  
Volume = (0.8 ft/yr \* 14 ft \* 300 ft) \* 93.6 lbs/cf (avg. bulk density) = 314,496 lbs/yr  
314,496 lbs/yr / 2000 lbs/ton = 157.25 tons/yr  
TSS = 157.25 tons/yr \* 0.337 (VA default sand reduction factor) = 52.99 tons/yr \* 2000 lbs/ton = 105,968.5 lbs.-TSS/yr

*Protocol 2 – Denitrification:*

Area of plantings = 0.24 ac.  
Denitrification pollution load reduction = 85 lbs.-TN/ac/yr  
TN = 0.24 acres \* 85 lbs./ac/yr = 20.4 lbs.-TN/yr

*Protocol 3 – Sedimentation:*

Area of plantings = 0.24 ac.  
Sedimentation pollutant load reduction: 5.289 lbs.-TP/ac/yr & 6,959 lbs.-TSS/ac/yr  
TP = 0.24 acres \* 5.289 lbs.-TP/ac/yr = 1.27 lbs.-TP/yr  
TSS = 0.24 acres \* 6,959 lbs./ac/yr = 1,670.16 lbs.-TSS/yr

*Protocol 4 – Marsh Redfield Ratio:*

Area of plantings = 0.24 ac.  
Marsh Redfield Ratio pollutant load reduction: 0.3 lbs.-TP/ac/yr & 6.83 lbs.-TN/ac/yr  
TP = 0.24 acres \* 0.3 lbs.-TP/ac/yr = 0.07 lbs.-TP/yr  
TN = 0.24 acres \* 6.83 lbs./ac/yr = 1.64 lbs.-TN/yr

Totals: TSS = 107,656.66 lbs./yr TN = 22.04 lbs./yr TP = 1.34 lbs./yr



**2015 Virginia NPS Water Quality Improvement Fund  
Request for Assistance (RFA)  
ATTACHMENT A-1  
City of Newport News: Deep Creek Shoreline Restoration**

**F. General Program and Project Administration Goals**

All activities listed below, including overall grant management, will be managed and coordinated by City of Newport News Department of Engineering staff.

- Selection of engineering consultant firm for design and permitting services
- Issuance of purchase order for design and permitting services
- Receipt and review of final plans and documents
- Receipt of environmental permitting
- Public meeting identifying elements of the project
- City Council appropriation of funds for construction services
- Advertise project to procure construction services
- Review of all qualified bids received by City
- Recommendation of award to lowest responsive bidder
- Contract execution and review of bonds and insurances from awarded contractor
- Issue Notice To Proceed letter to awarded contractor
- Review and approval of submittals for construction items
- Daily inspections of all activities occurring on site
- Review and approval of invoices, requests for information, and change orders
- Final inspection, review and approval of as-built drawings
- Finalization of grant management activities and reporting
- Annual inspection of stormwater BMPs
- Coordination of longterm monitoring with Christopher Newport University staff
- Coordination with City's Departments of Public Works and/or Parks, Recreation and Tourism for maintenance of area after one year guarantee period provided by contractor

**G. Partnerships**

The City of Newport News Department of Engineering is staffed by Professional Engineers, Engineering technicians, and environmental staff who collectively provide a range of technical expertise. The designated project manager for this project is a Professional Engineer experienced in stormwater project design, is currently provisionally certified as a DEQ Stormwater Plan Reviewer, and has managed past shoreline and stream restoration projects for the City of Newport News. A third party consulting firm will be hired to design and construct the shoreline restoration project. The design plans will undergo the normal review process within the Department of Engineering. Environmental permitting entails project review by local, state and federal agencies.



**2015 Virginia NPS Water Quality Improvement Fund  
Request for Assistance (RFA)  
ATTACHMENT A-1  
City of Newport News: Deep Creek Shoreline Restoration**

The partnering organization is Christopher Newport University (CNU). The City cultivates an ongoing relationship with CNU as its sole university and provides support to CNU in a variety of ways. For example, site design occurring on CNU is reviewed by City Department of Engineering staff, as the campus drains into the City's Municipal Separate Storm Sewer System. An enhanced partnership will be fostered between CNU and the City through the longterm wetland and riparian buffer monitoring of the Deep Creek shoreline restoration project. Dr. Heather Harwell, Assistant Professor of the Department of Organismal and Environmental Biology, has provided a letter of support (attached) that details her experience in similar shoreline restoration monitoring efforts and indicates her interest in this project.

**H. Budget Narrative and Impacts**

See Attachment III for the detailed budget narrative.

In the event that a 20% budget cut were requested, educational signage would not be included at the project site. Remaining costs would be absorbed by the City.

**2015-16 Water Quality Improvement Fund - Nonpoint Source Grants  
Attachment A-2 - Budget Detail**

<b>Name of Applicant:</b>	City of Newport News
<b>Title of Proposal/Project:</b>	Deep Creek Shoreline Restoration

<b>1. Personnel (Grantee staff salaries or wages)</b>					
Individual	Position	Hourly Rate	Hours	DEQ Funds	Match Funds
<b>Personnel subtotal</b>				\$ -	\$ -

<b>2. Fringe benefits (Grantee staff benefits)</b>					
Individual	Position	Fringe Rate	Personnel Cost	DEQ Funds	Match Funds
<b>Fringe subtotal</b>				\$ -	\$ -

Description	DEQ Funds	Match Funds
-------------	-----------	-------------

<b>3. Travel (Vehicle miles, trainings, other travel expenses)</b>					
				DEQ Funds	Match Funds
Mileage	XXX miles @ \$0.XXX/mile				
Meals	[provide specific description]				
Lodging	X nights @ \$X/night				
Training costs	[provide specific description]				
Other	[provide specific description]				
<b>Travel subtotal</b>				\$ -	\$ -

<b>4. Supplies (List supplies and identify vendor if known; provide detail and relate to specific work plan elements)</b>					
Description				DEQ Funds	Match Funds
Educational signage				250	250
<b>Supplies subtotal</b>				\$ 250.00	\$ 250.00

<b>5. Contractual (Include payments to partners for staff time and project expenses and other non-construction contractors, printing costs etc)</b>					
Name of Contractor	Description of Service			DEQ Funds	Match Funds
Annual Services Consultant	design of plans, specifications, cost			24750	24750
<b>Contractual subtotal</b>				\$ 24,750.00	\$ 24,750.00

<b>5. Construction (Costs related to BMP installation. )</b>					
BMP Name	Description of Cost			DEQ Funds	Match Funds
marsh area	excavation; sand and marsh plants			27500	27500
stone sill	excavation; stone and filter fabric			102000	102000
riparian buffer	grading, seeding, tree/shrub plantings			7500	7500
<b>Construction subtotal</b>				\$ 137,000.00	\$ 137,000.00

<b>7. Other direct (List the other intended purchases, be specific and relate expenses to work plan elements)</b>					
Description				DEQ Funds	Match Funds

**2015-16 Water Quality Improvement Fund - Nonpoint Source Grants  
Attachment A-2 - Budget Detail**

<i>Other direct subtotal</i>	\$ -	\$ -
<b><i>Sub-Total Direct Expenses</i></b>	<b>\$ 162,000.00</b>	<b>\$ 162,000.00</b>
<b>8. Indirect (Grant funds are only allowed if applicant has a federally approved indirect rate.)</b>		
	\$ -	\$ -
<i>Indirect subtotal</i>	\$ -	\$ -

**General Budget Comments**

**COMMONWEALTH OF VIRGINIA - Department of Environmental Quality  
Water Quality Improvement Fund NPS Implementation Grant  
DEQ Grant Contract Agreement # 16383  
Attachment B - Project Financial Report Form**

**Attachment B  
Requisition # 678208**

<b>Federal ID #:</b>	541148513	<b>DUNS Number:</b>	808953058
<b>Grantee:</b>	City of Newport News	<b>Phone #:</b>	757-926-8670
<b>Contact Person:</b>	James Clark, Engineer II	<b>Email address:</b>	jclark@nnva.gov
<b>Mailing Address</b>	2400 Washington Avenue Newport News Virginia 23607		
<b>Project Title:</b>	Deep Creek Shoreline Restoration		
<b>Grant Period:</b>	September 15, 2016 - September 30, 2018		
<b>Reporting Period:</b>	<b>Start Date:</b>	<b>Enter Start Date</b>	<b>End Date:</b>
			<b>Enter End Date</b>

This Attachment B includes an Upfront Payment Request (copy of completed B2 - Upfront Payment Request Form is attached)  
This is a REVISED Attachment B; The content replaces the version of the Attachment B previously submitted for report period

DEQ Funds (Federal 319H)	Project Budget	Current Expenditures	Cumulative Expenditures	Unexpended Project Balance
(TA) Personnel				\$ -
(TA) Fringe				\$ -
(TA) Travel				\$ -
Fed - Equipment				\$ -
(TA) Supplies	\$ 250			\$ 250.00
(TA) Contractual	\$ 24,750.00			\$ 24,750.00
(TA) Other Direct				\$ -
*(BMP) Construction-Septic				\$ -
*(BMP) Construction-Agriculture				\$ -
*(BMP) Construction-Urban	\$ 137,000.00			\$ 137,000.00
<b>TOTAL</b>	<b>\$ 162,000.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 162,000.00</b>

<b>Total Reimbursement Request:</b>	\$ -	[Add comments or notes as needed]
<b>Total Upfront Payment Request (from B2):</b>		
<b>Total Payment Request:</b>	\$ -	

**Authorized Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

As an authorized representative of the above referenced Organization, I certify that the funds requested above are accurate to the best of my ability. I understand that financial documentation to meet federal and state reporting requirements must be kept for five years after the terms of this agreement. I also certify that if this payment request includes an Upfront Payment Request, that the BMPs have been certified as complete and any funds in excess of actual payments made to the participant will either be returned to DEQ or credited towards future expenditures for this agreement. The Attachment B should be signed and dated each time is is submitted or revised.

MATCH Funds	Project Match Budget	Current Match Expenditures	Cumulative Match Expenditures	Unexpended Match Balance
Personnel		\$ -	\$ -	\$ -
Fringe		\$ -	\$ -	\$ -
Travel		\$ -	\$ -	\$ -
Supplies	\$ 250.00	\$ -	\$ -	\$ 250.00
Contractual	\$ 24,750.00	\$ -	\$ -	\$ 24,750.00
Construction	\$ 137,000.00	\$ -	\$ -	\$ 137,000.00
Other Direct		\$ -	\$ -	\$ -
<b>TOTAL</b>	<b>\$ 162,000.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 162,000.00</b>

\* Note: Construction funds for this agreement can only be used to pay for cost-share (CS) of BMP installation and can not be shifted to another category to pay for expenses related to technical assistance.

<b>FOR DEQ PURPOSES ONLY:</b>					<b>Agency: 440</b>	<b>Cost Code: 612</b>	<b>Fund: 09340</b>	<b>Program 5150</b>	<b>Account: 5014410</b>
<b>Element/Project</b>	<b>BUDGET</b>	<b>Current Expenditures</b>	<b>Total Expenditures</b>	<b>Balance</b>					
TA	\$ 25,000.00		\$ -	\$ 25,000.00					
BMP	\$ 137,000.00		\$ -	\$ 137,000.00					
<b>Total</b>	<b>\$ 162,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 162,000</b>					

FORM C: MILESTONE TABLE – City of Newport News: Deep Creek Shoreline Restoration Project

Milestone	Responsible Party	Target Completion Date	Actual Completion	Comments
Submit financial and programmatic reports quarterly to DEQ on the 15 <sup>th</sup> day following the end of the calendar quarter. Final report due 30 days after the grant closes, September 30, 2018	City of Newport News	10/15/2016 1/15/2017 4/15/2017 7/15/2017 10/15/2017 1/15/2018 4/30/2018 7/15/2018 10/30/2018		
Meet with DEQ project manager for preliminary kick-off and semiannual progress review meetings	City of Newport News, DEQ	8/15/2016 12/31/2016 7/15/2017 12/31/2017 7/15/2018		
Project Closeout meeting with DEQ project manager	CITY of Newport News, DEQ	4/15/2016		
QAPP submitted to DEQ for review	City of Newport News, CNU - Dept. of Biology	12/30/2016		
Meet with DEQ Project manager for preliminary kick-off and annual progress review meetings	City of Newport News, DEQ	8/15/2016 7/15/2017 12/31/2017		
Operation and Maintenance Plan	City of Newport News	10/31/2016		
QAPP submitted to DEQ for review	City of Newport News	12/30/2016		
Design of plans, technical specifications, permits, cost estimate, and SWPPP.	Annual Services Consultant	8/1/2016		
Acceptance/Approval of environmental permits from jurisdictional agencies	US Army Corps Of Engineer/ VADEQ/ VMRC/ CNN Wetlands Board	11/1/2016		

**2016 WQIF NPS Implementation**

**ATTACHMENT C DEQ #16383**

Public meeting identifying the project scope	City of Newport News	11/2/2016		
City Council meeting: approval to execute grant agreement and appropriation of City funds	City of Newport News	7/12/2016		
Advertisement of project by City's Office of Purchasing	City of Newport News	1/4/2017		
Receipt of bids to the City	City of Newport News	1/24/2017		
Review of qualified bidders & recommendation of award to lowest responsive bidder	contractor	1/25/2017		
Contract execution; review & acceptance of contractor bonds & insurances	City of Newport News	2/1/2017		
Pre-Construction meeting with City, contractor, & other parties involved with project	City of Newport News	3/6/2017		
Notice To Proceed letter issued to contractor	City of Newport News	3/13/2017		
Review & approval of submittals for construction items	City of Newport News	3/6/2017		
Daily inspections of construction activities	City of Newport News	3/13/2017		
Review & approval of Requests for Information (RFIs) & change orders	City of Newport News	3/13/2017		
Review & approval of invoices for completed work	Contractor, City of Newport News	3/31/2017		
Final inspection of facility	City Of Newport News	9/1/2017		
Submittal of As-built drawings of facility	contractor	9/29/2017		
Monitoring of facility (CNU - Dept. of Biology)	City Of Newport News	9/30/2017		
Inspection of facility (City's Environmental Services Division)	City Of Newport News	9/30/2018		
Operation & Maintenance of facility (City's Public Works and Parks, Recreation, & Tourism Depts.)	City Of Newport News	9/30/2018		





**GENERAL TERMS AND CONDITIONS  
FOR STATE FUNDED GRANT CONTRACTS**

1. **APPLICABLE LAWS:** This Contract shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, by the laws of the Commonwealth of Virginia.
2. **APPLICATION FOR ASSISTANCE:** If grant funding assistance is continued year to year, the Grantee shall submit a complete application, including the proposed workplan, to the Department at least 75 days prior to the beginning of the next project period unless otherwise specified in the Special Terms and Conditions.
3. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the Department shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this Contract.
4. **CERTIFICATION - CONFLICT OF INTEREST:** The Grantee warrants that it has fully complied with the Code of Virginia State and Local Government Conflict of Interests Act (<http://law.lis.virginia.gov/vacode/title2.2/chapter31/>).
5. **CERTIFICATION - DRUG-FREE WORKPLACE:** The Grantee warrants that it shall comply with the provisions of Public Law 100-690, Title V, Subtitle D, "Drug-Free Workplace Act of 1988", and all applicable federal implementing regulations, including 15 CFR Part 26 or 40 CFR Part 32, which require that the Grantee take steps to provide a drug-free workplace.

The Grantee certifies that it will or will continue to provide a drug free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug free awareness program to inform employees about:
  - (1) The dangers of drug abuse in the workplace
  - (2) The Grantee's policy of maintaining a drug free workplace
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs, and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the Contract, the employee will:
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the Department in writing, within ten calendar days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction.
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted:
  - (1) Taking appropriate personnel action against such employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance of rehabilitation program approve for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

**6. CERTIFICATION - NONDISCRIMINATION:** During the performance of this Contract, the Grantee agrees as follows:

(a) The Grantee will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Grantee. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) The Grantee, in all solicitations or advertisements for employees placed by or on its behalf, will state that such Grantee is an equal opportunity employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The Grantee will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

**7. COLLATERAL CONTRACTS:** Where there exists any inconsistency between this Contract and other provisions of collateral contracts which are made a part of this Contract by reference or otherwise, the provisions of this Contract shall control.

**8. CREATION OF INTELLECTUAL PROPERTY (NOT APPLICABLE TO CONTRACTS WITH OTHER STATE AGENCIES):** All copyrightable material created pursuant to this Contract shall be considered work made for hire and shall belong exclusively to the Department. Neither party intends any copyrightable material created pursuant to this Contract, together with any other copyrightable material with which it may be combined or used, to be a "joint work" under the copyright laws. If any copyrightable material created pursuant to this Contract cannot be deemed work made for hire or is deemed part of a joint work, the Grantee agrees to irrevocably assign, and does hereby irrevocably assign, its entire copyright interest in such material or work to the Department and shall execute and deliver such further documents as the Department may reasonably request for the purpose of acknowledging such assignment.

The Grantee warrants that no individual, other than regular employees of the Grantee or Department working within the scope of their employment, shall participate in the creation of any copyrightable material to be delivered under this Contract, unless such individual and his or her employer, if any, have signed an intellectual property contract satisfactory to the Department before commencing such participation.

The Department shall have all rights, title and interest in or to any invention reduced to practice pursuant to this Contract. The Grantee shall not patent any invention conceived in the course of performing this Contract.

The Grantee hereby agrees that, notwithstanding anything else in this Contract, in the event of any breach of this Contract by the Department, the Grantee's remedy shall not include any right to rescind or otherwise revoke or invalidate the provisions of this Section. Similarly, no termination of this contract by the Department shall have the effect of rescinding the provisions of this Section.

This provision applies only to materials or documents developed with Contract funds. It does not apply to materials or documents previously copyrighted or registered under the Grantee's copyright or trademark or to materials or documents which are developed with other funds.

**9. DISCLAIMER:** Nothing in this Contract shall be construed as authority for either party to make commitments which will bind the other party beyond the project or work contained herein. Furthermore, the Grantee shall not assign, sublet, or subcontract any work related to this Contract or any interest it may have herein without the prior written consent of the Department.

**10. DOCUMENTS:** The Grantee may retain any reports, studies, photographs, negatives, or other documents prepared by the Grantee in the performance of its obligations under this Contract and not required to be delivered to the Department. The Department shall have the copyright to all such materials, and unlimited rights to use any such materials. Where necessary for the Department's full enjoyment of its copyrights and

other rights referenced in this Contract, the Grantee shall provide a clear, reproducible copy of such materials (machine readable upon request) to the Department.

The Grantee has permission to reproduce and distribute any material or documents prepared by the Grantee and for which the Department owns the copyright, but only where necessary or expeditious to the performance of the Grantee's obligations under this contract.

This provision applies only to materials or documents developed with contract funds. It does not apply to materials or documents previously copyrighted or registered under the Grantee's copyright or trademark or to materials or documents which are developed with other funds.

- 11. EMPLOYEE ADMINISTRATION AND COSTS:** In the event this Agreement provides funds to the Grantee for personnel or personnel related expenditures, the Grantee shall be solely responsible for all: (a) personnel administration and obligations, to include, but not limited to: hiring, evaluations, termination, etc.; and (b) costs, to include, but not limited to: payment for leave, unused time, unemployment insurance and unforeseen employment liabilities (e.g. unemployment compensation, leave pay out, workers compensation, etc.). The DEQ shall not assume any responsibilities or obligations as an employer; nor shall the DEQ assume any liability (during or after the term of this Agreement) for personnel related costs incurred by the Grantee in order to fulfill its obligations under this Agreement (except as noted below):

Note: The DEQ may, in its sole discretion and as specifically allowed in this Agreement, or in accordance with the overriding federal costs principles, reimburse the Grantee for salary and eligible fringe costs incurred during the performance of this Agreement.

- 12. FINANCIAL RECORDS AVAILABILITY:** The Grantee agrees to retain all books, records, and other documents relative to this contract for five years after final payment, or until audited by an independent auditor, whichever is earlier. The Department, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
- 13. FISCAL CONTROL:** The Grantee shall establish fiscal control and fund accounting procedures which assure proper disbursement of, and accounting for, contract funds. The Grantee shall for the purpose of this contract:
- (a) Provide all accounting, bookkeeping, fiscal, and administrative services required by or related to this Contract.
  - (b) Request partial payment due from the Department in accordance with the terms of this Contract.
  - (c) Maintain appropriate support for all expenditures incurred and maintaining all books, documents, papers, accounting records, and other evidence supporting the costs incurred associated with this Contract. It shall make such materials available at its offices at all reasonable times during the Contract period, and for three years from the date of final payment under this Contract, for inspection and audit by the Department or any authorized representative of the Department.
- 14. INDEMNIFICATION (NOT APPLICABLE TO CONTRACTS WITH OTHER STATE AGENCIES):** Grantee agrees to indemnify, defend and hold harmless the Department and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Grantee/any services of any kind or nature furnished by the Grantee, provided that such liability is not attributable to the sole negligence of the Department or to failure of the Department to use the materials, goods, or equipment in the manner already and permanently described by the Grantee on the materials, goods or equipment delivered.
- 15. INDIRECT COSTS:** Indirect costs will not be allowable charges against the award unless specifically included as a line item in the approved budget incorporated into the Contract.
- 16. INTEGRATION AND MODIFICATION:** No alteration, amendment or modification in the provisions of this Contract shall be effective unless it is reduced to writing, signed by the parties and attached hereto.

- 17. LIABILITY (NOT APPLICABLE TO CONTRACTS WITH OTHER STATE AGENCIES):** The Grantee shall obtain and maintain, during the life of this Contract, such bodily injury liability and property damage liability insurance as will protect it from claims of damages for personal injury, including death, as well as from claims for property damage, which may arise from its activities under this contract. If the Grantee has a self-insurance program, it may self-insure the risks associated with this Contract in lieu of the commercial insurance required herein.
- 18. OBLIGATING FUNDS BEYOND PROJECT PERIOD:** The Grantee shall not incur costs or obligate funds for any purpose pertaining to the project beyond the expiration date stipulated in the contract.

Any extension of the award period can only be authorized by the Department. Verbal or written assurances of funding from other than the Department shall not constitute authority to obligate funds for programmatic activities beyond the expiration date.

The Department has no obligation to provide any additional prospective funding. Any renewal of the award to increase funding and to extend the period of performance is at the sole discretion of the Department.

- 19. PRECEDENCE OF TERMS:** The Contract consists of several documents. In the event of a conflict between or among terms in these documents, the following documents control in order from the most important to the least important: Special Terms and Conditions; General Terms and Conditions; the signed Contract form; and the Scope of Work.
- 20. PRIOR WRITTEN APPROVAL OF CHANGES:** The Grantee must obtain prior written approval from the Department for changes to the Contract, including, but not limited to, changes of substance in program activities, designs, or plans set forth in the approved scope of work or project workplan.
- 21. REGULATORY COMPLIANCE:** The Grantee shall comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the project and shall give all Notices required thereby. The Grantee hereby consents to inspection by any state regulatory agency having jurisdiction over any part of the work performed with the assistance of the contract funds.
- 22. RENEWAL OF CONTRACT:** The Contract may be renewed by the Department upon written contract by both parties under the terms of the current contract, prior to the expiration.
- 23. SEVERABILITY:** Each paragraph and provision of this Contract is severable from the entire contract; and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect.
- 24. SUBCONTRACTS:** No portion of the Scope of Work shall be subcontracted without the prior written consent of the Department. The Grantee shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall ensure compliance with all requirements of the Contract. The Grantee shall comply with all applicable provisions of the Virginia Public Procurement Act in making such awards.
- 25. TERMINATION FOR CAUSE:** The Department reserves the right to terminate the grant in whole, or in part, at any time before the date of completion, upon written notice to the Grantee that it has failed to comply with the conditions of the Contract. In connection with such termination, payments made to the Grantee or recoveries by the Department shall be in accord with the legal rights and liabilities of the parties.
- 26. TERMINATION FOR CONVENIENCE:** The Department may terminate any resulting contract, in whole or in part, upon thirty (30) days written notice to the Grantee specifying the extent to which the performance under the contract is terminated, and the date of termination. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, in whole or in part, after the initial 12 months of the contract period upon thirty (30) days written notice to the other party specifying the extent to which the performance under the contract is terminated, and the date of termination. In addition, (a) the Department may terminate the contract immediately if its funding is terminated or; (b) the Department or the

Grantee may terminate the contract, in whole, or in part, if both parties agree that the continuation will not produce beneficial results commensurate with further expenditure of funds; in this event, the Department and the Grantee shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated.

In the event the contract (or portion thereof) is terminated (regardless of cause), the Grantee shall not incur new obligations for the contract (or terminated portion thereof) after the effective date of termination, and shall cancel as many outstanding obligations as possible; however, termination shall not relieve the Grantee of the obligation to deliver and/or perform on all outstanding obligations established prior to the effective date of cancellation.

- 27. USE OF GRANT FUNDS:** Grant funds shall only be used for the purposes and activities covered in the Project Workplan.

## **SPECIAL TERMS AND CONDITIONS FOR WQIF NPS GRANT CONTRACTS**

1. **MATCHING FUNDS:** If this Agreement is contingent upon cash and in-kind contributions by the Grantee to the project, the required amount of matching funds will be indicated on the Project Financial Report Form, Attachment B, of these Agreement documents. Matching contributions, if applicable, must reflect expenses directly related to the implementation of this project and incurred only during the time of performance listed in this Agreement. The decision of DEQ with respect to approval of matching funds shall be final. Matching funds must be tracked and reported to DEQ in the quarterly and final reports the same as grant funds.
2. **GEOSPACIAL DATA STANDARDS:** If this agreement includes the creation or generation of geospatial data then that data must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at [www.fgdc.gov](http://www.fgdc.gov).
3. **LAWS, REGULATIONS AND PERMITS:** The Grantee agrees to follow all appropriate local, regional, state or federal laws or regulations that may be required during the execution of the Agreement. This includes ensuring that the acquisitions of all necessary permits are obtained prior to the implementation of any grant funded activity. The Grantee must be able to provide any documentation, upon request regarding necessary permits. The approval of this work plan or the execution of this contract does not imply nor does it guarantee that a federal, state or local permit will be issued for a particular activity.
4. **BEST MANAGEMENT PRACTICE (BMP) OPERATION AND MAINTENANCE:** The Grantee will assure the continued proper Operation and Maintenance of all nonpoint source best management practices (BMPs) that have been funded under this Agreement through agreements with landowners and participants. BMPs shall be operated and maintained for the expected lifespan and in accordance with commonly accepted standards and specifications. Grantees shall include a provision in every applicable sub-agreement (grant or contract) awarded under this Agreement requiring that BMPs funded under the agreement are properly operated and maintained.

Within sixty (60) days of the effective date of this Agreement, the Grantee will submit to DEQ, for review and approval, an Operation and Maintenance Plan for Best Management Practices (and associated Landowner Agreement) and other on-the-ground implementation aspects of this project. The Grantee (or its designees) will operate and maintain the project, or secure the operation and maintenance of the project through landowner agreements, in a manner consistent with the plan as approved by DEQ. Utilization of the "Virginia BMP Incentives Program Contract" (or DEQ approved equivalent) and adherence to either DCR's "Agricultural BMP Cost-share Manual" or DEQ's "Total Maximum Daily Load (TMDL) Implementation Cost-Share Best Management Practice (BMP) Guidelines" is considered an adequate Operation and Maintenance Plan and landowner agreement for agricultural and residential septic practices.

DEQ (and its agency partners) and EPA respectively reserve the right to periodically inspect a practice during the lifespan identified in the Operation and Maintenance Plan or agreed to specification to ensure that operation and maintenance are occurring. Please note that the enforceable length for this term and condition coincides with the length of period identified in the Operation and Maintenance Plan (e.g. 10 years). The Grantee and all its partners and recipient of State WQIF funds agree to maintain BMPs for the lifespan in accordance with approved operation and maintenance plan and landowner agreement. The Grantee and its designees agree to refund all or part of the cost-share financial received if BMPS are found not to meet program specifications required at the time of installation/payment or if the practices are removed or not properly maintained during the lifespan of the practice(s). The Grantee and sub-Grantee, must agree that the sale, lease or changed use of the property will not exempt the Grantee and its designees from fulfilling these requirement(s). Should the property change ownership during the lifespan of the practice(s), the Grantee must have property owners agree to complete an "Agreement

Transferring Responsibility for Best Management Practice" form and submit that to DEQ. DEQ may require the Grantee or sub-recipient of grant funds for eligible BMPs to refund all or a portion of grant funds if the owner of the property hosting the BMP sells or loses control of the land under which a grant funded project is associated.

In the event that the Grantee (or its sub-Grantees or designees) fails to comply with the terms of this Agreement, DEQ shall give written notice specifying the failure to comply and shall give the Grantee the time to correct such failure as provided for herein with respect to a breach of this Agreement. **For nonpoint source BMP installations funded through this Agreement, if the Grantee, and sub-Grantees or designees do not comply within ninety (90) days of receipt of written demand from DEQ, the Grantee shall repay an amount, calculated on a straight line pro-rated basis, of the grant funds used for the installation.**

## G. Other City Council Actions

3. Item 2 of 2: Resolution Appropriating \$324,000 from the Virginia Department of Environmental Quality (DEQ) Water Quality Improvements Fund (\$162,000) and the FY 2016 Bond Authorization, Stormwater Drainage Category (\$162,000) for the Design and Construction of the Deep Creek Shoreline Restoration at Menchville Marina Project

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$324,000 FROM THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY WATER QUALITY IMPROVEMENTS FUND (WQIF) (\$162,000) AND THE FY 2016 BOND AUTHORIZATION, STORMWATER DRAINAGE CATEGORY (\$162,000) FOR THE DESIGN AND CONSTRUCTION OF THE DEEP CREEK SHORELINE RESTORATION AT MENCHVILLE MARINA PROJECT.

BACKGROUND:

- The project is located at 494 Menchville Road South along Deep Creek adjacent to the Christopher Newport University Sailing Center and Menchville Marina.
- The current shoreline is eroding causing trees to be uprooted, contains concrete and wood debris previously deposited for protection, and wooden posts and debris from a degraded bulkhead.
- The proposed improvements will enhance the shoreline through construction of a stone sill, vegetated marsh area, and a riparian buffer with natural vegetation.
- A portion of stormwater runoff from the marina site will be directed to the improvements to provide pollutant reduction to Deep Creek.
- This project is considered critical because it provides pollutant reductions required through the Total Maximum Daily Load (TMDL) limit set by the DEQ, delegated from the EPA.
- Due to its reduction of pollutant loading, the City was successful in obtaining a Water Quality Improvements Fund (WQIF) matching grant from DEQ for this project's design and construction.

- The City Manager recommends approval.

FISCAL IMPACT: • N/A

ATTACHMENTS:

Description

sdm14756 Appropriation re Deep Creek Shoreline Restoration - Menchville Marina

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED AND STATE REVENUE TO DEEP CREEK SHORELINE RESTORATION AT MENCHVILLE MARINA PROJECT.

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

That it hereby appropriates funds from Bonds Authorized and Unissued and State Revenue to Deep Creek Shoreline Restoration at Menchville Marina Project, as follows:

Appropriation From:

Bonds Authorized and Unissued 4104-250-70-700N-579000-000000-2016- 00000-N0000	\$	162,000.00
State Revenue 4300-000-00-0000-482000-000000-0000- N5034-N5034	\$	162,000.00

Appropriation To:

Deep Creek Shoreline Restoration at Menchville Marina Project 4104-250-70-700N-579420-000000-2016- 00000-N5034	\$	162,000.00
4300-250-70-700N-579420-000000-0000- N5034-N5034	\$	162,000.00

## **G. Other City Council Actions**

4. Item 1 of 2: Resolution Authorizing the City Manager to Execute Any and All Agreements or Documents Necessary to Obtain Grant Funding from the Virginia Department of Environmental Quality (DEQ) for the Richneck Area Regional Water Quality and Flood Control BMP, Phase 1 Project

**ACTION:** A REQUEST TO APPROVE A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AND ALL AGREEMENTS OR DOCUMENTS NECESSARY TO OBTAIN GRANT FUNDING FROM THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) FOR THE RICHNECK AREA REGIONAL WATER QUALITY AND FLOOD CONTROL BMP, PHASE 1 PROJECT.

**BACKGROUND:**

- The City has competed for and successfully secured the Water Quality Improvements Fund (WQIF) matching grant from DEQ to support the design and construction of Richneck Area Regional Water Quality and Flood Control BMP, Phase 1 Project.
- The DEQ requires the City to submit a signed grant agreement for use of the funding.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

### **ATTACHMENTS:**

#### **Description**

CM Memo re Richneck Area Water Quality & Flood Control

Area Map of Richneck Project

sdm14751 Requesting Programming from VA DEQ re Richneck Road Regional Water BMP

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

October 19, 2016

**TO:** The Honorable City Council

**FROM:** City Manager

**SUBJECT:** Richneck Area Regional Water Quality and Flood Control BMP, Phase 1 Project

City Council is requested to approve a resolution authorizing the City Manager to execute an agreement between the City and the Department of Environmental Quality (DEQ) and appropriating funds in the amount of \$1,848,300 for the Richneck Area Regional Water Quality and Flood Control BMP, Phase 1 Project.

The proposed project is located between Richneck Road and Melrose Terrace, approximately 2,000 feet north of Woodside Lane. This project consists of the construction of a stormwater management facility (BMP) for providing water quality and quantity control of stormwater runoff in the Stoney Run Watershed. The facility is replacing an existing embankment with an undersized outfall pipe and will reduce flooding in the surrounding area. The BMP will serve as a regional facility, to be expanded in future phases, providing water quality and flood control benefits to the Stoney Run Watershed, including Huntington Pointe.

The project results in significant pollutant reductions required through the Total Maximum Daily Load (TMDL) limit set by the Virginia Department of Environmental Quality (DEQ) and delegated from the U.S. Environmental Protection Agency (EPA). Due to its reduction of pollutant loading, the City was successful in obtaining a Water Quality Improvements Fund (WQIF) matching grant from DEQ for a portion of the project's design and construction cost.

The Honorable City Council

Page #2

Richneck Area Regional Water Quality and Flood Control BMP, Phase 1

Project

October 19, 2016

Funding of \$568,240 is available from the Virginia Department of Environmental Quality Water Quality Improvements Fund (WQIF). The remaining \$1,280,060 is available from Private Developer contributions in accordance with a Memorandum of Understanding (MOU) between the City and McCale Development Corporation for the construction of the regional facility.

I recommend City Council approve the resolution.

  
James M. Bourey

JMB:MHS:wjr

Attachment

cc: Everett Skipper, Director, Department of Engineering



CITY OF NEWPORT NEWS, VIRGINIA

# RICHNECK AREA REGIONAL WATER QUALITY & FLOOD CONTROL BMP - PHASE 1



**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION REQUESTING PROGRAMMING OF A PROJECT TO BE KNOWN AS THE RICHNECK ROAD REGIONAL WATER QUALITY AND FLOOD CONTROL BMP PROJECT SUBJECT TO A GRANT FROM THE WATER QUALITY IMPROVEMENTS FUND FROM THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY.

WHEREAS, the City of Newport News (the "City") needs to design and construct a regional water quality and flood control BMP adjacent to Richneck Road, a project to be known as the Richneck Area Regional Water Quality and Flood Control BMP Project ("the Project"); and

WHEREAS, the Cost of the Project is \$1,848,301.00; and

WHEREAS, the Council of the City supports the worthy goals of the Project and encourages its expeditious implementation; and

WHEREAS, the Virginia Department of Environmental Quality (DEQ) has indicated a willingness to provide a grant from its Water Quality Improvements Fund (WQIF) in the amount of \$568,240.00, payable to the City upon the Completion of the Project, to partially reimburse the City's costs, with the understanding that the City will pay the full amount and will be responsible for all costs in excess of the grant funds, and that DEQ requires a resolution from City Council concurring with the terms of the grant and authorizing the City Manager to execute any and all contracts and other documents necessary to secure the award of the grant.

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

1. That it hereby approves and endorses the Project within the City.
2. That it requests DEQ to make a grant to the City in partial reimbursement for the costs expended on the Project.
3. That it hereby authorizes and directs the City Manager to execute, and the City Clerk to attest on behalf of the City, any and all agreements or documents necessary to effectuate the design and construction of the Project and to obtain the WQIF Grant from DEQ; provided that all such agreements and documents shall first have been reviewed and approved by the City Attorney.
4. That the City Manager shall ensure that the expenditure of Project funds is carefully monitored and controlled and, in particular, ensure that the easements necessary for construction are approved prior to the expenditure of the design and construction funds.

5. That this resolution shall be in effect on and after the date of its adoption, October 25, 2016.

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL QUALITY GRANT CONTRACT**

This grant award contract is made by and between the Department of Environmental Quality (hereinafter referred to as the "Department") and the City of Newport News (hereinafter referred to as the "Grantee"). The parties to this grant award contract, in consideration of the mutual covenants and stipulations set out herein, agree as follows:

**PROJECT DESCRIPTION:** The Grantee shall carry out the project as set forth in the Contract Documents.

**PROJECT PERIOD:** The project shall commence on September 15, 2016 and shall terminate no later than September 30, 2018.

**PAYMENTS:** The Department shall pay the Grantee quarterly on a cost reimbursement basis, a total not-to-exceed sum of \$568,240.00. The said sum, together with the matching funds provided, shall include all expenses for the project. Payment shall be made upon submission of invoices and/or other appropriate documentation of program expenditures, progress reports and final reports as specified in the "Contract Documents" referenced below, and their acceptance by the Department:

Pre-Award Costs: The Department will pay pre-award costs for eligible activities / components specified in the Scope of Work approved by the Department, and subsequent to July 1, 2016. The Grantee shall report on all DEQ approved all pre-award activities / components in accordance with the "Reporting" requirements specified in the "Contract Documents"; and shall report all approved pre-award activities / components with the first required report submittal.

The Department is under no obligation to reimburse unauthorized work performed after the expiration of the contracted time of performance. The Department reserves the right to withhold a minimum of 5% of the Grantee's total grant allocation until the final grant report and all services, reports and deliverables are received and approved by the Department.

Acceptance of work completed under this grant award contract shall be decided at the sole discretion of the Department and shall be final. The Grantee shall spend the funds according to the specified categories of the grant award contract budget set forth in the Attachments A and B. Minor shifts of the funds among categories by the Grantee, not to exceed 10% of any budget line item are permissible. Shifts in funds exceeding 10% of budget line items must be approved in writing by the Department. Any cost overruns incurred by the Grantee during the time of performance shall be the responsibility of the Grantee.

**INVOICE ORIGINALS SHALL BE SENT TO:**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
ATTENTION: ACCOUNTS PAYABLE  
P.O. BOX 1105  
RICHMOND, VIRGINIA 23218-1105

**THE REPORTING REQUIREMENTS ARE AS FOLLOWS:**

Reports (Quarterly Progress – Financial /  
Additional Reporting / Final)

**Report Due Date**

Per the "Project Workplan"





**SCOPE OF WORK**

**City of Newport News: Richneck Area Regional Water Quality Retrofit & Flood Control BMP**

Name of Organization:	City of Newport News		
Organizational FIN:	546022059	Duns & Brad Street Number	80975508
Mailing Address	2400 Washington Avenue Newport News Virginia 23607		
Contact Person:	James Clark	Work Title:	Engineer II
Contact Phone #:	757-926-8655	Email:	jclark@nnva.gov
Fiscal Contact:	Susan M. Goodwin, CPA	Fiscal Contact Work Title:	
Fiscal Contact Phone #:	757-926-8670	Fiscal Contact Email:	sgoodwin@nnva.gov
Start Date	09/15/16	End Date	09/30/2018
WQIF-NPS Award Total	WQIF-NPS BMP cost-share		Match
\$ 568,240	\$568,240		\$568,240

Pursuant to the Virginia Water Quality Improvement Act of 1997, the Virginia General Assembly created the Water Quality Improvement Fund (WQIF) to provide funding for point and nonpoint source water quality improvements throughout the Commonwealth. DEQ administers WQIF grants as allowed by 10.1 – 2130 of the *Code of Virginia*. This Agreement is a sub-grant award, from DEQ to the Grantee, of said state grant funds.

**PROJECT ABSTRACT**

After major storm events hit the City in the early 2000s, the City of Newport News contracted an engineering firm to study the Stoney Run Drainage Basin in the northern part of the City. The firm completed the Stoney Run Drainage Basin Study Report in late 2005 with 2 additional revisions in 2006 and 2007 using the U.S. Environmental Protection Agency’s Stormwater Management Model (SWMM) for hydrologic and hydraulic computations. The report determined that a regional BMP was needed in the Richneck area of the City to control water quality and flooding for existing and future conditions.

The project is designed as an Extended Detention basin, Level 1. Design of the project includes the potential for Phragmites harvesting should the Chesapeake Bay Program allow water quality credits for this activity. The project consists of an upper basin intended to provide water quality benefits and flood control associated with existing drainage basin conditions and completed roadway improvements to Richneck Road. It will replace an existing embankment and culvert created in years past. The project will have a stand-alone basin in that it has stormwater systems discharging into it with a controlled outfall that will remain in perpetuity.

**SCOPE OF SERVICE**

The Grantee, the City of Newport News, shall provide the services to DEQ set forth in the Agreement documents and, specifically, as defined in this Scope of Work, the attached proposal “*Richneck Area Regional Water Quality Retrofit & Flood Control BMP*” and the accompanying milestone table. All Attachment A



deliverables shall conform to accepted standards and practices. The Grantee shall provide DEQ with a minimum of quarterly reports and a final report, in narrative and financial report form, detailing the progress of work set forth in the Agreement documents. Incomplete or inaccurate reports may result in reimbursement delays. These reports shall be certified by an authorized agent of the Grantee as being true and accurate to the best of the Grantee's knowledge, as indicated by their signature on Financial Report Form B (Attachment B). Procedures for managing grant projects and electronic versions the associated reporting forms will be provided to the Grantee by the assigned DEQ Project Manager. The final report is due within 30 days after the Agreement termination date.

#### **A. Watershed, Geographic Description or Location of Project**

The Richneck area of the City is generally urban with mostly residential neighborhoods, typically ¼ acres in size within several subdivisions and a few large properties adjacent to Richneck Road. The watershed was developed prior to current stormwater management regulations; therefore few BMPs were constructed during the development, most were for water quantity control purposes. One such stormwater detention area is an existing earth embankment with a single pipe culvert that sits between old and new neighborhoods in the drainage basin. The City does not possess any design plans for this existing facility.

#### **B. General Program and Project Administration Goals**

The City of Newport News will serve as the lead organization and fiscal agent for the project. As the lead, the City of Newport News will provide organizational coordination for the partner agencies including organizational meetings over the grant cycle. All grant reporting will be undertaken by the City of Newport News. BMP installation (including construction) and tracking will be provided by the City of Newport News in a database for reporting purposes to DEQ.

- 1) Assure that all project expenditures are in compliance with grant terms and conditions and standard cost-principles.
- 2) Complete and submit quarterly reports to DEQ in accordance with the schedule specified in this agreement.
- 3) Coordinate reporting between project partners/contractors, ensure all project activities are captured in quarterly reports and that project milestones are met by partners/contractors.
- 4) Implementation of this project will result in flood control and stormwater management in the Richneck areas of the City of Newport News.
- 5) Any applicable project outreach and engagement will be done through advertisement in local newspapers, announcements on the local radio station, and through the holding of regular public meetings at the Town Hall.

#### **C. The Proposal: Project Description, Objectives and Deliverables**

See Attachment A-1 "*Richneck Area Regional Water Quality Retrofit & Flood Control BMP*".

#### **D. REPORTING**

This grant will be administered on a reimbursement basis; as expenditures occur, the grantee requests reimbursement from DEQ. The Grantee shall submit a quarterly report (accompanied by a cover letter) requesting reimbursement and reporting progress to DEQ on a minimum of a quarterly basis. Pre-award costs incurred after July 1, 2016, that are consistent with an approved work plan, may be permitted with DEQ



approval. Pre-award costs are incurred at the grantee's own risk, however they can be reimbursed if it is found those costs are in line with the executed agreement.

Minimum documentation requirements for quarterly reports are addressed in this contract and can also be provided by the assigned DEQ Project Manager upon request.

Each quarterly report, due on the 15th of the month following the completion of each quarter, shall contain the following:

- Progress Report Form A
- An updated Project Financial Report Form B (Attachment B)
- Financial Narrative and other financial back-up documentation
- NPS Pollution Tracking Data for BMPs Form D (Attachment D) (if applicable)

The final report, due within 30 days after the Agreement termination date, shall summarize all major project accomplishments and challenges, as well as expenditures and matching contributions during the period after the project began through the completion of all required work. Photographs taken before, during and after project implementation should be included in the final report. The final reimbursement request must be submitted with the final report. DEQ will not reimburse any requests received more than 30 days after the Agreement termination date

**Each quarterly report shall include the following components:**

- 1) **Progress Report:** The Grantee shall report progress to DEQ through a narrative summary of accomplishments that relates to the scope of service and any key milestones; and shall submit a completed "Progress Report" which shall include a brief summary of key accomplishments. Provide both accomplishments and challenges and progress in fulfilling the Scope of Work (Attachment A, A-1, etc.) and activities for each deliverable listed in the Milestone Table. The contents from this form will be used for publically reporting on the status of the project
- 2) **Financial Reports:** The Grantee shall submit a financial narrative and a financial reporting form or invoice (Attachment/Form B, signed and scanned and included as the 2nd page of the report), which shall be used to track expenditures throughout the grant agreement and reimbursement requests from the Grantee; and shall submit a breakdown of expenditures and activities. A financial narrative must accompany the report and include itemized details of expenditures by budget category. DEQ may request receipts and detailed financial accounting if the financial narrative does not provide enough detail to justify expenditures.

**Reimbursement requests shall:**

- Be submitted for the Grantee's actual costs
- Relate to the grant scope of work.
- Be included in the Grantee's quarterly report, which shall include Grantee's receipt, purchase order, invoice or other appropriate form of documentation for each expense; each reimbursement request shall be for a minimum of \$1,000 (i.e. an aggregate of all applicable budget categories / line items). The DEQ will not process a reimbursement request for less than \$1,000.
- The DEQ will not reimburse the Grantee for any unauthorized expenses.

- 3) **Milestone and Timeline Reporting** The Grantee must keep track of the progress of meeting the intent and deliverables described in the scope of work (Attachment A) through the Progress Report Form. Enter



“Actual Completion Date” for specific tasks on the table and provide relevant notes. Inform DEQ of any expected delays in accomplishment of milestones and provide revised completion dates.

- 4) **Best Management Practice Installation:** Grantees should record the BMP information on the Attachment D – NPS BMP Reporting Form. This is an Excel document and must be submitted in Excel format. The Grantee shall document BMP installation and shall ensure that required Operation and Maintenance Plans and Landowner Agreements are developed and submitted to DEQ if applicable.
- 5) **Submission Requirements:** The Grantee shall submit all quarterly reports and forms (including grant invoices {Form B} and reimbursement requests):
  - a. Via email to DEQ’s Office of Financial Management at [OFM@deq.virginia.gov](mailto:OFM@deq.virginia.gov) with a carbon copy to the assigned DEQ project manager, Laura Keys, [Laura.Keys@deq.virginia.gov](mailto:Laura.Keys@deq.virginia.gov)
  - b. The E-mail shall include the grant agreement (contract) number in the subject line.
  - c. A cover memo shall be included.
  - d. The Attachment B shall be a standalone document, separate from the rest of the report.
  - e. According to the following schedule:

<u>SUBMITTAL DATE</u>	<u>PERIOD COVERED</u>
October 15, 2016	September 15, 2016 (July 1, 2016 for pre-award costs) – September 30, 2016
January 15, 2017	October 1, 2016 – December 31, 2016
April 15, 2017	January 1, 2017 - March 31, 2017
July 15, 2017	April 1, 2017- June 30, 2017
October 15, 2017	July 1, 2017 – September 30, 2017
January 15, 2018	October 1, 2017 – December 31, 2017
April 15, 2018	January 1, 2018 – March 31, 2018
July 15, 2018	April 1, 2018-June 30, 2018
October 31, 2018	July 1, 2018 – September 30, 2018 (Final Report)

- 6) **Payment Reserve:** DEQ reserves the right to hold payment on the last 5% (\$28,412) of the grant until all final products are delivered to and review and approved by DEQ.

**E. COMPENSATION**

DEQ shall release the grant award to the Grantee on a cost-reimbursement basis upon receipt and approval of the Grantee’s quarterly and final reports and deliverables as required by this Agreement (to include the milestone table), or at other times agreed to by DEQ. The Grantee shall spend the funds according to the specified categories of the Agreement budget set forth in the Attachments A and B; and shall obtain prior written approval from the DEQ Project Manager ([Laura.Keys@deq.virginia.gov](mailto:Laura.Keys@deq.virginia.gov)) or the DEQ Grant Manager ([Elizabeth.McKercher@deq.virginia.gov](mailto:Elizabeth.McKercher@deq.virginia.gov)) for any reallocation of funds among budget line items and categories.

This Agreement provides a grand total of **\$568,240** in State WQIF resources to the Grantee to be matched with **\$568,240** from the Grantee. These funds will be available for implementation of shoreline erosion control through September 30, 2018. As applicable, the Grantee shall consider this deadline when soliciting new landowner signups for construction and BMPs and ensure that practices are completed and paid by the close of the grant. Funds for construction and BMPs are allocated under the ‘construction’ category of the



budget as indicated in the financial narrative and the financial report form (Form B). The Grantee cannot use construction funds for technical assistance activities without prior approval from DEQ; and shall only use these funds for construction and BMP implementation.

Funds provided through this Agreement, including BMP funds, will be disbursed by DEQ quarterly (or through an “Interim Report” if approved through the use of a completed and signed “Financial Report” form (Form B). DEQ will disburse cost-share funds upon written request from the Grantee submission of quarterly or interim reports and a completed and signed Form B.

Any unspent funds remaining on September 30, 2018 will **revert to DEQ**. Any cost overruns incurred by the Grantee during the Agreement’s period of performance shall be the responsibility of the Grantee.

**F. SATISFACTORY PROGRESS**

There will be at least four evaluations of the City of Newport News performance and an assessment of implementation during the grant agreement, which will be held 12/31/16, 6/30/17, 12/31/17, and 6/30/18.

**G. PROJECT BUDGET NARRATIVE**

Please reference Attachment A-2 – Budget Detail

**H. PROJECT TIMELINE, MILESTONES AND OUTPUTS**

Milestones are also listed below:

Milestone Activity Description	Responsible Party	Target Completion Date	Key Deliverable
<b>General Project Administration</b>			
Submit financial and programmatic reports quarterly to DEQ on the 15 <sup>th</sup> day following the end of the calendar quarter. Final report due 30 days after the grant closes, September 30, 2018	City of Newport News	10/15/2016 1/15/2017 4/15/2017 7/15/2017 10/15/2017 1/15/2018 4/30/2018 7/15/2018 10/31/2018	8 quarterly reports, 1 final report
Meet with DEQ project manager for preliminary kick-off and semiannual progress review meetings	City of Newport News, DEQ	9/30/2016 12/31/2016 7/15/2017 12/31/2017 7/15/2018	Meet with DEQ project manager for preliminary kick-off and semiannual progress review meetings
Operation and Maintenance Plan and, if applicable, Landowner Agreements	City of Newport News	12/30/2018	Operation and Maintenance Plan and,



			if applicable, Landowner Agreements completed.
Project Closeout meeting with DEQ project manager	City of Newport News, DEQ	7/15/2018	1 meeting
<b>General Program Activities</b>			
Design of plans, technical specifications, permits, cost estimate, and SWPPP.	URS	1/31/2015	hardcopies & files on CD
Acceptance/Approval of an environmental permit	US Army Corps of Engineers	4/1/2016	letter
Public meeting identifying the project scope	City of Newport News	8/31/2016	presentation of plans
City Council meeting; approval to execute grant agreement and appropriation of City funds	City of Newport News	1/24/2017	Resolution
Advertisement of project by City's Office of Purchasing	City of Newport News	3/21/2017	listing on Virginia.gov - eVA
Receipt of bids to the City	City of Newport News	3/21/2017	sealed bids
Review of qualified bidders & recommendation of award to lowest responsive bidder	City of Newport News	4/5/2017	memo to Office of Purchasing
Contract execution; review & acceptance of contractor bonds & insurances	City of Newport News	4/28/2017	contract; contractor documents
Pre-Construction meeting with City, contractor, & other parties involved with project	City of Newport News	5/10/2017	sign-in sheet; meeting minutes
Notice To Proceed letter issued to contractor	City of Newport News	6/1/2017	letter
Review & approval of submittals for construction items	contractor/City of Newport News	6/1/2017	cut sheets & shop drawings
Daily inspections of construction activities	City of Newport News	6/1/2018	log of inspections
Review & approval of Requests for Information (RFIs) & change orders	City of Newport News	6/1/2018	letter and/or digital
Review & approval of invoices for completed work	City of Newport News	6/30/2018	daily log & digital
Final inspection of facility	City of Newport News	6/15/2018	digital report
Submittal of As-built drawings of facility	contractor	6/22/2018	as-built plans
Inspections of facility (City's	City of	N/A	inspection



Environmental Services Division)	Newport News		checklist/report
Operation & Maintenance of facility (City's Public Works Department)	City of Newport News	N/A	logged activities in Cityworks

## PROGRESS REPORT FORM

### Water Quality Improvement Fund Nonpoint Source Implementation Project

*Please submit this form electronically, along with the rest of the report material to DEQ Office of Financial Management (OFM@deq.virginia.gov) and CC your DEQ Project Manager*

<b>Project Title</b>	City of Newport News Richneck Area Regional Water Quality Retrofit & Flood		
<b>DEQ Grant #</b>	16382	<b>Date Report Completed:</b>	[Enter Date xx/xx/xxxx]
<b>Organization</b>	City of Newport News		
<b>Name &amp; Title of Individual Reporting</b>	[Enter Name and Title]		
<b>Reporting Period</b>	Select reporting quarter	<b>Interim</b>	[enter xx/xx -xx/xx] Select reporting year

**Quarterly Progress Summary:** Summarize major project accomplishments and challenges this quarter  
[Enter Summary]

**Quarterly Report Narrative**

- A. Provide a description of activities in support of the **shoreline restoration** in the watershed(s). Include status of: contracted and completed projects, site visits, and potential projects; describe outputs and outcomes of these activities (e.g. septic systems corrected, # of participants contacted, behavioral changes etc.). [Enter Information]
- B. Provide a description of **education and outreach** activities conducted this quarter. Note the nature and intent of each activity, the information shared at each event and outputs and outcomes achieved (number of people reached, changes in behavior following the event including BMP installation). [Enter Information]
- C. Describe any **critical challenges** you are facing in the project area with respect to meeting grant deliverables. Note potential solutions you are considering to these challenges. [Enter Information]
- D. Describe any issues regarding the established **timeline and/or milestones**. Include any comments on delays and changes or potential delays and changes. [Enter Information]
- E. **Financial Narrative:** Describe in detail the grant expenses and match recorded during the reporting period. Provide any critical information or explanation of the expenses occurred or the funds for which payment are being requested. This information should be an expanded description of the expenses and match reported in the Attachment B – Financial Report Form and is used in lieu of submitted detailed receipts and invoices (although those must be retained by the Grantee). Please refer to the Grant Project Management Manual for details on the required information for each budget category as well as on the other options available to meet the financial narrative requirement (optional excel form, quick books, etc.).

Check this box if Financial Narrative Information will be provided in **attached forms or documents**.

Check this box if Financial Narrative Information will be **provided here, in the Form A1**.

<b>Financial Narrative Overview:</b> [Enter financial narrative overview or summary]		
<u>Budget Category</u>	<u>NPS WQIF Funds</u>	<u>Match Funds</u>
<b>TA - Personnel:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>TA - Fringe Benefits:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>TA - Travel:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>TA - Supplies:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>TA - Contractual:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>TA - Other Direct:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]

<b>TA - Indirect:</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>BMP Construction: Ag.</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>BMP Construction: Septic</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]
<b>BMP Construction: Urban</b>	[enter NPS WQIF financial narrative]	[enter match financial narrative]

Using as much space as necessary; provide a detailed description of all expenditures, by budget category, which are reported on the Attachment B Financial Report Form. Minimum information includes the following:

**Personnel:** Employee name, title/position, hourly rate, number of hours worked and total expenditures  
**Fringe/Benefits:** % fringe rate, describe coverage (e.g. health insurance, unemployment insurance, taxes, etc.)  
**Travel:** Mileage (# of miles @ \$0.xx mileage rate), Lodging (nightly rate x # of nights), Meals (per diem x # of meals)  
**Supplies:** List vendor/supplier and describe of supplies purchased and link to work plan (for higher dollar items)  
**Contractual:** non-construction contractors, consultants, name of organization and other details  
**Other Direct:** expenses or service provided, list vendor, events, etc.  
**BMP Construction:** BMP spec, BMP instance number, \$ of BMP, participant last name, etc.

F. **Milestone or Timeline:** Provide a progress report on the key milestones and timeline of the project, based upon what was in the Scope of Work. This replaces the Attachment C: Milestone table.

Milestone Activity Description	Responsible Party	Target Completion Date	Key Deliverable	Actual Completion Date	Comments on Status
Submit financial and programmatic reports quarterly to DEQ on the 15 <sup>th</sup> day following the end of the calendar quarter. Final report due 30 days after the grant closes, September 30, 2018	City of Newport News	10/15/2016 1/15/2017 4/15/2017 7/15/2017 10/15/2017 1/15/2018 4/30/2018 7/15/2018 10/31/2018	8 quarterly reports, 1 final report	[Enter Date]	[Enter Status Comments]
Meet with DEQ project manager for preliminary kick-off and semiannual progress review meetings	City of Newport News, DEQ	9/30/2016 12/31/2016 7/15/2017 12/31/2017 7/15/2018	Meet with DEQ project manager for preliminary kick-off and semiannual progress review meetings	[Enter Date]	[Enter Status Comments]
Operation and Maintenance Plan and, if applicable, Landowner Agreements	City of Newport News	12/30/2018	Operation and Maintenance Plan and, if applicable, Landowner Agreements completed.	[Enter Date]	[Enter Status Comments]
Project Closeout meeting with DEQ project manager	City of Newport News, DEQ	7/15/2016	1 meeting	[Enter Date]	[Enter Status Comments]
Design of plans, technical	URS	1/31/2015	hardcopies &	[Enter Date]	[Enter Status Comments]

specifications, permits, cost estimate, and SWPPP.			files on CD		
Acceptance/Approval of an environmental permit	US Army Corps of Engineers	4/1/2016	letter	[Enter Date]	[Enter Status Comments]
Public meeting identifying the project scope	City of Newport News	8/31/2016	presentation of plans	[Enter Date]	[Enter Status Comments]
City Council meeting; approval to execute grant agreement and appropriation of City funds	City of Newport News	1/24/2017	Resolution	[Enter Date]	[Enter Status Comments]
Advertisement of project by City's Office of Purchasing	City of Newport News	3/21/2017	listing on Virginia.gov - eVA	[Enter Date]	[Enter Status Comments]
Receipt of bids to the City	City of Newport News	3/21/2016	sealed bids	[Enter Date]	[Enter Status Comments]
Review of qualified bidders & recommendation of award to lowest responsive bidder	City of Newport News	4/5/2017	memo to Office of Purchasing	[Enter Date]	[Enter Status Comments]
Contract execution; review & acceptance of contractor bonds & insurances	City of Newport News	4/28/2017	contract; contractor documents	[Enter Date]	[Enter Status Comments]
Pre-Construction meeting with City, contractor, & other parties involved with project	City of Newport News	5/10/2017	sign-in sheet; meeting minutes	[Enter Date]	[Enter Status Comments]
Notice To Proceed letter issued to contractor	City of Newport News	6/1/2017	letter	[Enter Date]	[Enter Status Comments]
Review & approval of submittals for construction items	contractor/City of Newport News	6/1/2017	cut sheets & shop drawings	[Enter Date]	[Enter Status Comments]
Daily inspections of construction activities	City of Newport News	6/1/2018	log of inspections	[Enter Date]	[Enter Status Comments]
Review & approval of Requests for Information (RFIs) & change orders	City of Newport News	6/1/2018	letter and/or digital	[Enter Date]	[Enter Status Comments]
Review & approval of invoices for completed work	City of Newport News	6/30/2018	daily log & digital		
Final inspection of facility	City of Newport News	6/15/2018	digital report		
Submittal of As-built drawings	contractor	6/22/2018	as-built plans		

of facility					
Inspections of facility (City's Environmental Services Division)	City of Newport News	N/A	inspection checklist/report		
Operation & Maintenance of facility (City's Public Works Department)	City of Newport News	N/A	logged activities in Cityworks		

**G. Supplemental reporting materials (check all that are attached)**

- |                         |                          |   |                          |
|-------------------------|--------------------------|---|--------------------------|
| Project photos          | <input type="checkbox"/> | Financial Narrative Optional Form                 | <input type="checkbox"/> |
| Project publications    | <input type="checkbox"/> | Project reports                                   | <input type="checkbox"/> |
| Other (please describe) | <input type="checkbox"/> | [Enter description of other supplemental reports] |                          |



**2015 Virginia NPS Water Quality Improvement Fund  
Request for Assistance (RFA)  
ATTACHMENT A-1 – Original Project Narrative  
City of Newport News: Richneck Area Regional Water Quality  
Retrofit & Flood Control BMP**

- I Applicant/Organization Name:** City of Newport News
- II Project/Proposal Title:** Richneck Area Regional Water Quality Retrofit & Flood Control BMP,
- III Project Abstract (1-2 paragraphs)**

After major storm events hit the City in the early 2000s, the City of Newport News contracted an engineering firm to study the Stoney Run Drainage Basin in the northern part of the City. The firm completed the *Stoney Run Drainage Basin Study Report* in late 2005 with 2 additional revisions in 2006 and 2007 using the U.S. Environmental Protection Agency's Stormwater Management Model (SWMM) for hydrologic and hydraulic computations. The report determined that a regional BMP was needed in the Richneck area of the City to control water quality and flooding for existing and future conditions.

The project is designed as an Extended Detention basin, Level 1. Design of the project includes the potential for *Phragmites* harvesting should the Chesapeake Bay Program allow water quality credits for this activity. The project consists of an upper basin intended to provide water quality benefits and flood control associated with existing drainage basin conditions and completed roadway improvements to Richneck Road. It will replace an existing embankment and culvert created in years past. The project is a stand-alone basin in that it has stormwater systems discharging into it with a controlled outfall that will remain in perpetuity

**IV Project Description**

**A Project Need and Location**

- The Richneck area of the City is generally urban with mostly residential neighborhoods, typically ¼ acres in size within several subdivisions and a few large properties adjacent to Richneck Road. The watershed was developed prior to current stormwater management regulations; therefore few BMPs were constructed during the development, most were for water quantity control purposes. One such stormwater detention area is an existing earth embankment with a single pipe culvert that sits between old and new neighborhoods in the drainage basin. The City does not possess any design plans for this existing facility. This project was included in the City's Watershed Implementation Plan Phase II to assist the City in meeting obligations under the Chesapeake Bay Total Maximum Daily Load (TMDL) implementation effort. The City has recently upgraded portions of Richneck Road, an arterial connector road. Several outfalls from drainage systems along Richneck Road discharge to the natural ravine running through the residential neighborhoods. Future upgrades are planned for other sections upstream of the proposed BMP. The proposed BMP is a retrofit because water quality control will be implemented for existing conditions where none was provided before.

**B Objectives**

This Project will allow the City to claim water quality credits towards its TMDL requirements. The Project will provide flood control to areas experiencing flooding and safety concerns by citizens. Project will provide water quality control to an area of the Stoney Run Watershed were there presently is none.



**2015 Virginia NPS Water Quality Improvement Fund  
Request for Assistance (RFA)  
ATTACHMENT A-1 – Original Project Narrative  
City of Newport News: Richneck Area Regional Water Quality  
Retrofit & Flood Control BMP**

**C Project Description, Objectives, Deliverables and Timeline**

- The project will retrofit an existing stormwater management BMP from an embankment and pipe to a Level 1 extended detention basin. The new facility will handle water quality and quantity control for the drainage area based on existing conditions. Construction includes excavation; forebay and micro-pool installation; outlet structure installation; matting, mulching, topsoil, and seeding of basin slopes and access road; and inspections & maintenance of the facility. The City will advertise and bid the project and hire a contractor to perform the construction activities necessary to install the BMP. The City's Engineering and Public Works Departments will inspect the facility during and post-construction as well as maintain the facility to ensure its functionality. A Joint Permit Application (JPA) is in process and an engineering firm is negotiating with jurisdictional agencies for a permit on behalf of the City.

**Deliverables:**

- Previously completed tasks:
  - Study Report; URS, completed November 2005, revised December 2006 & March 2007,
  - Designed plans and specifications ; URS, completed September 2014,
- Currently on-going task:
  - Environmental Permit; VHB,
- Future tasks:
  - City Council approval of execution of grant agreement and appropriation of City funds;
  - Bid Package for City procurement process;
  - Contract execution, contractor bonds and insurances;
  - Invoices for completed services;
  - As-built drawings of facility;
  - Post-Construction inspections (yearly, pre-storm events and post-storm events);
  - Checklist and/or reports on the Maintenance and Operation of the facility based on inspections; tracking efficiency of BMP.

**Timeline:**

- Study Phase - completed,
  - Design Phase - completed,
  - Permitting Phase - 2 months,
  - Pre-Construction Phase - 9 months,
  - Construction Phase - 12 months,
  - Post-Construction Monitoring - 3 years,
  - Maintenance & Operations – in perpetuity.
- Implementation of the BMP will be documented by receipt of a Construction General Permit from DEQ and a Land Disturbance Permit from the City. Installation will be verified and documented by daily inspections of the construction site by a City Inspector. City's Project Manager will track the project with monthly updates from the inspector, as well as site visits when necessary. Contractor will certify acceptance of a Stormwater Pollution Prevention Plan (SWPPP) and complete the tasks associated with keeping the document current. Final Inspection will be completed and documented



**2015 Virginia NPS Water Quality Improvement Fund  
Request for Assistance (RFA)  
ATTACHMENT A-1 – Original Project Narrative  
City of Newport News: Richneck Area Regional Water Quality  
Retrofit & Flood Control BMP**

prior to final invoice payment. Closure of active permits will provide another layer of tracking BMP. City’s Environmental Services Division will inspect the facility yearly and document the condition of the BMP to ensure continued efficiency. City’s Public Works-Stormwater Division will coordinate with the Environmental Services Division’s inspections and document any corrections and repairs to the BMP.

**D Project Timeline**

- Environmental Permitting Phase; final approval - March 2016, engineering consultant firm (VHB),
- Pre-Construction Phase; City Council execution of grant agreement and appropriation of funds –January 2017, advertise/bids due – March 2017, recommendation of award, contract execution, and bonds & insurances review – April 2017, City of Newport News,
- Construction Phase; Notice To Proceed – June 2017, submittal reviews -, inspections – completion – June 2017 to June 2018, final inspection and acceptance, 1-year guarantee by contractor – June 2018,
- Post-Construction Inspections; June 2018 Engineering and Public Works Departments,
- Maintenance & Operations; June 2018, Public Works Department

**E NPS Results, NPS Reductions, or Environmental Results**

As part of the completed design for the project, URS calculated the nitrogen, phosphorus, and sediment removal rates for Phase 1 basin using the Chesapeake Bay Facility Assessment Scenario Tool (BayFAST). Below are the results of the computations.

Pollutant	Removal Rate (lbs./ac/yr)
TN	116.6
TP	10.9
TSS	5,568.6

**F General Program and Project Administration Goals**

- Receipt of environmental permitting,
- Public meeting identifying elements of the project,
- City Council approval of execution of grant agreement and appropriation of funds for construction services,
- Advertise project to procure construction services,
- Review of all qualified bids received by City,
- Recommendation of award to lowest responsive bidder,
- Contract execution and review of bonds and insurances from awarded contractor,
- Issue Notice To Proceed letter to awarded contractor,
- Issuance of construction related permits,
- Review and approval of submittals for construction items,
- Daily inspections of all activities occurring on site,
- Review and approval of invoices, Requests for Information (RFIs), and change orders,
- Submission of invoices and other appropriate documentation to grant authority,
- Final inspection, review and approval of as-built drawings,
- Closeout of construction permits,



## 2015 Virginia NPS Water Quality Improvement Fund Request for Assistance (RFA)

### ATTACHMENT A-1 – Original Project Narrative

#### City of Newport News: Richneck Area Regional Water Quality Retrofit & Flood Control BMP

- Coordination of monitoring of facility with City's Environmental Services Division staff,
- Coordination with City's Public Works Department for maintenance of area after 1 year guarantee period provided by contractor,

#### **G Partnerships**

- The City has a Memorandum of Agreement (MOA) with a private developer to provide a portion of the funding for the construction of the BMP.
- Describe the qualifications and experience of your organization in working with project partners on successful collaborative efforts.

#### **H Budget Narrative and Impacts**

- The City of Newport News is requesting matching funding for the water quality components of the installation of the Phase 1 of the regional stormwater management facility. The estimated construction cost for the water quality features is \$1,136,481.00. Specific items for the construction portion are in Attachment III.
- If a 20% cut in the budget were requested, the City would absorb the cost of the amount of the budget cut.

**2015-16 Water Quality Improvement Fund - Nonpoint Source Grants**

**Attachment A - 2 - Budget Detail**

<b>Name of Applicant:</b>	City of Newport News
<b>Title of Proposal/Project:</b>	Rickneck Area Regional Water Quality Retrofit & Flood Control BMP

<b>1. Personnel (Grantee staff salaries or wages)</b>					
Individual	Position	Hourly Rate	Hours	DEQ Funds	Match Funds
<b>Personnel subtotal</b>				\$ -	\$ -

<b>2. Fringe benefits (Grantee staff benefits)</b>					
Individual	Position	Fringe Rate	Personnel Cost	DEQ Funds	Match Funds
<b>Fringe subtotal</b>				\$ -	\$ -

Description	DEQ Funds	Match Funds
-------------	-----------	-------------

<b>3. Travel (Vehicle miles, trainings, other travel expenses)</b>					
Mileage	XXX miles @ \$0.XXX/mile				
Meals	[provide specific description]				
Lodging	X nights @ \$X/night				
Training costs	[provide specific description]				
Other	[provide specific description]				
<b>Travel subtotal</b>				\$ -	\$ -

<b>4. Supplies (List supplies and identify vendor if known; provide detail and relate to specific work plan elements)</b>			
Description		DEQ Funds	Match Funds
<b>Supplies subtotal</b>		\$ -	\$ -

<b>5. Contractual (Include payments to partners for staff time and project expenses and other non-construction contractors, printing costs etc)</b>			
Name of Contractor	Description of Service	DEQ Funds	Match Funds
<b>Contractual subtotal</b>		\$ -	\$ -

<b>5. Construction (Costs related to BMP installation. )</b>			
BMP Name	Description of Cost	DEQ Funds	Match Funds
Extended Detention, Level 1 design	topsoil & seeding, underdrain	568,240.00	568240
<b>Construction subtotal</b>		\$ 568,240.00	\$ 568,240.00

<b>7. Other direct (List the other intended purchases, be specific and relate expenses to work plan elements)</b>		
Description	DEQ Funds	Match Funds

**2015-16 Water Quality Improvement Fund - Nonpoint Source Grants  
Attachment A - 2 - Budget Detail**

<i>Other direct subtotal</i>	\$ -	\$ -
<i>Sub-Total Direct Expenses</i>	<i>\$ 568,240.00</i>	<i>\$ 568,240.00</i>
<b>8. Indirect (Grant funds are only allowed if applicant has a federally approved indirect rate.)</b>		
	\$ -	\$ -
<i>Indirect subtotal</i>	<i>\$ -</i>	<i>\$ -</i>

**General Budget Comments**

# Virginia Water Quality Improvement Fund NPS RFA - Attachment III - BMP Activity Summary

Name of Applicant:		City of Newport News									
Title of Proposal/Project:		Richneck Area Regional Water Quality Retrofit & Flood Control BMP									
Category	BMP Name	# of BMPs to be installed	Required Measurement	Required Units	Total Amount of Required Measurement	Additional data needed	Amount of Additional Data Needed	Comments			
1a	Biofiltration	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Bio-Reactor Carbon Filter	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Bioretention (soils unknown)	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Bioswale	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Constructed Wetland	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Dry Swale	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Green Parking Lot	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Green Roofs	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Perimeter Sand Filter	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Permeable Pavement (soils unknown)	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Pocket Pond	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Pocket Wetland	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Rain Garden	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Shallow Wetland	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Tree Planting	[insert data]	Area Planted	Acres	[insert data]	Land Use converted from	[insert data]	[insert comment]			
1a	Urban Filter Strip	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Vegetated Open Channels	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Vegetated Treatment Area	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1a	Wet Swale	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1b	Disconnection of Rooftop Runoff	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1b	Infiltration Basin	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1b	Infiltration Practices	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1b	Infiltration Trench	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1b	Underground Infiltration System	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1c	Urban Nutrient Management Plan-Unknown Risk	[insert data]	Area Planned	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1c	Urban Nutrient Management Plan-High Risk	[insert data]	Area Planned	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
1c	Urban Nutrient Management Plan-Low Risk	[insert data]	Area Planned	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]			
2	Alternative On-site Waste Treatment System (RB-5)	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]			

**Virginia Water Quality Improvement Fund NPS RFA - Attachment III - BMP Activity Summary**

Category	BMP Name	# of BMPs to be Installed	Required Measurement	Required Units	Total Amount of Required Measurement	Additional data needed	Amount of Additional Data Needed	Comments
2	Alternative N reducing system (RB-5N)-Constructed Wetland Elevated Mound Septic	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-Constructed Wetland Septic	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-Constructed Wetland Shallow Pressure Septic	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-Intermittent Media Filters (IMF)	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-Intermittent Media Filter - Elevated Mound	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-Intermittent Media Filter - Shallow Pressure	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-NSF Standard 40 Class 1 or equivalent	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-NSF Standard 40 Class 1 or equivalent - Elevated Mound	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-NSF Standard 40 Class 1 or equivalent - Shallow Pressure	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-Recirculating Media Filters (RMF)	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]

Virginia Water Quality Improvement Fund NPS RFA - Attachment III - BMP Activity Summary

Category	BMP Name	# of BMPs to be installed	Required Measurement	Required Units	Total Amount of Required Measurement	Additional data needed	Amount of Additional Data Needed	Comments
2	Alternative N reducing system (RB-5N)-Recirculating Media Filter - Elevated Mound	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-Recirculating Media Filter - Shallow Pressure	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Septic Connections (connection to public sewer RB-2)	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-Septic Effluent Elevated Mound	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-Septic Effluent Shallow Pressure	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Septic System Installation/Replacement (RB-4)	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Septic System Installation/Replacement with pump (RB-4P)	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Septic System Repair (RB-3)	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Alternative N reducing system (RB-5N)-Septic Tank Advanced Treatment	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
2	Septic Tank Pumpout (RB-1)	[insert data]	Systems	Systems	[insert data]	household per capita population	[insert data]	[insert comment]
3	Abandoned Mined Land Reclamation	[insert data]	Area Treated	Acres	[insert data]	Total area and impervious area	[insert data]	[insert comment]
3	Riparian Grass Buffers	[insert data]	Area Planted	Acres	[insert data]	Land Use converted from	[insert data]	[insert comment]
3	Riparian Forest Buffer	[insert data]	Area Planted	Acres	[insert data]	Land Use converted from	[insert data]	[insert comment]
3	Wetland Buffer	[insert data]	Area Planted	Acres	[insert data]	Land Use converted from	[insert data]	[insert comment]
1a	Extended Detention, Level 1	1	Area Planted	Acres	3.1	Total area and impervious area	TA=168.7 IA=22.35	provides water quality control for e
[add here]	[add here]	[insert data]	[add here]	[add here]	[insert data]	[add here]	[insert data]	[insert comment]

**Virginia Water Quality Improvement Fund NPS RFA - Attachment III - BMP Activity Summary**

Category	BMP Name	# of BMPs to be installed	Required Measurement	Required Units	Total Amount of Required Measurement	Additional data needed	Amount of Additional Data Needed	Comments
[add here]	[add here]	[insert data]	[add here]	[add here]	[insert data]	[add here]	[insert data]	[insert comment]

**COMMONWEALTH OF VIRGINIA - Department of Environmental Quality**  
**Water Quality Improvement Fund NPS Implementation Grant**  
**DEQ Grant Contract Agreement # 16382**  
**Attachment B - Project Financial Report Form**

**Attachment B**  
**Requisition # 678254**

<b>Federal ID #:</b>	541148513	<b>DUNS Number:</b>	808953058
<b>Grantee:</b>	City of Newport News	<b>Phone #:</b>	757-926-8670
<b>Contact Person:</b>	James Clark, Engineer II	<b>Email address:</b>	jclark@nnva.gov
<b>Mailing Address</b>	2400 Washington Avenue Newport News Virginia 23607		
<b>Project Title:</b>	Richneck Area Regional Water Quality Retrofit & Flood Control BMP		
<b>Grant Period:</b>	September 15, 2016 - September 30, 2018		
<b>Reporting Period:</b>	<b>Start Date:</b>	<b>Enter Start Date</b>	<b>End Date:</b> <b>Enter End Date</b>

This Attachment B includes an Upfront Payment Request (copy of completed B2 - Upfront Payment Request Form is attached)  
 This is a REVISED Attachment B; The content replaces the version of the Attachment B previously submitted for report period

DEQ Funds (Federal 319H)	Project Budget	Current Expenditures	Cumulative Expenditures	Unexpended Project Balance
(TA) Personnel				\$ -
(TA) Fringe				\$ -
(TA) Travel				\$ -
Fed - Equipment				\$ -
(TA) Supplies				\$ -
(TA) Contractual				\$ -
(TA) Other Direct				\$ -
*(BMP) Construction-Septic				\$ -
*(BMP) Construction-Agriculture				\$ -
*(BMP) Construction-Urban	\$ 568,240.00			\$ 568,240.00
<b>TOTAL</b>	<b>\$ 568,240.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 568,240.00</b>

<b>Total Reimbursement Request:</b>	\$ -	[Add comments or notes as needed]
<b>Total Upfront Payment Request (from B2):</b>		
<b>Total Payment Request:</b>	\$ -	

**Authorized Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

As an authorized representative of the above referenced Organization, I certify that the funds requested above are accurate to the best of my ability. I understand that financial documentation to meet federal and state reporting requirements must be kept for five years after the terms of this agreement. I also certify that if this payment request includes an Upfront Payment Request, that the BMPs have been certified as complete and any funds in excess of actual payments made to the participant will either be returned to DEQ or credited towards future expenditures for this agreement. The Attachment B should be signed and dated each time it is submitted or revised.

MATCH Funds	Project Match Budget	Current Match Expenditures	Cumulative Match Expenditures	Unexpended Match Balance
Personnel		\$ -	\$ -	\$ -
Fringe		\$ -	\$ -	\$ -
Travel		\$ -	\$ -	\$ -
Supplies		\$ -	\$ -	\$ -
Contractual		\$ -	\$ -	\$ -
Construction	\$ 568,254.00	\$ -	\$ -	\$ 568,254.00
Other Direct		\$ -	\$ -	\$ -
<b>TOTAL</b>	<b>\$ 568,254.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 568,254.00</b>

\* Note: Construction funds for this agreement can only be used to pay for cost-share (CS) of BMP installation and can not be shifted to another category to pay for expenses related to technical assistance.

<b>FOR DEQ PURPOSES ONLY:</b>					<b>Agency: 440</b>	<b>Cost Code: 612</b>	<b>Fund: 09340</b>	<b>Program 5150</b>	<b>Account: 5014410</b>
<b>Element/Project</b>	<b>BUDGET</b>	<b>Current Expenditures</b>	<b>Total Expenditures</b>	<b>Balance</b>					
TA	\$ -		\$ -	\$ -					
BMP	\$ 568,240.00		\$ -	\$ 568,240.00					
<b>Total</b>	<b>\$ 568,240</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 568,240</b>					

**FORM C: MILESTONE TABLE – City of Newport News: Richneck Area Regional Water Quality Retrofit & Flood Control BMP, Phase 1**

Milestone	Responsible Party	Target Completion Date	Actual Completion	Comments
Submit financial and programmatic reports quarterly to DEQ on the 15 <sup>th</sup> day following the end of the calendar quarter. Final report due 30 days after the grant closes, September 30, 2018	City of Newport News	10/15/2016 1/15/2017 4/15/2017 7/15/2017 10/15/2017 1/15/2018 4/30/2018 7/15/2018 10/30/2018		
Meet with DEQ project manager for preliminary kick-off and semiannual progress review meetings	City of Newport News, DEQ	8/15/2016 12/31/2016 7/15/2017 12/31/2017 7/15/2018		
Operation and Maintenance Plan and, if applicable, Landowner Agreements	City of Newport News	12/30/2018		
Project Closeout meeting with DEQ project manager	CITY of Newport News, DEQ	4/15/2016		
Operation and Maintenance Plans submitted to DEQ for approval	City of Newport News	12/30/2016		
Design of plans, technical specifications, permits, cost estimate, and SWPPP.	URS	1/31/2015		
Acceptance/Approval of an environmental permit	US Army Corps of Engineers	4/1/2016		
Public meeting identifying the project scope	City of Newport News	8/31/2016		
City Council meeting; approval to execute grant agreement and appropriation of City funds	City of Newport News	1/24/2017		

**2016 WQIF NPS Implementation**

**ATTACHMENT C DEQ # 16382**

Advertisement of project by City's Office of Purchasing	City of Newport News	3/21/2017		
Receipt of bids to the City	City of Newport News	3/21/2016		
Review of qualified bidders & recommendation of award to lowest responsive bidder	City of Newport News	4/5/2017		
Contract execution; review & acceptance of contractor bonds & insurances	City of Newport News	4/28/2017		
Pre-Construction meeting with City, contractor, & other parties involved with project	City of Newport News	5/10/2017		
Notice To Proceed letter issued to contractor	City of Newport News	6/1/2017		
Review & approval of submittals for construction items	contractor/City of Newport News	6/1/2017		
Daily inspections of construction activities	City of Newport News	6/1/2018		
Review & approval of Requests for Information (RFIs) & change orders	City of Newport News	6/1/2018		
Review & approval of invoices for completed work	City of Newport News	6/30/2018		
Final inspection of facility	City of Newport News	6/15/2018		
Submittal of As-built drawings of facility	contractor	6/22/2018		
Inspections of facility (City's Environmental Services Division)	City of Newport News	N/A		
Operation & Maintenance of facility (City's Public Works Department)	City of Newport News	N/A		

NPS Best Management Practices - Pollution Reduction Tracking Data Form							Attachment D	
Project Title:	Award Year	Funding Program	Water Quality Improvement Fund (WQIF)		Contract #	16382		
	2016	Richneck Area Regional Water Quality Retrofit and Flood Control BMP, Phase I	Project Sponsor:	City of Newport News	Grant Period	Start	9/15/2015	
BMP #	[1] Installation Date (e) mm/dd/yyyy	[2] Name of BMP Installed (dropdown list)(e)	[3] Project Location Description or Site Name(e)	[4] City or County (e)	*[5] NWBD Hydrologic Unit Code (e)	[6] Site Location in Decimal Degrees (c)		
						+Latitude	-Longitude	
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## GENERAL TERMS AND CONDITIONS FOR STATE FUNDED GRANT CONTRACTS

1. **APPLICABLE LAWS:** This Contract shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, by the laws of the Commonwealth of Virginia.
2. **APPLICATION FOR ASSISTANCE:** If grant funding assistance is continued year to year, the Grantee shall submit a complete application, including the proposed workplan, to the Department at least 75 days prior to the beginning of the next project period unless otherwise specified in the Special Terms and Conditions.
3. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the Department shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this Contract.
4. **CERTIFICATION - CONFLICT OF INTEREST:** The Grantee warrants that it has fully complied with the Code of Virginia State and Local Government Conflict of Interests Act (<http://law.lis.virginia.gov/vacode/title2.2/chapter31/>).
5. **CERTIFICATION - DRUG-FREE WORKPLACE:** The Grantee warrants that it shall comply with the provisions of Public Law 100-690, Title V, Subtitle D, "Drug-Free Workplace Act of 1988", and all applicable federal implementing regulations, including 15 CFR Part 26 or 40 CFR Part 32, which require that the Grantee take steps to provide a drug-free workplace.

The Grantee certifies that it will or will continue to provide a drug free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug free awareness program to inform employees about:
  - (1) The dangers of drug abuse in the workplace
  - (2) The Grantee's policy of maintaining a drug free workplace
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs, and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the Contract, the employee will:
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the Department in writing, within ten calendar days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction.
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted:
  - (1) Taking appropriate personnel action against such employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance of rehabilitation program approve for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

**6. CERTIFICATION - NONDISCRIMINATION:** During the performance of this Contract, the Grantee agrees as follows:

(a) The Grantee will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Grantee. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) The Grantee, in all solicitations or advertisements for employees placed by or on its behalf, will state that such Grantee is an equal opportunity employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The Grantee will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

**7. COLLATERAL CONTRACTS:** Where there exists any inconsistency between this Contract and other provisions of collateral contracts which are made a part of this Contract by reference or otherwise, the provisions of this Contract shall control.

**8. CREATION OF INTELLECTUAL PROPERTY (NOT APPLICABLE TO CONTRACTS WITH OTHER STATE AGENCIES):** All copyrightable material created pursuant to this Contract shall be considered work made for hire and shall belong exclusively to the Department. Neither party intends any copyrightable material created pursuant to this Contract, together with any other copyrightable material with which it may be combined or used, to be a "joint work" under the copyright laws. If any copyrightable material created pursuant to this Contract cannot be deemed work made for hire or is deemed part of a joint work, the Grantee agrees to irrevocably assign, and does hereby irrevocably assign, its entire copyright interest in such material or work to the Department and shall execute and deliver such further documents as the Department may reasonably request for the purpose of acknowledging such assignment.

The Grantee warrants that no individual, other than regular employees of the Grantee or Department working within the scope of their employment, shall participate in the creation of any copyrightable material to be delivered under this Contract, unless such individual and his or her employer, if any, have signed an intellectual property contract satisfactory to the Department before commencing such participation.

The Department shall have all rights, title and interest in or to any invention reduced to practice pursuant to this Contract. The Grantee shall not patent any invention conceived in the course of performing this Contract.

The Grantee hereby agrees that, notwithstanding anything else in this Contract, in the event of any breach of this Contract by the Department, the Grantee's remedy shall not include any right to rescind or otherwise revoke or invalidate the provisions of this Section. Similarly, no termination of this contract by the Department shall have the effect of rescinding the provisions of this Section.

This provision applies only to materials or documents developed with Contract funds. It does not apply to materials or documents previously copyrighted or registered under the Grantee's copyright or trademark or to materials or documents which are developed with other funds.

**9. DISCLAIMER:** Nothing in this Contract shall be construed as authority for either party to make commitments which will bind the other party beyond the project or work contained herein. Furthermore, the Grantee shall not assign, sublet, or subcontract any work related to this Contract or any interest it may have herein without the prior written consent of the Department.

**10. DOCUMENTS:** The Grantee may retain any reports, studies, photographs, negatives, or other documents prepared by the Grantee in the performance of its obligations under this Contract and not required to be delivered to the Department. The Department shall have the copyright to all such materials, and unlimited rights to use any such materials. Where necessary for the Department's full enjoyment of its copyrights and

other rights referenced in this Contract, the Grantee shall provide a clear, reproducible copy of such materials (machine readable upon request) to the Department.

The Grantee has permission to reproduce and distribute any material or documents prepared by the Grantee and for which the Department owns the copyright, but only where necessary or expeditious to the performance of the Grantee's obligations under this contract.

This provision applies only to materials or documents developed with contract funds. It does not apply to materials or documents previously copyrighted or registered under the Grantee's copyright or trademark or to materials or documents which are developed with other funds.

- 11. EMPLOYEE ADMINISTRATION AND COSTS:** In the event this Agreement provides funds to the Grantee for personnel or personnel related expenditures, the Grantee shall be solely responsible for all: (a) personnel administration and obligations, to include, but not limited to: hiring, evaluations, termination, etc.; and (b) costs, to include, but not limited to: payment for leave, unused time, unemployment insurance and unforeseen employment liabilities (e.g. unemployment compensation, leave pay out, workers compensation, etc.). The DEQ shall not assume any responsibilities or obligations as an employer; nor shall the DEQ assume any liability (during or after the term of this Agreement) for personnel related costs incurred by the Grantee in order to fulfill its obligations under this Agreement (except as noted below):

Note: The DEQ may, in its sole discretion and as specifically allowed in this Agreement, or in accordance with the overriding federal costs principles, reimburse the Grantee for salary and eligible fringe costs incurred during the performance of this Agreement.

- 12. FINANCIAL RECORDS AVAILABILITY:** The Grantee agrees to retain all books, records, and other documents relative to this contract for five years after final payment, or until audited by an independent auditor, whichever is earlier. The Department, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
- 13. FISCAL CONTROL:** The Grantee shall establish fiscal control and fund accounting procedures which assure proper disbursement of, and accounting for, contract funds. The Grantee shall for the purpose of this contract:
- (a) Provide all accounting, bookkeeping, fiscal, and administrative services required by or related to this Contract.
  - (b) Request partial payment due from the Department in accordance with the terms of this Contract.
  - (c) Maintain appropriate support for all expenditures incurred and maintaining all books, documents, papers, accounting records, and other evidence supporting the costs incurred associated with this Contract. It shall make such materials available at its offices at all reasonable times during the Contract period, and for three years from the date of final payment under this Contract, for inspection and audit by the Department or any authorized representative of the Department.
- 14. INDEMNIFICATION (NOT APPLICABLE TO CONTRACTS WITH OTHER STATE AGENCIES):** Grantee agrees to indemnify, defend and hold harmless the Department and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Grantee/any services of any kind or nature furnished by the Grantee, provided that such liability is not attributable to the sole negligence of the Department or to failure of the Department to use the materials, goods, or equipment in the manner already and permanently described by the Grantee on the materials, goods or equipment delivered.
- 15. INDIRECT COSTS:** Indirect costs will not be allowable charges against the award unless specifically included as a line item in the approved budget incorporated into the Contract.
- 16. INTEGRATION AND MODIFICATION:** No alteration, amendment or modification in the provisions of this Contract shall be effective unless it is reduced to writing, signed by the parties and attached hereto.

**17. LIABILITY (NOT APPLICABLE TO CONTRACTS WITH OTHER STATE AGENCIES):** The Grantee shall obtain and maintain, during the life of this Contract, such bodily injury liability and property damage liability insurance as will protect it from claims of damages for personal injury, including death, as well as from claims for property damage, which may arise from its activities under this contract. If the Grantee has a self-insurance program, it may self-insure the risks associated with this Contract in lieu of the commercial insurance required herein.

**18. OBLIGATING FUNDS BEYOND PROJECT PERIOD:** The Grantee shall not incur costs or obligate funds for any purpose pertaining to the project beyond the expiration date stipulated in the contract.

Any extension of the award period can only be authorized by the Department. Verbal or written assurances of funding from other than the Department shall not constitute authority to obligate funds for programmatic activities beyond the expiration date.

The Department has no obligation to provide any additional prospective funding. Any renewal of the award to increase funding and to extend the period of performance is at the sole discretion of the Department.

**19. PRECEDENCE OF TERMS:** The Contract consists of several documents. In the event of a conflict between or among terms in these documents, the following documents control in order from the most important to the least important: Special Terms and Conditions; General Terms and Conditions; the signed Contract form; and the Scope of Work.

**20. PRIOR WRITTEN APPROVAL OF CHANGES:** The Grantee must obtain prior written approval from the Department for changes to the Contract, including, but not limited to, changes of substance in program activities, designs, or plans set forth in the approved scope of work or project workplan.

**21. REGULATORY COMPLIANCE:** The Grantee shall comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the project and shall give all Notices required thereby. The Grantee hereby consents to inspection by any state regulatory agency having jurisdiction over any part of the work performed with the assistance of the contract funds.

**22. RENEWAL OF CONTRACT:** The Contract may be renewed by the Department upon written contract by both parties under the terms of the current contract, prior to the expiration.

**23. SEVERABILITY:** Each paragraph and provision of this Contract is severable from the entire contract; and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect.

**24. SUBCONTRACTS:** No portion of the Scope of Work shall be subcontracted without the prior written consent of the Department. The Grantee shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall ensure compliance with all requirements of the Contract. The Grantee shall comply with all applicable provisions of the Virginia Public Procurement Act in making such awards.

**25. TERMINATION FOR CAUSE:** The Department reserves the right to terminate the grant in whole, or in part, at any time before the date of completion, upon written notice to the Grantee that it has failed to comply with the conditions of the Contract. In connection with such termination, payments made to the Grantee or recoveries by the Department shall be in accord with the legal rights and liabilities of the parties.

**26. TERMINATION FOR CONVENIENCE:** The Department may terminate any resulting contract, in whole or in part, upon thirty (30) days written notice to the Grantee specifying the extent to which the performance under the contract is terminated, and the date of termination. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, in whole or in part, after the initial 12 months of the contract period upon thirty (30) days written notice to the other party specifying the extent to which the performance under the contract is terminated, and the date of termination. In addition, (a) the Department may terminate the contract immediately if its funding is terminated or; (b) the Department or the

Grantee may terminate the contract, in whole, or in part, if both parties agree that the continuation will not produce beneficial results commensurate with further expenditure of funds; in this event, the Department and the Grantee shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated.

In the event the contract (or portion thereof) is terminated (regardless of cause), the Grantee shall not incur new obligations for the contract (or terminated portion thereof) after the effective date of termination, and shall cancel as many outstanding obligations as possible; however, termination shall not relieve the Grantee of the obligation to deliver and/or perform on all outstanding obligations established prior to the effective date of cancellation.

- 27. USE OF GRANT FUNDS:** Grant funds shall only be used for the purposes and activities covered in the Project Workplan.

## SPECIAL TERMS AND CONDITIONS FOR WQIF NPS GRANT CONTRACTS

1. **MATCHING FUNDS:** If this Agreement is contingent upon cash and in-kind contributions by the Grantee to the project, the required amount of matching funds will be indicated on the Project Financial Report Form, Attachment B, of these Agreement documents. Matching contributions, if applicable, must reflect expenses directly related to the implementation of this project and incurred only during the time of performance listed in this Agreement. The decision of DEQ with respect to approval of matching funds shall be final. Matching funds must be tracked and reported to DEQ in the quarterly and final reports the same as grant funds.
2. **GEOSPACIAL DATA STANDARDS:** If this agreement includes the creation or generation of geospatial data then that data must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at [www.fgdc.gov](http://www.fgdc.gov).
3. **LAWS, REGULATIONS AND PERMITS:** The Grantee agrees to follow all appropriate local, regional, state or federal laws or regulations that may be required during the execution of the Agreement. This includes ensuring that the acquisitions of all necessary permits are obtained prior to the implementation of any grant funded activity. The Grantee must be able to provide any documentation, upon request regarding necessary permits. The approval of this work plan or the execution of this contract does not imply nor does it guarantee that a federal, state or local permit will be issued for a particular activity.
4. **BEST MANAGEMENT PRACTICE (BMP) OPERATION AND MAINTENANCE:** The Grantee will assure the continued proper Operation and Maintenance of all nonpoint source best management practices (BMPs) that have been funded under this Agreement through agreements with landowners and participants. BMPs shall be operated and maintained for the expected lifespan and in accordance with commonly accepted standards and specifications. Grantees shall include a provision in every applicable sub-agreement (grant or contract) awarded under this Agreement requiring that BMPs funded under the agreement are properly operated and maintained.

Within sixty (60) days of the effective date of this Agreement, the Grantee will submit to DEQ, for review and approval, an Operation and Maintenance Plan for Best Management Practices (and associated Landowner Agreement) and other on-the-ground implementation aspects of this project. The Grantee (or its designees) will operate and maintain the project, or secure the operation and maintenance of the project through landowner agreements, in a manner consistent with the plan as approved by DEQ. Utilization of the "Virginia BMP Incentives Program Contract" (or DEQ approved equivalent) and adherence to either DCR's "Agricultural BMP Cost-share Manual" or DEQ's "Total Maximum Daily Load (TMDL) Implementation Cost-Share Best Management Practice (BMP) Guidelines" is considered an adequate Operation and Maintenance Plan and landowner agreement for agricultural and residential septic practices.

DEQ (and its agency partners) and EPA respectively reserve the right to periodically inspect a practice during the lifespan identified in the Operation and Maintenance Plan or agreed to specification to ensure that operation and maintenance are occurring. Please note that the enforceable length for this term and condition coincides with the length of period identified in the Operation and Maintenance Plan (e.g. 10 years). The Grantee and all its partners and recipient of State WQIF funds agree to maintain BMPs for the lifespan in accordance with approved operation and maintenance plan and landowner agreement. The Grantee and its designees agree to refund all or part of the cost-share financial received if BMPS are found not to meet program specifications required at the time of installation/payment or if the practices are removed or not properly maintained during the lifespan of the practice(s). The Grantee and sub-Grantee, must agree that the sale, lease or changed use of the property will not exempt the Grantee and its designees from fulfilling these requirement(s). Should the property change ownership during the lifespan of the practice(s), the Grantee must have property owners agree to complete an "Agreement

Transferring Responsibility for Best Management Practice" form and submit that to DEQ. DEQ may require the Grantee or sub-recipient of grant funds for eligible BMPs to refund all or a portion of grant funds if the owner of the property hosting the BMP sells or loses control of the land under which a grant funded project is associated.

In the event that the Grantee (or its sub-Grantees or designees) fails to comply with the terms of this Agreement, DEQ shall give written notice specifying the failure to comply and shall give the Grantee the time to correct such failure as provided for herein with respect to a breach of this Agreement. **For nonpoint source BMP installations funded through this Agreement, if the Grantee, and sub-Grantees or designees do not comply within ninety (90) days of receipt of written demand from DEQ, the Grantee shall repay an amount, calculated on a straight line pro-rated basis, of the grant funds used for the installation.**

## G. Other City Council Actions

5. Item 2 of 2: Resolution Appropriating \$1,848,300 from the Virginia Department of Environmental Quality Water Quality Improvements Fund (WQIF) (\$568,240) and from Private Developer Contributions (\$1,280,060) for the Richneck Area Regional Water Quality and Flood Control BMP, Phase 1 Project

**ACTION:** A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$1,848,300 FROM THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY WATER QUALITY IMPROVEMENTS FUND (WQIF) (\$568,240) AND FROM PRIVATE DEVELOPER CONTRIBUTIONS (\$1,280,060) FOR THE CONSTRUCTION OF THE RICHNECK AREA REGIONAL WATER QUALITY AND FLOOD CONTROL BMP, PHASE 1 PROJECT.

**BACKGROUND:**

- The project will allow for the construction of a regional stormwater management facility north of Woodside Lane in the Stoney Run Watershed for water quality and quantity control.
- The BMP replaces an existing embankment with a sub-standard outfall pipe which will alleviate flooding in the existing basin.
- The BMP will serve as a regional facility, to be expanded in future phases, and shall provide water quality and flooding control benefits to the Stoney Run Watershed to include the Huntington Pointe Development.
- Due to its reduction of pollutant loading, the City was successful in obtaining a Water Quality Improvements Fund (WQIF) matching grant from DEQ for this project's design and construction.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

### ATTACHMENTS:

Description

sdm14757 Appropriation re Richneck Area Regional Water Quality & Flood Control BMP

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION APPROPRIATING FUNDS FROM LOCAL REVENUE AND STATE REVENUE TO RICHNECK AREA REGIONAL WATER QUALITY AND FLOOD CONTROL BMP, PHASE 1 PROJECT.

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

That it hereby appropriates funds from Local Revenue and State Revenue to Richneck Area Regional Water Quality and Flood Control BMP, Phase 1 Project, as follows:

Appropriation From:

Local Revenue

4004-000-00-0000-481000-000000-0000-00000-N5019 \$ 1,280,060.00

State Revenue

4300-000-00-0000-482000-000000-0000-N5019-N5019 \$ 568,240.00

Appropriation To:

Richneck Area Regional Water Quality and Flood Control BMP, Phase 1 Project

4004-000-00-0000-579420-000000-0000-00000-N5019 \$ 1,280,060.00

4300-250-70-700N-579420-000000-0000-N5019-N5019 \$ 568,240.00

H. Appropriations

ACTION: A REQUEST FOR A MOTION OF CITY COUNCIL TO APPROVE  
AS A BLOCK THE FOLLOWING APPROPRIATIONS.

1. None Submitted

\*I. Citizen Comments on Matters Germane to the Business of City Council

J. New Business and Councilmember Comments

City Manager  
City Attorney  
City Clerk

Vick  
Woodbury  
Bateman  
Cherry  
Harris  
Price  
Scott

K. Adjourn

**\*THE BUSINESS PORTION OF THE MEETING WILL BE CONCLUDED NO LATER THAN 10:00 P.M. TO ALLOW PERSONS TO ADDRESS CITY COUNCIL UNDER "CITIZEN COMMENTS ON MATTERS GERMANE TO THE BUSINESS OF CITY COUNCIL."**