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AGENDA

NEWPORT NEWS CITY COUNCIL  
REGULAR CITY COUNCIL MEETING

NOVEMBER 22, 2016

City Council Chambers

**7:00 p.m.**

**A. Call to Order**

**B. Invocation**

- Rabbi Séverine Sokol, Temple Sinai

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

**D. Presentations - None**

**E. Public Hearings**

1. Ordinance Granting Conditional Use Permit No. CU-2016-0001, to Mishorim Gold Newport News, LP for the Operation of an Amusement Arcade Located at 14346 Warwick Boulevard, Suite 420 (DW Shopping Center and Zoned C1 Retail Commercial
2. Ordinance Granting Conditional Use Permit No. CU-2016-002 to Crown Castle GT Company, LLC to Allow for the Operation of a Communications Tower Located at 517 29th Street and Zoned R9 Mixed Use
3. Ordinance Authorizing and Directing the City Manager to Execute A Deed of Vacation for a Waterline Easement Located at Marcella at Town Center Phase II, 2115 Executive Drive in Hampton, Virginia
4. Ordinance Authorizing and Directing the City Manager to Execute Any and All Documents Necessary to Effectuate the Conveyance of City-owned Property Located at 1151 29<sup>th</sup> Street to 1149 29<sup>th</sup> Street Land Trust
5. Ordinance Authorizing and Directing the City Manager to Execute a Newport News Seafood Industrial Park Lease of Office Space Located at 34 Jefferson Avenue to Davis Boat Works, Inc., d/b/a Fairlead Boatworks

6. Ordinance Authorizing and Directing the City Manager to Execute Lease Amendment No. 22 for a Portion of Property Located at 4600 Huntington Avenue to Huntington Ingalls Incorporated, (f/k/a Newport News Shipbuilding and Dry Dock Company) for Parking Purposes (Former Jackson School Site)
7. Ordinance Amending Ordinance No. 7114-14, Authorizing the City Manager to Make Offers to Acquire, by Purchase, or Condemnation, Additional Property in Fee Simple and for Easements for the Warwick Boulevard Over Lake Maury Bridge Replacement Project, to Provide Funds for this Purpose, and Authorizing the City Manager to Execute All Documents Necessary to Effect the Purchase Authorized
8. Ordinance Authorizing the City Manager to Make Offers to Acquire, by Purchase or Condemnation, Additional Property for Easements for the Mariners' Museum Multi-Purpose Trail Project, to Provide Funds for this Purpose and Authorizing the City Manager to Execute All Documents Necessary to Effect the Purchase Authorized

**F. Consent Agenda**

1. Minutes of the Work Session of October 25, 2016
2. Minutes of the Special Meeting of October 25, 2016
3. Minutes of the Regular Meeting of October 25, 2016
4. Resolution Authorizing the City Manager to Execute the Statement of Agreement by and between the City and the Commonwealth of Virginia, Department of Health (Peninsula Health District)
5. Resolution Accepting a Donation of Emergency Response Equipment from Huntington Ingalls Incorporated (HII)

**G. Other City Council Actions**

1. Ordinance Amending Ordinance No. 7141-15 and Granting a Twenty-four (24) Month Extension of Conditional Use Permit No. CU-15-342 to Able Archer LLC, for the Renovation and Improvements of a Congregate Assisted Living Facility Located at 741 Thimble Shoals Boulevard on a Site Zoned C4 Oyster Point Business District (Governor's Inn)
2. Receipt of Bids for Granting a 15-foot Wide Easement over City-Owned Property Located at 100 Yorktown Road
3. Receipt of Bids for Granting a 15-foot Wide Easement over City-Owned Property Located at 4500 Roanoke Avenue
4. Resolution Supporting a Major Hotel Renovation Project by L.T.D Hospitality Group, LLC., on Property Located at 1000 Omni Boulevard
5. Resolution Accepting A Conveyance of Property Located at 624 Dresden Drive from the Newport News Redevelopment and Housing Authority

(NNRHA)

6. Resolution Approving a Support Agreement for the Benefit of the Economic Development Authority of the City of Newport News, Virginia (EDA) to Support the Financing of Property Acquisitions Along the Upper Warwick Boulevard Corridor
7. Ordinance Authorizing a Boundary Amendment to the Defense Production Zone to Include an Additional Area Owned by Huntington Ingalls Incorporated (HII) and Located at 4102 Huntington Avenue

**H. Appropriations**

1. Newport News Police Department (NNPD) – Asset Forfeiture Account – \$200,000
2. Waterworks Department – Waterworks Capital Improvements Plan (CIP): Water Crossings Project – \$400,000

**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. Woodbury
5. Bateman
6. Cherry
7. Harris
8. Price
9. Scott
10. Vick

**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 - Rabbi Severine Sokol, Temple Sinai

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

D. Presentations

## E. Public Hearings

1. Ordinance Granting Conditional Use Permit No. CU-2016-0001, to Mishorim Gold Newport News, LP for the Operation of an Amusement Arcade Located at 14346 Warwick Boulevard, Suite 420 (DW Shopping Center and Zoned C1 Retail Commercial

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NO. CU-2016-0001, TO MISHORIM GOLD NEWPORT NEWS, LP FOR THE OPERATION OF AN AMUSEMENT ESTABLISHMENT LOCATED AT 14346 WARWICK BOULEVARD, SUITE 420 (DW SHOPPING CENTER) AND ZONED C1 RETAIL COMMERCIAL.

**BACKGROUND:**

- The proposed amusement establishment, operating as Tagtime Laser Tag, will join recent new amusement uses approved in the renovated DW shopping center.
- The use is consistent with the *Framework for the Future 2030* Comprehensive plan land use map and with surrounding uses.
- On November 2, 2016, the City Planning Commission voted unanimously 8:0 to recommend approval of the request with conditions.

**Vote on Roll Call**

**For:** Austin, Carpenter, Fox, Groce, Jones, Maxwell, Simmons, Willis

**Against:** None

**Abstention:** None

- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

**ATTACHMENTS:**

**Description**

CM Memo re CU-2016-0001

Staff Report and CPC Minute Excerpts

sdm003 CU-2016-0001 re Mirshorim Gold Newport News LP and Tagtime Laser Tag

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

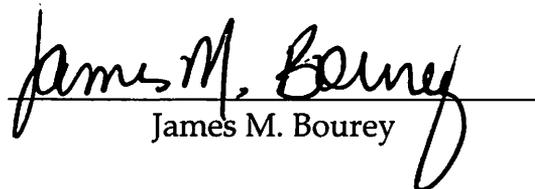
November 16, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** CU-2016-0001, Mishorim Gold Newport News, LP

Mishorim Gold Newport News, LP requests a conditional use permit for the operation of an amusement establishment operating as Tagtime Laser Tag. It will be located in Suite 420 of the DW (formally Denbigh Village) Shopping Center at 14346 Warwick Boulevard. The 27.0 acre property is zoned C1 Retail Commercial.

The shopping center is well suited for the proposed use as it is consistent with the *Framework for the Future 2030* land use map, compatible with surrounding uses, and has ample parking.

On November 2, 2016, the City Planning Commission voted unanimously 8:0 to recommend approval of the request to City Council with conditions. I concur with the City Planning Commission's recommendation.

  
James M. Bourey

JMB:dfw

Attachment

**CITY OF NEWPORT NEWS  
CITY COUNCIL  
NOVEMBER 22, 2016**

**CONDITIONAL USE PERMIT  
APPLICATION NO. CU-16-375  
MIRSHORIM GOLD NEWPORT  
NEWS, LP**

JAMES CITY  
COUNTY

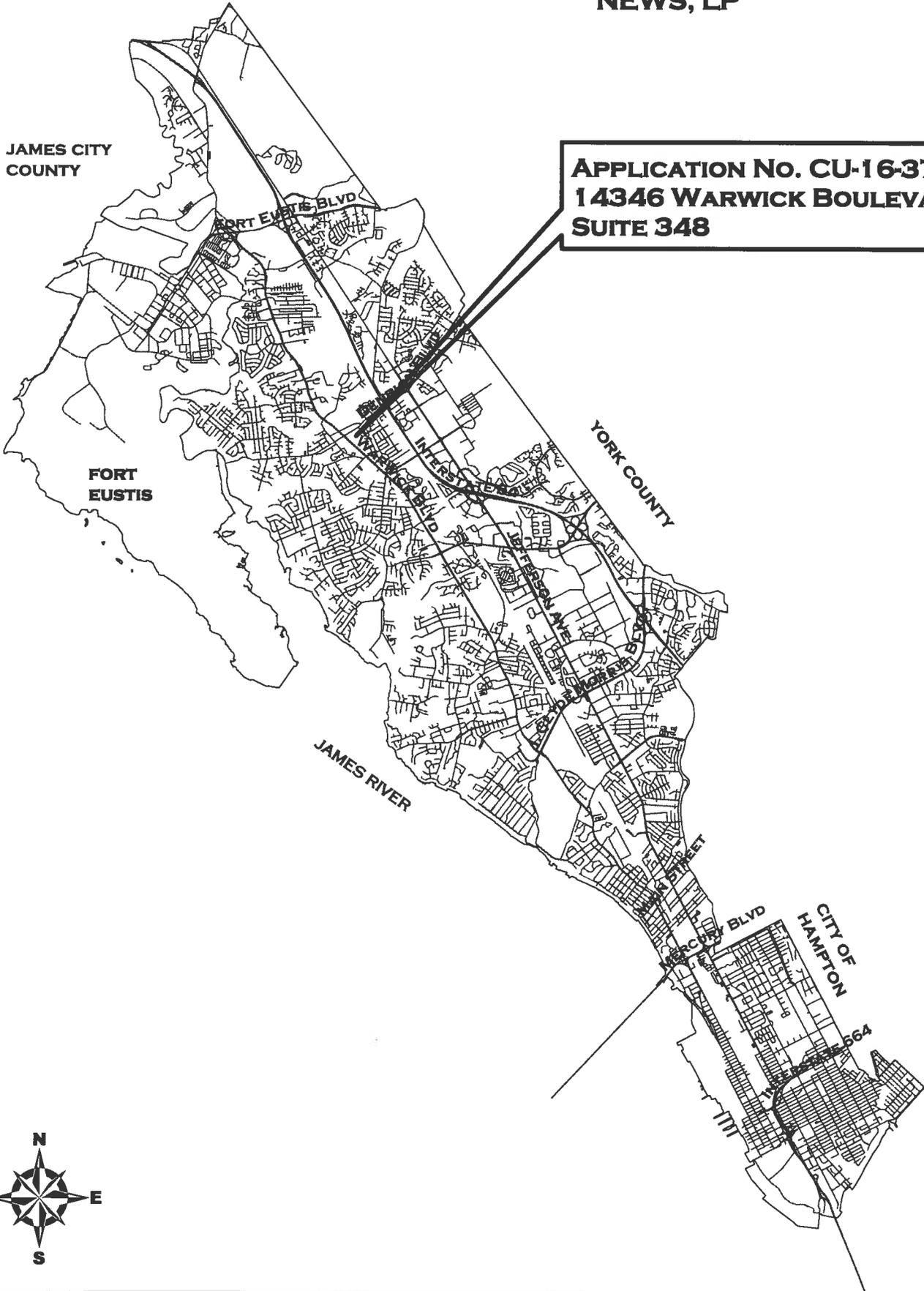
**APPLICATION No. CU-16-375  
14346 WARWICK BOULEVARD  
SUITE 348**

FORT  
EUSTIS

YORK COUNTY

JAMES RIVER

CITY OF  
HAMPTON



# CONDITIONAL USE PERMIT NO. CU-2016-0001

## MISHORIM GOLD NEWPORT NEWS, LP

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<b>OWNER/APPLICANT</b>	Mishorim Gold Newport News, LP/Tagtime Laser Tag	<b>ZONING</b>	C1 Retail Commercial (Appendix A-1)
<b>LOCATION</b>	14346 Warwick Blvd. Suite 420	<b>FRAMEWORK</b>	Community Commercial (Appendix A-5)
<b>PRESENT USE</b>	Shopping Center	<b>ACREAGE</b>	27.0 acres
<b>REQUEST</b>	Operation of an amusement establishment/Tagtime Laser Tag		

### FACTS



- North** First Virginia Loans, a Pawn Shop, and Rally's restaurant on property zoned C1 Retail Commercial; Walgreens, McDonalds, Tire Auto Express, North Carolina Furniture, Bayport Credit Union, Long John Silver's restaurant, Wells Fargo Bank, Cash Loans on property zoned C2 General Commercial
- South** Post Office on property zoned C1 Retail Commercial
- East** Shell gas station and Hampton Roads Community Action office on property zoned C1 Retail Commercial; Denbigh Village apartments on property zoned R8 High Density Multiple-Family Dwelling; Single-family dwellings on property zoned R4 Single-Family Dwelling
- West** Loan Smart, Warwick Denbigh Shopping Center, vacant building, Rite Aid, Shops at Denbigh, Firestone Tires, Piccadilly Walk Office Condos, Spanish Village LLC and Christ Community Church on property zoned C1 Retail Commercial; Courthouse Way Community Center on property zoned P1 Park (See Appendix A-1 and A-6.)

**Zoning History** The property has been zoned C1 Retail Commercial since the citywide

comprehensive rezoning became effective August 1, 1997.

On June 28, 2016, City Council approved CU-16-267 to allow the operation of an amusement arcade operating as Fast Lap indoor go-cart in an adjacent 49,791 square foot lease area identified as Suite 402.

On September 27, 2016, City Council approved CU-16-270 to allow the operation of an amusement arcade operating as Breakout Adventure Games in a 3,042 square foot lease area identified as Suite 416.

On April 28, 1992, City Council approved CU-92-246 to allow the operation of a family billiards center in a 4,000 square foot lease area identified as Suite 428 in the shopping center. This facility closed in December, 2013 and the conditional use permit has been deemed abandoned.

**Regulatory Review** An amusement establishment is allowed in the C1 Retail Commercial zoning district with the approval of a conditional use permit.

Amusement establishments are required to provide up to 1 parking space per 50 square feet of net floor area. The gross floor space of the lease area is 18,000 square feet. The zoning ordinance allows flexibility in calculating the parking requirement for amusement establishment uses. Net floor area used for calculating the parking ratio is determined by excluding areas not expressly used by patrons, such as equipment rooms and storage areas. This calculation is made in order to insure that adequate, but not excessive, parking is provided. In order to ensure all uses have adequate parking, the applicant has provided a parking plan for the entire shopping center. (See Appendix A-7.)

The zoning administrator has made a determination that this use will require a maximum of 60 parking spaces based on a net floor area of 14,000 square feet and the anticipated number of patrons. The remaining uses in the shopping center will require 1,157 parking spaces. The total number of 1,212 required spaces includes parking calculations made for previously approved amusement establishments. There are 1,251 parking spaces provided on the site.

The departments of Codes Compliance, Engineering, Public Works, Public Utilities, Fire, Police, Parks, Recreation and Tourism and Development have no objection to the request.

**Comprehensive Plan Review** The *Framework for the Future 2030* comprehensive plan land use map designates community commercial uses for the property. An amusement establishment is consistent with this recommendation. (See Appendix A-5.)

## ANALYSIS

The DW Center (formally Denbigh-Warwick Shopping Center) is a regional shopping center that is undergoing a transformation that includes new facades, new uses, and a comprehensive landscaping plan. (See Appendix A-

3.) The landscape plan was approved on March 31, 2016 by the Department of Engineering and is being installed.

The center has a total of 276,537 square feet of floor area and 1,265 parking spaces. The applicant is requesting a conditional use permit that will allow the operation of Tagtime Laser Tag in an 18,000 square foot lease area. (See Appendix A-4.) All activities will take place indoors.

The applicant has stated that Tagtime Laser Tag provides patrons an intense form of recreation in a 10,000 square foot gaming area. Game sessions last 30 minutes. Each session is designed to accommodate groups of up to 60 patrons. Staffing will range from 4 to 7 employees.

The proposed use will have no greater impact on the shopping center tenants or surrounding uses than by-right uses. The hours of operation are projected to be from 10:30AM until 9:00PM weekdays and a closing time of midnight on Saturday. Winter hours are projected to be shorter. Conference rooms and party rooms will be available for rent. (See Appendix A-8.)

The DW Center is located in the city's Upper Warwick Boulevard/Denbigh Tourism Zone. A new or expanding business within this zone that seeks to attract customers from outside of the city may qualify for incentives that can include a reduction of business taxes. In order for a business to qualify for these incentives, the business must advance strategic goals identified in the city's Tourism Plan, Retail Development Strategy, and the *Framework for the Future 2030* comprehensive plan. Tagtime Laser Tag will join Breakout Adventure Games and Fast Lap indoor go-cart track as tourism and amusement based uses within the shopping center. The shopping center's location mid-way between Williamsburg and Virginia Beach and proximity to Interstate 64 will allow these uses and the shopping center to grow into a regional destination.

## CONCLUSION

The DW Center is well suited for the location of Tagtime Laser Tag and it is consistent with the *Framework for the Future 2030* land use map. There will be no adverse impact on adjacent properties and ample parking is available on site for this and all other uses on the property. As the city's retail landscape continues to evolve, the inclusion of entertainment uses in shopping centers will help maintain the vitality of these properties with no adverse impact to abutting residential neighborhoods.

## STAFF RECOMMENDATION

**Recommend approval of conditional use permit CU-2016-0001 to allow for the operation of an amusement establishment with the following conditions:**

1. The amusement establishment authorized by this conditional use permit shall occur only within the 18,000 square foot lease area designated as Suite 420.
2. Signage placed in or on any window of the building shall be limited to no more than 25 percent of each window.
3. All outdoor storage shall be prohibited.
4. All shopping center landscaping shall be installed in accordance with the landscape plan prepared by Land Studio dated March 25, 2016 and approved by the Department of Engineering on March 31, 2016 noted as Appendix A-3. All landscaping shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed. Any proposed changes shall be reviewed and approved by the Director of Planning.
5. The applicant shall cause a plan ("the Plan") to be prepared for the installation and operation of digital video equipment (the "Equipment") with recording devices and capability sufficient to include date and time that recording is made. The Equipment shall provide surveillance coverage encompassing both the front, side and rear exteriors of the business. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty days.
6. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
7. Violation of any of the above conditions and safeguards attached thereto shall be deemed a violation of the zoning ordinance, and, in addition, shall serve as grounds for revocation of the conditional use permit by the City Council.
8. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.

9. The applicant, as well as his successors, assigns, and agents, shall obtain all necessary licenses, approvals, or conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. The applicant, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.

10. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, of part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional or otherwise unenforceable, then the use permitted by this conditional use permit shall be void and the use permitted by this conditional use permit shall be invalid. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions there in, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.

11. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event of an amendment to the zoning of the property is produced by a comprehensive implementation of a new or substantially revised zoning ordinance, the conditions imposed by the conditional use permit shall continue in effect.

## **CPC RECOMMENDATION**

**On November 2, 2016, the Planning Commission voted unanimously (8:0) to recommend approval of conditional use permit CU-2016-0001 to allow for the operation of an amusement establishment with the following conditions:**

1. The amusement establishment authorized by this conditional use permit shall occur only within the 18,000 square foot lease area designated as Suite 420.
2. Signage placed in or on any window of the building shall be limited to no more than 25 percent of each window.
3. All outdoor storage shall be prohibited.
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6. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.

7. Violation of any of the above conditions and safeguards attached thereto shall be deemed a violation of the zoning ordinance, and, in addition, shall serve as grounds for revocation of the conditional use permit by the City Council.

8. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.

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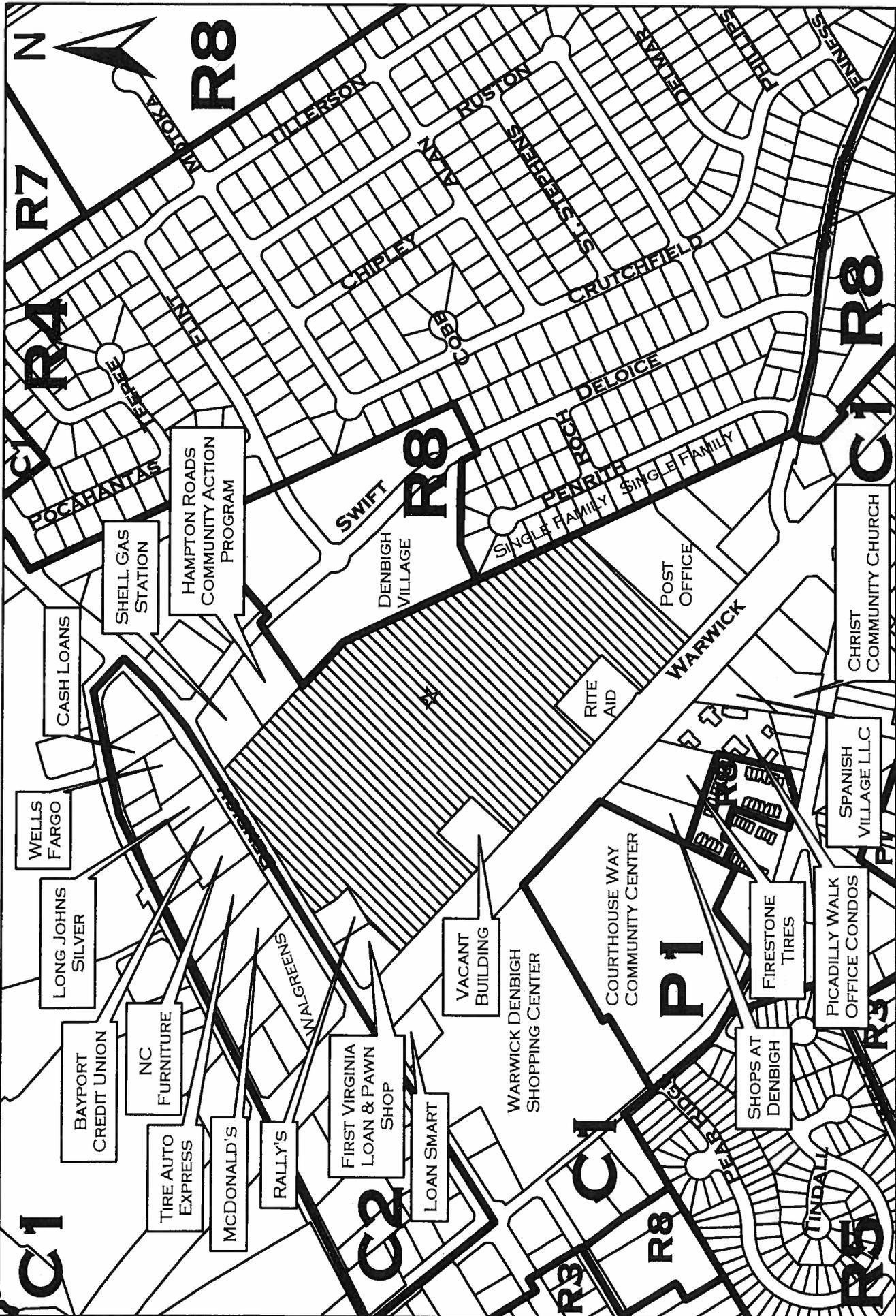
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11. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event of an amendment to the zoning of the property is produced by a comprehensive implementation of a new or substantially revised zoning ordinance, the conditions imposed by the conditional use permit shall continue in effect.

## **APPENDIX**

- A-1 VICINITY/ZONING MAP**
- A-2 SITE PLAN**
- A-3 LANDSCAPE PLAN**
- A-4 FLOOR PLAN**
- A-5 *FRAMEWORK FOR THE FUTURE 2030* LAND USE MAP**
- A-6 AERIAL MAP**
- A-7 PARKING PLAN**
- A-8 TAGTIME LASER TAG BUSINESS NARRATIVE**
- A-9 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF NOVEMBER 2, 2016**

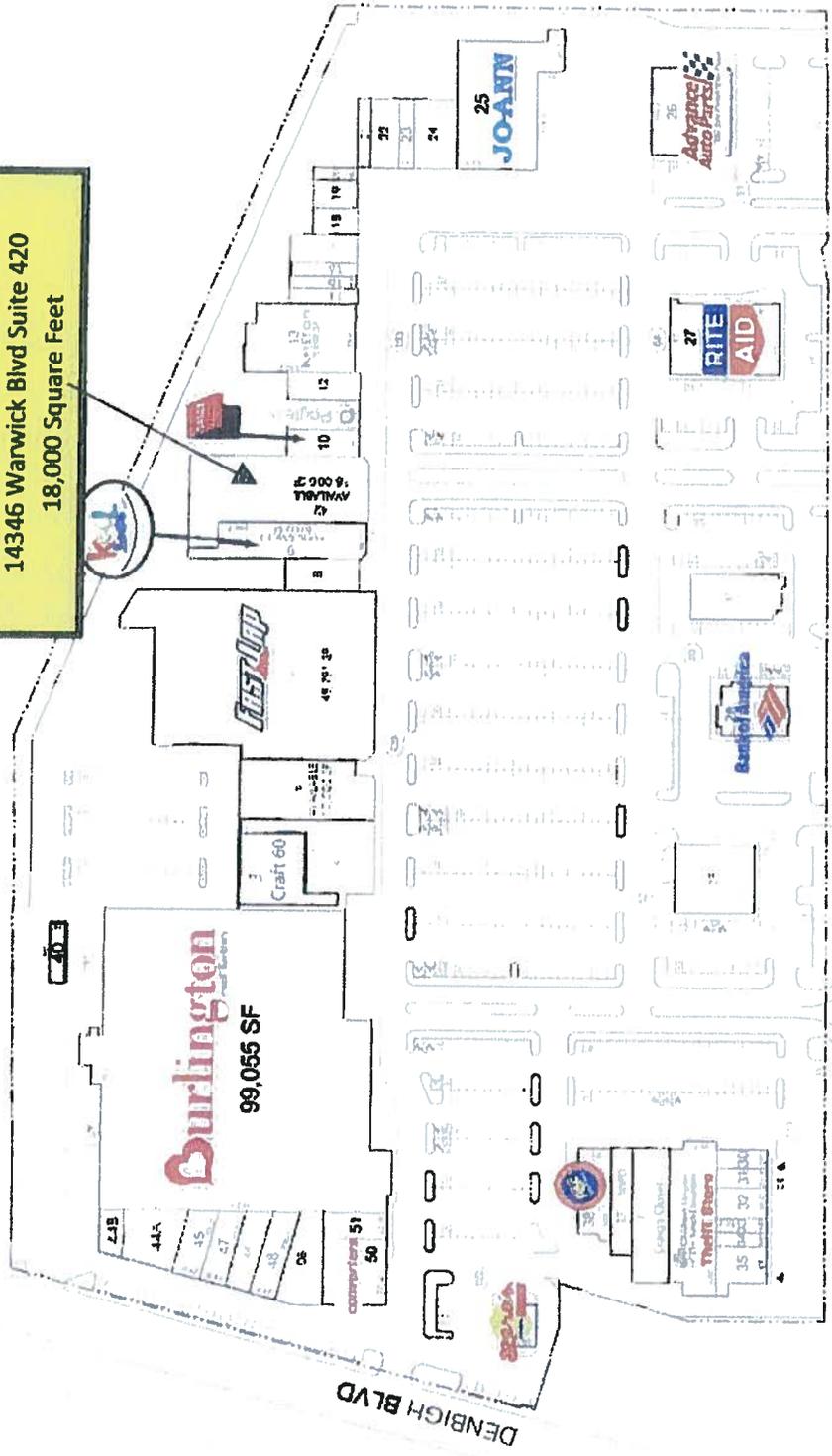


**MISHORIM GOLD  
NEWPORT NEWS, LP**

**CU-2016-0001**

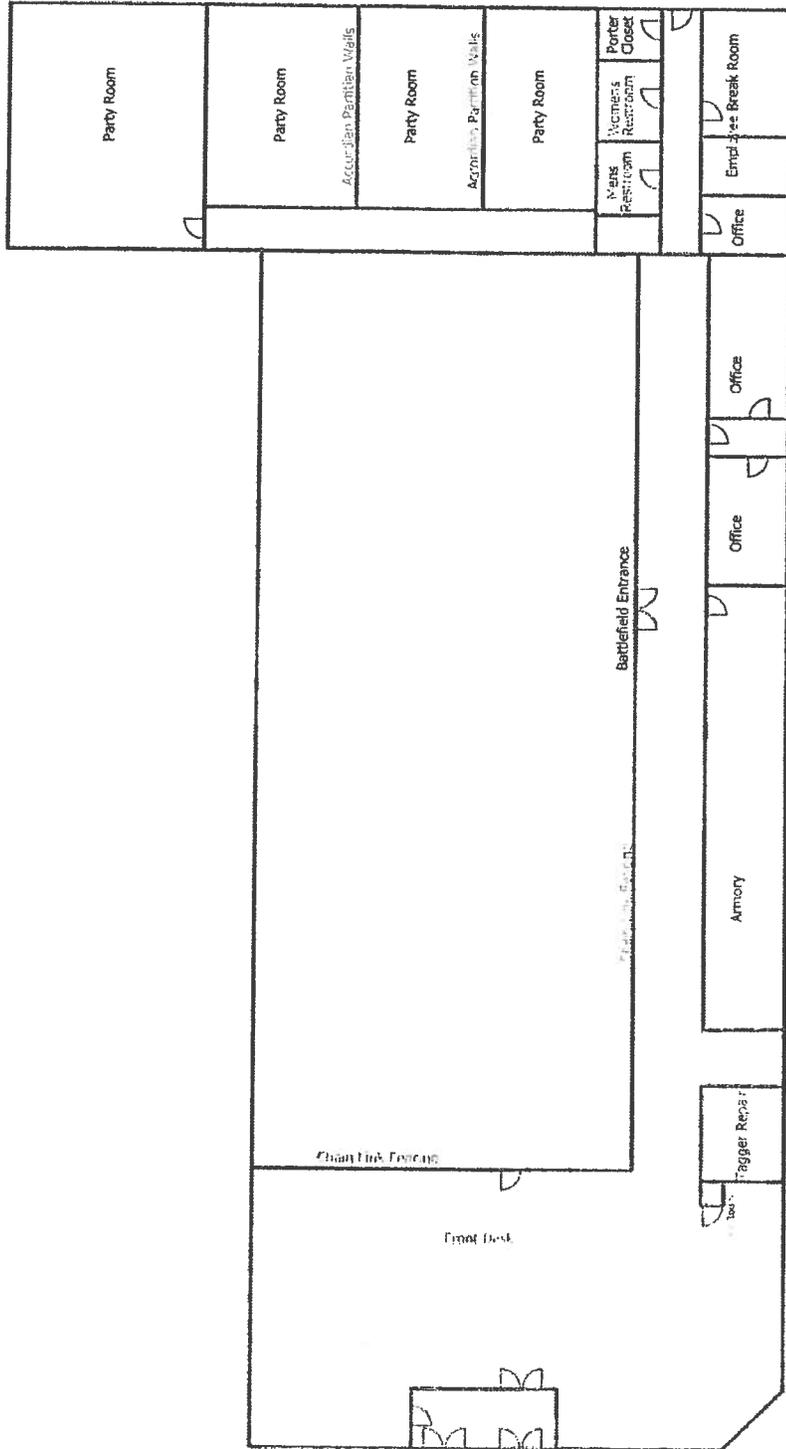
EXHIBIT A-1

Tagtime Laser Tag  
14346 Warwick Blvd Suite 420  
18,000 Square Feet



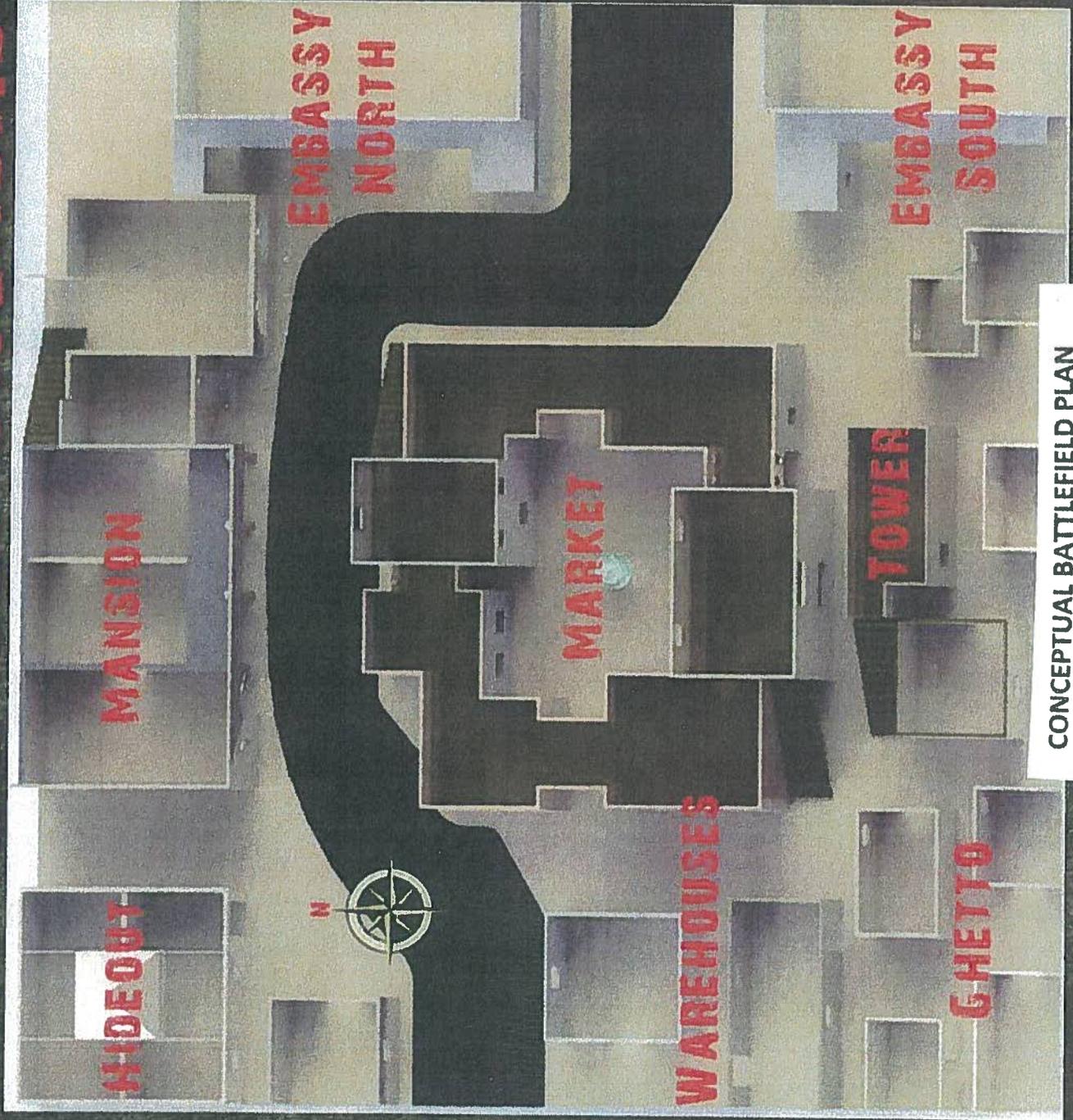
**DW Center** 14346 Warwick Blvd, Newport News, Virginia 23602



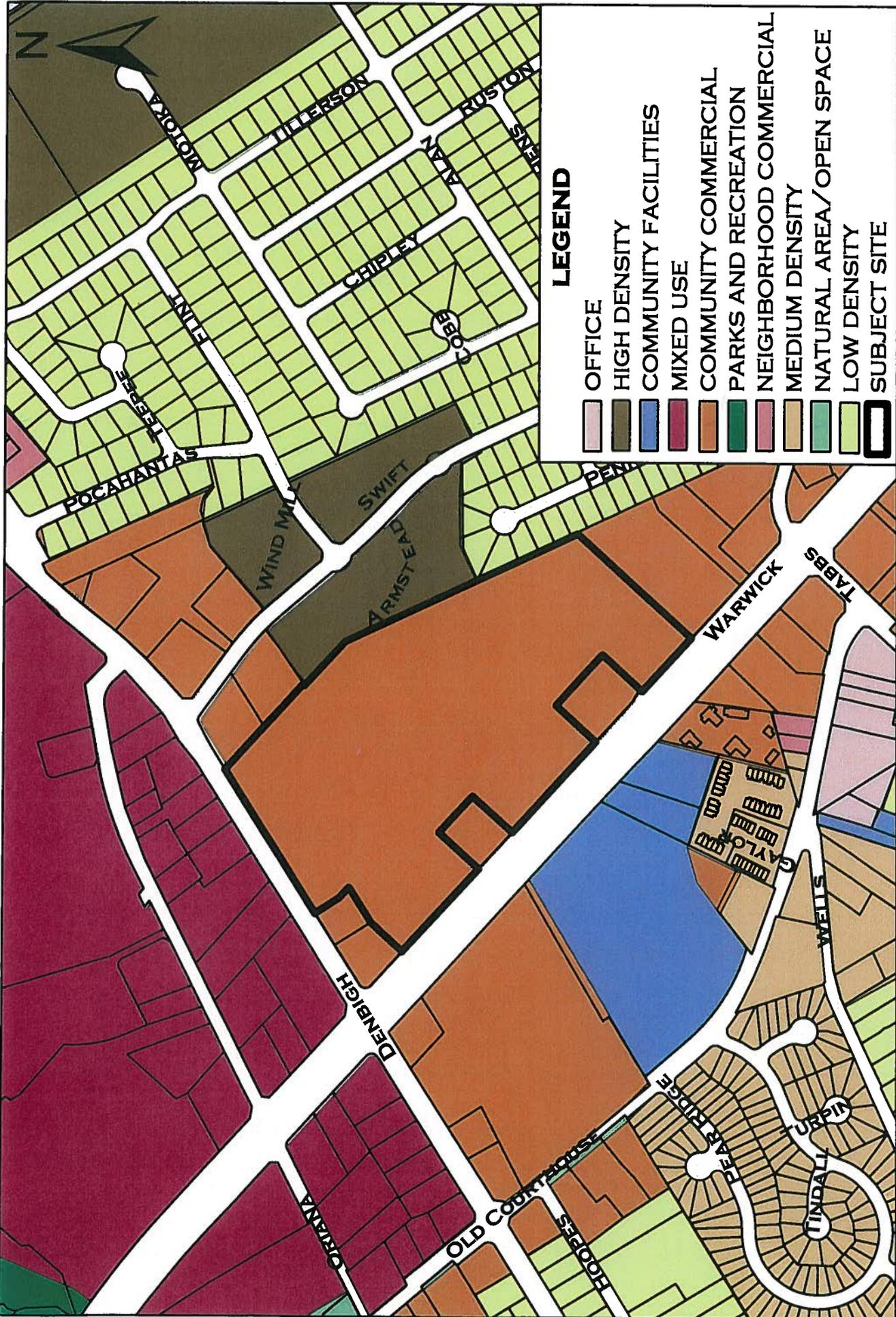


CONCEPTUAL FLOOR PLAN

# BATTLEFIELD BAGHDAD

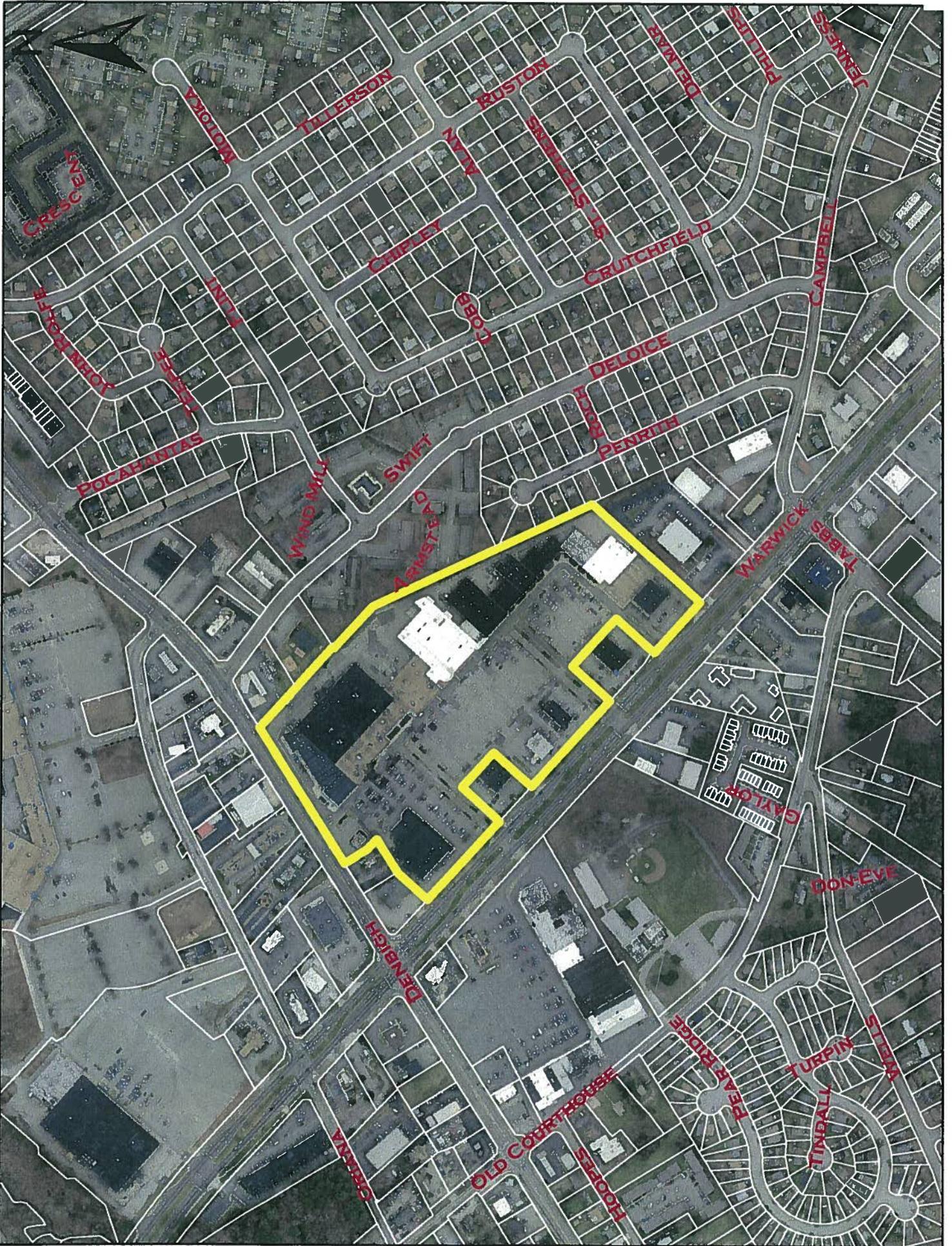


CONCEPTUAL BATTLEFIELD PLAN



**MISHORIM GOLD  
NEWPORT NEWS, LP**

**FRAMEWORK FOR  
THE FUTURE 2030**



Denbigh Village Shopping Center

Lease	Address	Unit(s)	Use	Total Area	Not Usable Sq. Ft.	Usable Sq. Ft.	Number of Desks or Chairs	Parking Spaces	Comments
SENGDOUNE HALL (0928249)	14346 Warwick Blvd	104	Restaurant	4,000	None	4,000		40	
H & R BLOCK (0877833)	14346 Warwick Blvd	105	Office	1,385	350	1,035	7 cubical	3	
SWEET TURTLE ENTERPRISES (0903783)	14346 Warwick Blvd	106	Restaurant	1,420	None	1,420		14	
SUNRISE DONUTS & SWEETS (0917240)	14346 Warwick Blvd	109	Restaurant	3,855	None	3,855		39	
CASH CONVERTERS-EZ CORP (0877666)	14346 Warwick Blvd	111	Retail	5,231	2,600	2,631		11	
TOMORROW'S IMAGE (0878434)	14346 Warwick Blvd	112-113	Retail	3,168	1,100	2,068	6 chairs	8	
RITE AID (0877817)	14260 Warwick Blvd	14260	Retail	10,000	3,300	6,700		29	
BURLINGTON COAT FACTORY (0877818)	14346 Warwick Blvd	14346-B	Retail	99,055	40,223	58,832		235	
BANK OF AMERICA, N.A. (0877824)	14346 Warwick Blvd	300	Retail	4,240	1,300	2,940	14 transaction areas	10	
LZD Entertainment LLC (0900456)	14346 Warwick Blvd	348	Restaurant	8,208	None	8,208		82	
RENT-A-CENTER (0877788)	14346 Warwick Blvd	356	Retail	3,530	2,902	628		3	
Craig's Closet LLC (0900462)	14346 Warwick Blvd	359	Retail	6,000	2,000	4,000		16	
CHKD THRIFT STORE #614 (0877820)	14346 Warwick Blvd	360	Retail	8,000	3,349	4,651		19	
SHOW OFF TEES (0877777)	14346 Warwick Blvd	362	Retail	1,176	480	696		3	
LE NAILS (0877774)	14346 Warwick Blvd	363	Retail	1,232	150	1,082	8 chairs	4	
BOOST MOBILE (0877810)	14346 Warwick Blvd	364	Retail	2,017	1,200	817		3	
SCENTS BY SCALES (0877789)	14346 Warwick Blvd	366	Retail	898	350	548		2	
ADVANCE AMERICA #1740 (0877770)	14346 Warwick Blvd	368	Retail	908	350	550		2	
US ARMY (0877808)	14346 Warwick Blvd	370	Office	2,076	350	1,726	8 cubical	6	
SUB PARTNERS, LLC (0877809)	14346 Warwick Blvd	390	Restaurant	1,646	None	1,646		16	
FASTLAP VA, LLC (0900962)	14346 Warwick Blvd	402	Recreation	49,791	None	49,791		250	Agreed Need
BREAKOUT, LLC (0920322)	14346 Warwick Blvd	416	Recreation	3,042	None	3,042		25	Agreed Need
KOOL SMILES (0877785)	14346 Warwick Blvd	418	Medical	6,000	None	6,000	12 chairs	24	
SALLY BEAUTY SUPPLY (0877790)	14346 Warwick Blvd	428	Retail	2,280	756	2,280		9	
PAYLESS (0877814)	14346 Warwick Blvd	430	Retail	3,000	1,250	1,750		7	
7 CITIES VAPES (0903769)	14346 Warwick Blvd	432	Retail	2,140	350	1,790		7	
BUFFET CITY (0877776)	14346 Warwick Blvd	440	Restaurant	9,600		9,600		96	
AMAZING FANTASY COMIC SHOP (0877773)	14346 Warwick Blvd	444	Retail	1,175	350	825		3	
CLASSIC NAILS (0877778)	14346 Warwick Blvd	460	Retail	788	350	438	4 chairs	2	
SULY HAIR SALON (0903608)	14346 Warwick Blvd	462	Retail	1,076	350	726	12 chairs	3	
ALLSTATE INSURANCE COMPANY (0877781)	14346 Warwick Blvd	468	Office	1,275	350	925	6 cubical	3	
AMERICAN IRON BARBELL CLUB (0903513)	14346 Warwick Blvd	470	Gym	3,784	350	3,434	24 exercise stations	19	

Denbigh Village Shopping Center

Lease	Address	Urn(s)	Use	Total Area	Not Usable Sq. Ft.	Usable Sq. Ft.	Number of Dealer or Chairs	Parking Spaces	Comments
JOANN FABRICS (00877835)	14346 Warwick Blvd	480	Retail	15,300	6,500	8,800		35	
ADVANCE AUTO PARTS - #2960R (00877687)	14346 Warwick Blvd	484	Retail	8,800	7,005	1,795		28	
VACANT	14346 Warwick Blvd	101	Retail	1,418	400	1,018		4	
VACANT	14346 Warwick Blvd	107-A	Retail	1,817	500	1,317		5	
VACANT	14346 Warwick Blvd	107-B	Retail	1,878	500	1,378		6	
State ABC	14272 Warwick Blvd	14272	Retail	5,000	3,600	1,400		14	
VACANT	14290 Warwick Blvd	14290	Retail	6,500	2,000	4,500		18	
VACANT	14346 Warwick Blvd	346	Retail	4,762	1,400	3,362		13	
VACANT	14346 Warwick Blvd	354	Retail	12,200	4,000	8,200		33	
VACANT	14346 Warwick Blvd	358	Retail	3,375	844	2,531		10	
Laser Tag	14346 Warwick Blvd	420	Recreation	18,000	4,000	14,000		60	Agreed Need
VACANT	14346 Warwick Blvd	442	Retail	1,216	304	912		4	
VACANT	14346 Warwick Blvd	446	Retail	1,175	350	825		3	
VACANT	14346 Warwick Blvd	448	Retail	2,362	591	1,772		7	
VACANT	14346 Warwick Blvd	452	Retail	1,500	375	1,125		5	
VACANT	14346 Warwick Blvd	456	Retail	1,576	394	1,182		5	
VACANT	14346 Warwick Blvd	464	Retail	2,533	800	1,733		7	
				341,400		244,484		1,251	

I here by certify that to the best of my knowledge that the property as of 9/1/2016 has a requirement of 1251 parking spaces according to the current uses contained within the property and concessions made by the city for particular uses granted that have been or will be under conditional use permits.

Mishorim Gold Newport News, LP

  
Emil R. Goduti

Director  
Drucker & Falk, LLC, Agents

## Tagtime Laser Tag

Tagtime Mobile Laser Tag is expanding to offer a fixed field location to provide customers an exhilarating experience through an indoor Laser Tag environment. A unique and exciting playing field will be constructed for player-friendly and futuristic mission simulations that all age groups can enjoy. Tagtime Tactical Laser Tag will be an expansion of Tagtime Mobile Laser Tag based in Yorktown.

Tagtime will offer its customers an intense form of recreation and team building that utilizes the latest generation in tactical laser equipment with taggers that are modeled after and use advanced technology developed and adapted from military training equipment. Mission based laser tag is heart-pounding, adrenaline-pumping gaming, in which strategy, team work and luck are critical to your team's success. Each player is equipped with an infrared Tagger and sensor headband. The "Tagger" fires a harmless infrared beam, (similar to your television remote control) received by sensors based on other player's to establish a "hit". Mission based games are tailored to each age group and level of players. No mission ever plays the same twice.

Our Facility plan for the 18,000 sf area consists of approximately 10,000 sf as Laser Tag gaming area. Approximately 4000 sf for administrative area, which will provide a comfortable lounging and viewing area to rest, enjoy refreshments, relax and share the experiences of the day. Large screen TVs will play / re-play videos of the customers gaming experience. A conference room and party rooms, available for corporate and other team building discussions, or birthday parties and catering can be arranged by our staff. The remaining area will house arcade type games and merchandise for sale.

Hours of Operation provide year round access to a complex, multi-dimensional mission scenario. Laser Tag Sessions will begin every 30 minutes. Customers should arrive 15 minutes prior to their desired start time for registration and safety/equipment briefing. Private, Corporate and Group events are available on a scheduled basis every day of the week.

Hours listed below are planned open times. This will be expanded as customer volumes increase.

### Summer Schedule

Monday - Thursday 12:00 p.m. to 9:00 p.m.

Friday 10:30 a.m. to 9:00 p.m.

Saturday 10:30 a.m. to 12:00 a.m.

Sunday 11:00 p.m. to 9:00 p.m.

### Winter Schedule

Monday / Tuesday Private Events Only

Wednesday / Thursday. 4:00 p.m. to 9:00 p.m.

Friday. 4:00 p.m. to 9:00 p.m.

Saturday. 10:30 a.m. to 10:00 p.m.

Sunday 11:00 a.m. to 7:30 p.m.

Games will consist of elaborate mission scenarios that can accommodate 10 to 60 players at one time. Start times will be every 30 minutes with additional packages available for 60 minutes, 90 minutes and 120 minutes of game play. National averages show groups playing 2-3 missions per visit.

Employees; during a normal day we will have approximately four to seven employees working at the facility at one time.

Parking; Our business planning estimate for parking is as a maximum parking required of about 60 parking spaces. However, we anticipate less of a parking need than this using about 20 spaces that one time. The majority of our customers will most likely carpool, be dropped off by their parents, or arrive as a group.

Our entire business plan is geared towards our customers having fun. We plan to target teens and young adults. High school sports teams, church youth groups, local business, and visitors to our area.

**NARRATIVE**

## EXCERPTS FROM PLANNING COMMISSION MINUTES

**November 2, 2016**

**CU-2016-0001, Mishorim Gold Newport News, LP.** Requests a conditional use permit to allow for the operation of an amusement establishment located at 14346 Warwick Boulevard, Suite 420 (DW Shopping Center) on a 27 acre parcel zoned C1 Retail Commercial. The Parcel No. is 108.00-04-07.

David Watson, Planner, presented the staff report (copy attached to record minutes).

Ms. Willis asked if the racecar in the landscaped area is considered part of the landscape plan. Mr. Watson stated no. Mr. Carpenter asked if they are considered as signage. Ms. McAllister stated it is considered art.

Mr. Carpenter opened the public hearing.

Mr. Bradford Drummond, 201 Hudgins Farm Road, Yorktown, applicant, spoke in favor of the application. He thanked Planning staff for their assistance. Mr. Drummond gave a brief description of the application. And stated he was available for questions.

Mr. Simmons stated this is a great adaptive reuse for our community and it is a pleasure to have Mr. Drummond in business here in Newport News.

Ms. Willis stated she is excited to see it come to Newport News and it sounds like a really fun entertainment activity. She asked, in regard to the applicant's history of hosting backyard birthday parties, if the entertainment activities would be contained within the building and not the parking lot. Mr. Drummond stated yes, all activities will be inside the building.

Mr. Carpenter closed the public hearing.

Ms. Fox made a motion to recommend approval of conditional use permit CU-2016-0001 to City Council, as recommended by staff. The motion was seconded by Mr. Simmons.

### **Vote on Roll Call**

**For: Maxwell, Fox, Jones, Simmons, Austin, Willis, Groce, Carpenter**

**Against: None**

**Abstention: None**

The Planning Commission voted unanimously (8:0) to recommend approval of conditional use permit CU-2016-0001 to City Council.

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

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-2016-0001 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING AN AMUSEMENT ESTABLISHMENT ON A SITE ZONED C1 RETAIL COMMERCIAL DISTRICT.

WHEREAS, application number CU-2016-0001 has been made by **MIRSHORIM GOLD NEWPORT NEWS, LP, owner, and TAGTIME LASER TAG, applicant**, for a conditional use permit for the hereinafter described property for the purpose of operating an amusement establishment on a site zoned C1 Retail Commercial District; and

WHEREAS, the application has been referred to the Planning Commission of the City of Newport News for recommendation and has been duly advertised as required by law and the said Planning Commission has made its recommendation.

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

(a) That conditional use permit number CU-2016-0001 is hereby granted for the property described in paragraph (b) hereof for the purpose of operating an amusement establishment on a site zoned C1 Retail Commercial District; and

(b) That the property, hereinafter referred to as the "Property," to which the conditional use permit applies is particularly described below:

All that certain lot, piece or parcel of land situate, lying and being in the City of Newport News, State of Virginia, shown and designated as "Denbigh Village Centre", containing 27.0005 acres as shown on Subdivision Plat entitled "The Remaining Portion of Parcel 1 and Parcel 2, Denbigh Mall Shopping Center, City of Newport News, Virginia", dated June 1991 and recorded in the Clerk's Office of the Circuit Court for the City of Newport News, on July 9, 1991 in Deed Book 1265, page 1085 to which reference is here made. However, this conditional use permit only applies to an 18,000 square foot area of the aforesaid Property designated as Suite 420 as shown on Exhibit A-2, which is attached hereto and made a part hereof.

The Property has a common street address of 14346 Warwick Boulevard, Suite 420 and a Real Estate Assessor's Tax I.D. #108.00-04-07.

(c) That this conditional use permit is granted subject to the following conditions, each of which shall be implemented upon approval of this ordinance:

1. The amusement establishment authorized by this conditional use permit shall occur only within the 18,000 square foot lease area designated as Suite 420.
2. Signage placed in or on any window of the building shall be limited to no more than 25 percent of each window.
3. All outdoor storage shall be prohibited.
4. All shopping center landscaping shall be installed in accordance with the landscape plan prepared by Land Studio dated March 25, 2016 and approved by the Department of Engineering on March 31, 2016 noted as Appendix A-3, which is attached hereto and made a part hereof. All landscaping shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed. Any proposed changes shall be reviewed and approved by the Director of Planning.
5. The applicant shall cause a plan ("the Plan") to be prepared for the installation and operation of digital video equipment (the "Equipment") with recording devices and capability sufficient to include date and time the recording is made. The Equipment shall provide surveillance coverage encompassing the front, side and rear exteriors of the use permitted by this ordinance. The Plan shall be submitted for review and approval by the Police Department. The Plan shall include an operational period for the Equipment, which shall include all operating hours of the business and one hour or more after the close of business. Once the Plan is approved, the applicant shall install the Equipment in accord with the provisions of the Plan; and operate, record, and maintain the Equipment to provide for the required surveillance coverage. The Equipment and recordings made thereby shall be subject to periodic inspection by the Police Department at reasonable times. Commencement of the use authorized by this conditional use permit shall constitute acceptance of the conditions of this permit, including consent for such inspections. Surveillance tapes or recorded data must be maintained in a condition permitting review of the information recorded or stored therein or thereon for a period of time no less than thirty days.
6. If approved, the ordinance approving this conditional use permit shall be prominently displayed within the establishment at all times until the use is abandoned.
7. The applicant, as well as successors, assigns and agents, if any, shall comply

with all of the conditions stated herein, as well as all codes, ordinances and regulations of federal, state and local governments.

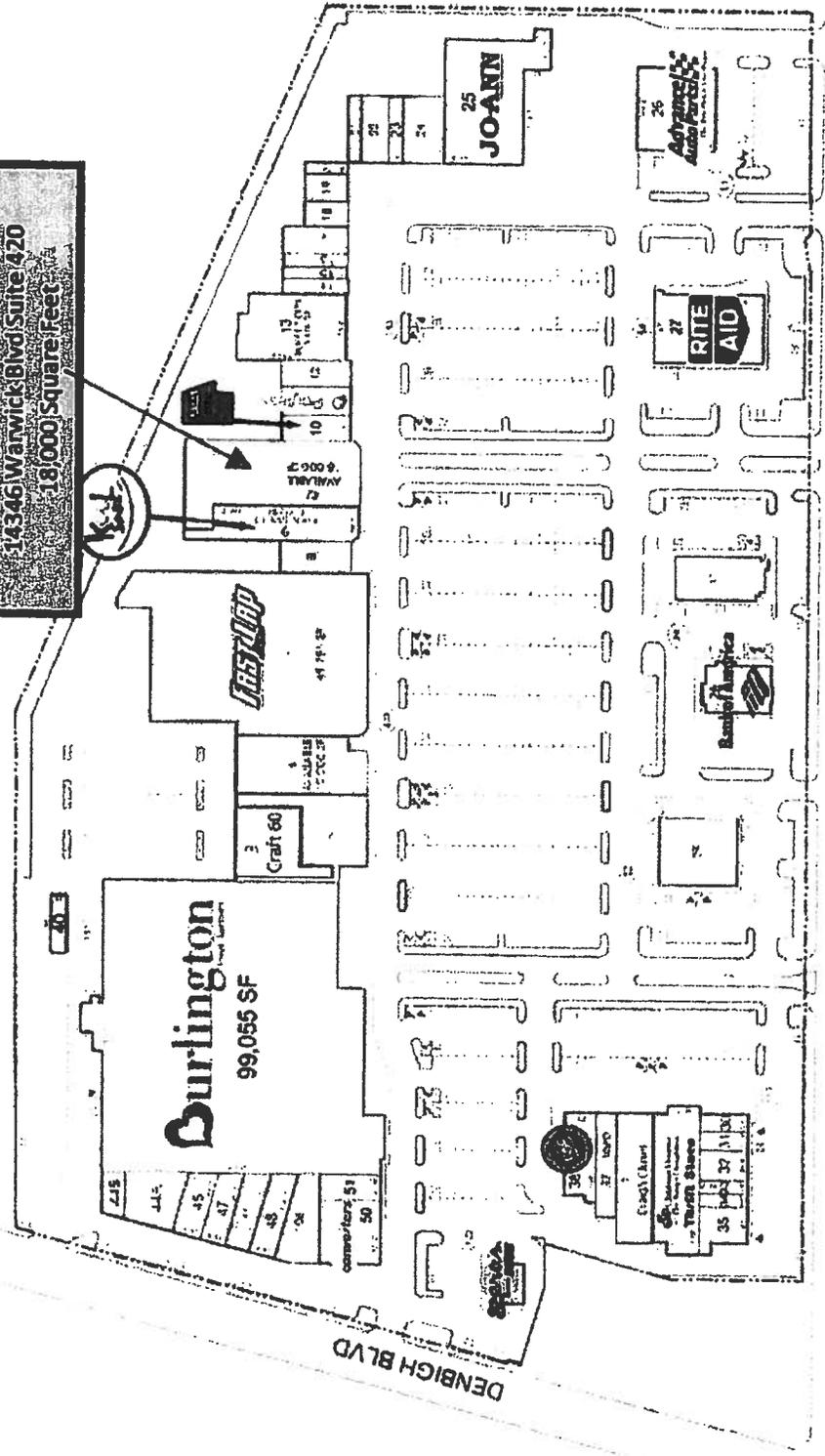
8. The applicant, as well as successors, assigns, and agents, if any, shall obtain all necessary licenses, approvals, conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. Furthermore, the applicants, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, conditional approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
9. Violation of any of the above conditions or safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, and notwithstanding any other provision of law, shall serve as grounds for revocation of the conditional use permit by City Council.
10. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, or part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional, or otherwise unenforceable, then this conditional use permit shall be void and the use permitted by this conditional use permit shall cease. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions therein, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
11. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event an amendment to the zoning of the property described in Section (b) hereof is produced by a comprehensive implementation of a new or substantially revised Zoning Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

(d) That this conditional use permit shall be deemed to have been abandoned and shall be revoked:

1. If the construction of the improvements or occupancy authorized by this conditional use permit has not commenced within twenty-four (24) months of November 22, 2016, or,

2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.

Tagtime Laser Tag  
 14346 Warwick Blvd Suite 420  
 18,000 Square Feet



**DW Center** 14346 Warwick Blvd. Newport News, Virginia 23602



## E. Public Hearings

2. Ordinance Granting Conditional Use Permit No. CU-2016-002 to Crown Castle GT Company, LLC to Allow for the Operation of a Communications Tower Located at 517 29th Street and Zoned R9 Mixed Use

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NO. CU-2016-002 TO CROWN CASTLE GT COMPANY, LLC, TO OPERATE A COMMUNICATIONS TOWER/ANTENNA ON PROPERTY LOCATED AT 517 29TH STREET AND ZONED R9 MIXED USE.

- BACKGROUND:**
- The request will bring an existing legally nonconforming communications tower into conformance with the zoning ordinance for continued operation, expansion, inspections and landscaping.
  - The use is consistent with the *Framework for the Future 2030* Comprehensive Plan land use map.
  - On November 2, 2016, the City Planning Commission voted unanimously 8:0 to recommend approval of the request with conditions.

**Vote on Roll Call**

**For:** Austin, Carpenter, Fox, Groce, Jones, Maxwell, Simmons, Willis

**Against:** None

**Abstention:** None

- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

**ATTACHMENTS:**

Description

CM Memo re CU-2016-0002

Staff Report and CPC Minute Excerpts

sdm010 CU-2016-0002 re Crown Castle GT Company, LLC

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

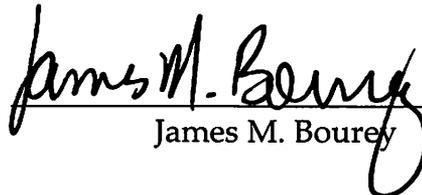
November 16, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** CU-2016-0002, Crown Castle GT Company, LLC

Crown Castle GT Company, LLC requests a conditional use permit for the operation of a communications tower on a 0.28 acre parcel located at 517 29<sup>th</sup> Street. The 128-foot tower was constructed in 1990 as a matter of right at that time in the M1 Light Industrial zoning district. It became legally nonconforming with the adoption of the 1997 zoning ordinance which required the approval of a conditional use permit for the operation of communications towers in the M1 Light Industrial zoning district. This requirement continued when the property was rezoned to R9 Mixed Use.

In order to facilitate upgrades to the existing wireless equipment on the tower, the applicant is asking for a conditional use permit to bring the tower into conformance with the zoning ordinance. The proposed upgrades will not alter the tower height, nor increase the size of the lease area. The communications tower will remain consistent with the *Framework for the Future 2030* land use map and compatible with surrounding uses.

On November 2, 2016, the City Planning Commission voted unanimously 8:0 to recommend approval of this request to City Council with conditions. I concur with the City Planning Commission's recommendation.

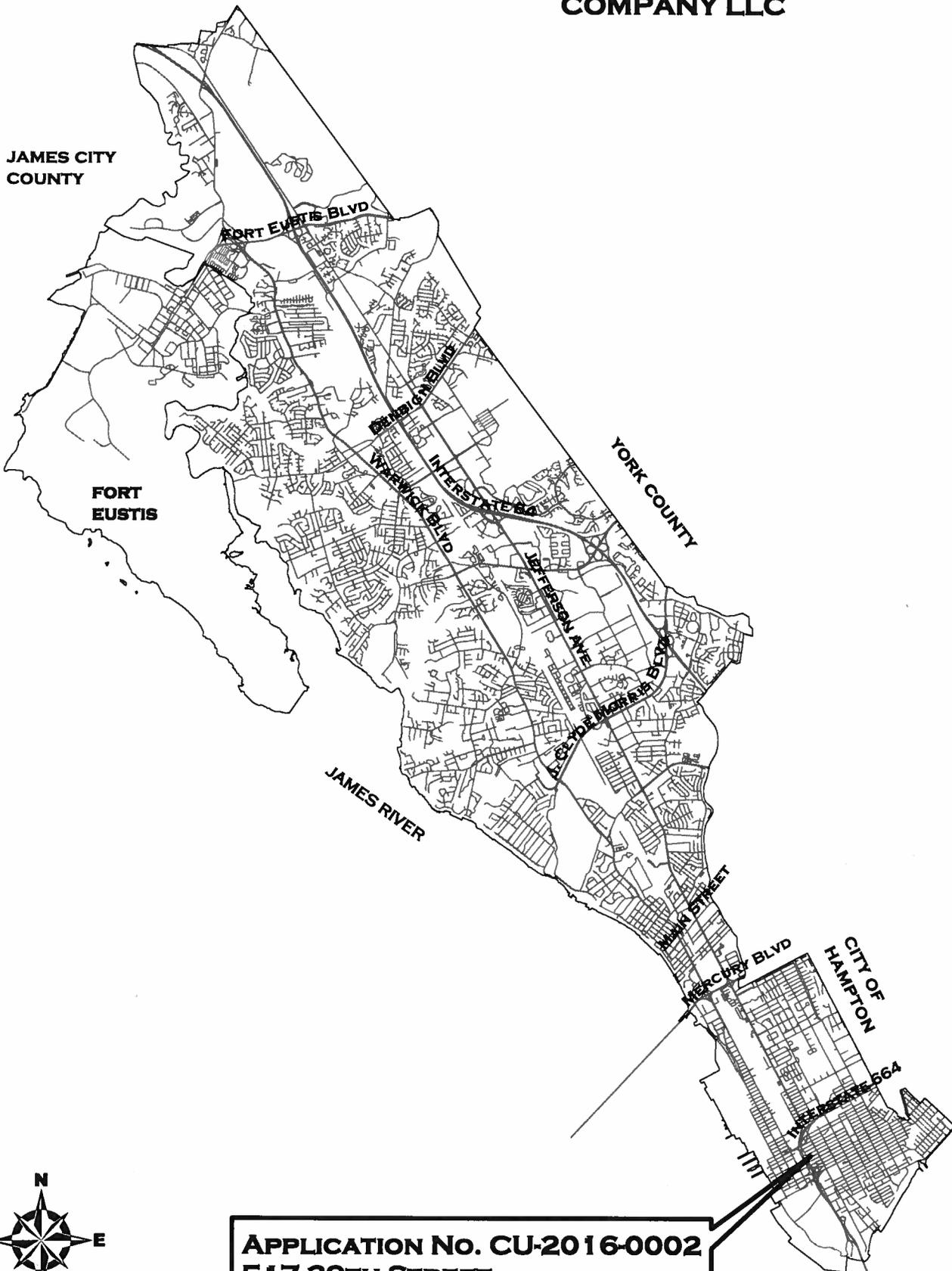
  
James M. Bourey

JMB:dfw

Attachment

**CITY OF NEWPORT NEWS  
CITY COUNCIL  
NOVEMBER 22, 2016**

**CONDITIONAL USE PERMIT  
APPLICATION NO. CU-2016-0002  
CROWN CASTLE GT  
COMPANY LLC**



**APPLICATION No. CU-2016-0002  
517 29TH STREET**



Section 45-523 of the Zoning Ordinance provides minimum standards for communications towers in the city. Towers that meet these standards are permitted in the R9 Mixed Use zoning district with the approval of a conditional use permit.

The departments of Codes Compliance, Engineering, Public Works, Public Utilities, Fire, Police, Parks, Recreation and Tourism and Development have no objection to the request.

**Comprehensive Plan Review** The *Framework for the Future 2030* comprehensive plan land use map designates mixed use for the property. A communications tower is compatible with this designation. (See Appendix A-3.)

## ANALYSIS

The communications tower, including all appurtenances, is 128 feet tall and is located within an approximately 2,260 square foot compound. The tower provides lease space to three wireless service providers, Verizon, T-Mobile, and Sprint. These service providers have experienced a sharp increase in the call volume within the service area of this tower attributable to a new policy adopted by Newport News Shipbuilding allowing shipyard employees to bring cell phones to work. In order to address capacity issues, Verizon is asking to implement an upgrade of their equipment to handle the new volume. The applicant anticipates that T-Mobile and Sprint will also implement similar upgrades. The proposed upgrades will not increase the ground lease area nor will the total height of the tower and appurtenances increase. (See Appendix A-2.) The antenna size and style will be different than what is currently in use. (See Appendix A-5.)

The communications tower operates as a legally non-conforming use in the R9 Mixed Use district because it does not have a conditional use permit (CUP) for operation. As part of a comprehensive plan by the applicant and their tenant wireless service providers to upgrade the communications equipment at this site, the applicant is seeking the approval of a CUP in order to bring the tower into conformance with the standards listed for communications towers in section 45-523 of the zoning ordinance. An approved CUP will allow equipment upgrades as needed, and will also allow additional service providers to locate on the tower as a matter of right.

The CUP will allow the city to implement conditions that are standard for new tower construction that currently are not applied to this communications tower. These conditions include a requirement for annual structural safety inspections of the tower, and the provision of a surety bond for the removal of the tower if the use is abandoned. The Brooks Crossing mixed use development that includes residential uses is planned for construction on the adjacent vacant properties. To mitigate the impact this tower may have on these developments, a landscaping and screening plan for the communications tower site will also be required. (See Appendix A-6.)

## CONCLUSION

The approval of a conditional use permit will bring a legally non-conforming communications tower into full conformance with the requirements stipulated in Section 45-523 of the zoning ordinance.

## STAFF RECOMMENDATION

**Recommend approval of conditional use permit CU-2016-0002 to allow for the operation of a communications tower with the following conditions:**

1. The height of the communications tower shall not exceed 128 feet including antennas and appurtenances.
2. All equipment and materials shall be limited to within the 2,260 square foot enclosed lease area as depicted in Appendix A-2.
3. The landscape plan shall be largely in conformance with the plan prepared by BC Architecture and Engineering, dated October 24, 2016 and noted as Appendix A-6, shall be submitted to and approved by the Director of Planning prior to site plan approval. All landscaping shall be installed in accordance with the approved plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.
4. The owner shall have a structural inspection conducted annually by a registered professional engineer licensed in the Commonwealth of Virginia and a copy of the inspection report shall be filed with the Department of Codes Compliance.
5. The applicant shall file with the Department of Codes Compliance a statement from a registered engineer that non-ionizing electromagnetic radiation (NEIR) emitted from the communications tower does not result in a ground level exposure at any point outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
6. Obsolete, unused or abandoned communications towers/antenna facilities shall be removed within twelve (12) months of obsolescence, cessation of use or abandonment.
7. A bond of \$50,000 shall be required to expedite removal of the tower within twelve (12) months of obsolescence, cessation of use, or abandonment.

8. Except where specified herein, all applicable provisions of Chapter 45, Zoning Ordinance of the Code of the City of Newport News, Virginia Article V, General Regulations Applicable without Reference to Zoning Districts, Section 45-523, Communication Tower/Antenna, shall be met, prior to issuance of a building permit, to include the requirement of a bond to expedite removal of the tower within twelve (12) months of obsolescence, cessation of use or abandonment.

9. The tower shall have no markings, signs, or lighting except for lighting that may be required by the Federal Aviation Administration (FAA).

10. Violation of any of the above conditions and safeguards attached thereto shall be deemed a violation of the zoning ordinance, and, in addition, shall serve as grounds for revocation of the conditional use permit by the City Council.

11. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.

12. The applicant, as well as his successors, assigns, and agents, shall obtain all necessary licenses, approvals, or conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. The applicant, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.

13. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, of part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional or otherwise unenforceable, then the use permitted by this conditional use permit shall be void and the use permitted by this conditional use permit shall be invalid. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions there in, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.

14. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event of an amendment to the zoning of the property is produced by a comprehensive implementation of a new or substantially revised zoning ordinance, the conditions imposed by the conditional use permit shall continue in effect.

## **CPC RECOMMENDATION**

**On November 2, 2016, the Planning Commission voted unanimously (8:0) to recommend approval of conditional use permit CU-2016-0002 to allow for the operation of a communications tower with the following conditions:**

1. The height of the communications tower shall not exceed 128 feet including antennas and appurtenances.
2. All equipment and materials shall be limited to within the 2,260 square foot enclosed lease area as depicted in Appendix A-2.
3. The landscape plan shall be largely in conformance with the plan prepared by BC Architecture and Engineering, dated October 24, 2016 and noted as Appendix A-6, shall be submitted to and approved by the Director of Planning prior to site plan approval. All landscaping shall be installed in accordance with the approved plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.
4. The owner shall have a structural inspection conducted annually by a registered professional engineer licensed in the Commonwealth of Virginia and a copy of the inspection report shall be filed with the Department of Codes Compliance.
5. The applicant shall file with the Department of Codes Compliance a statement from a registered engineer that non-ionizing electromagnetic radiation (NEIR) emitted from the communications tower does not result in a ground level exposure at any point outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
6. Obsolete, unused or abandoned communications towers/antenna facilities shall be removed within twelve (12) months of obsolescence, cessation of use or abandonment.
7. A bond of \$50,000 shall be required to expedite removal of the tower within twelve (12) months of obsolescence, cessation of use, or abandonment.
8. Except where specified herein, all applicable provisions of Chapter 45, Zoning Ordinance of the Code of the City of Newport News, Virginia Article V, General Regulations Applicable without Reference to Zoning Districts, Section 45-523, Communication Tower/Antenna, shall be met, prior to issuance of a building permit, to include the requirement of a bond to expedite removal of the tower within twelve (12) months of obsolescence, cessation of use or abandonment.

9. The tower shall have no markings, signs, or lighting except for lighting that may be required by the Federal Aviation Administration (FAA).

10. Violation of any of the above conditions and safeguards attached thereto shall be deemed a violation of the zoning ordinance, and, in addition, shall serve as grounds for revocation of the conditional use permit by the City Council.

11. The applicant, as well as successors, assigns, and agents, shall comply with all codes, ordinances and regulations of federal, state and local government.

12. The applicant, as well as his successors, assigns, and agents, shall obtain all necessary licenses, approvals, or conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. The applicant, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.

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14. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event of an amendment to the zoning of the property is produced by a comprehensive implementation of a new or substantially revised zoning ordinance, the conditions imposed by the conditional use permit shall continue in effect.

## **APPENDIX**

**A-1 VICINITY/ZONING MAP**

**A-2 SITE PLAN**

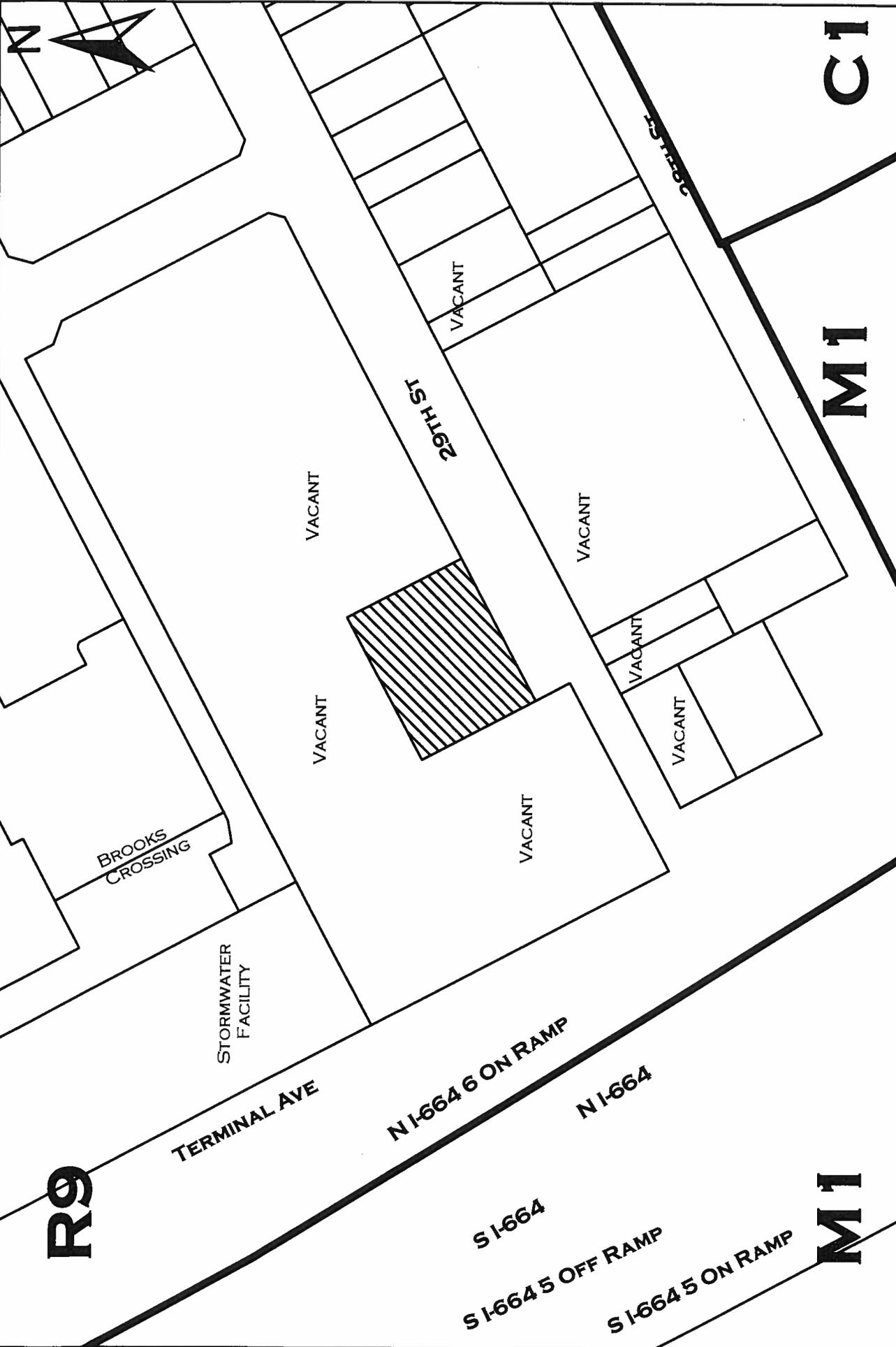
**A-3 *FRAMEWORK FOR THE FUTURE 2030* LAND USE MAP**

**A-4 AERIAL MAP**

**A-5 EQUIPMENT SCHEMATIC**

**A-6 LANDSCAPE PLAN**

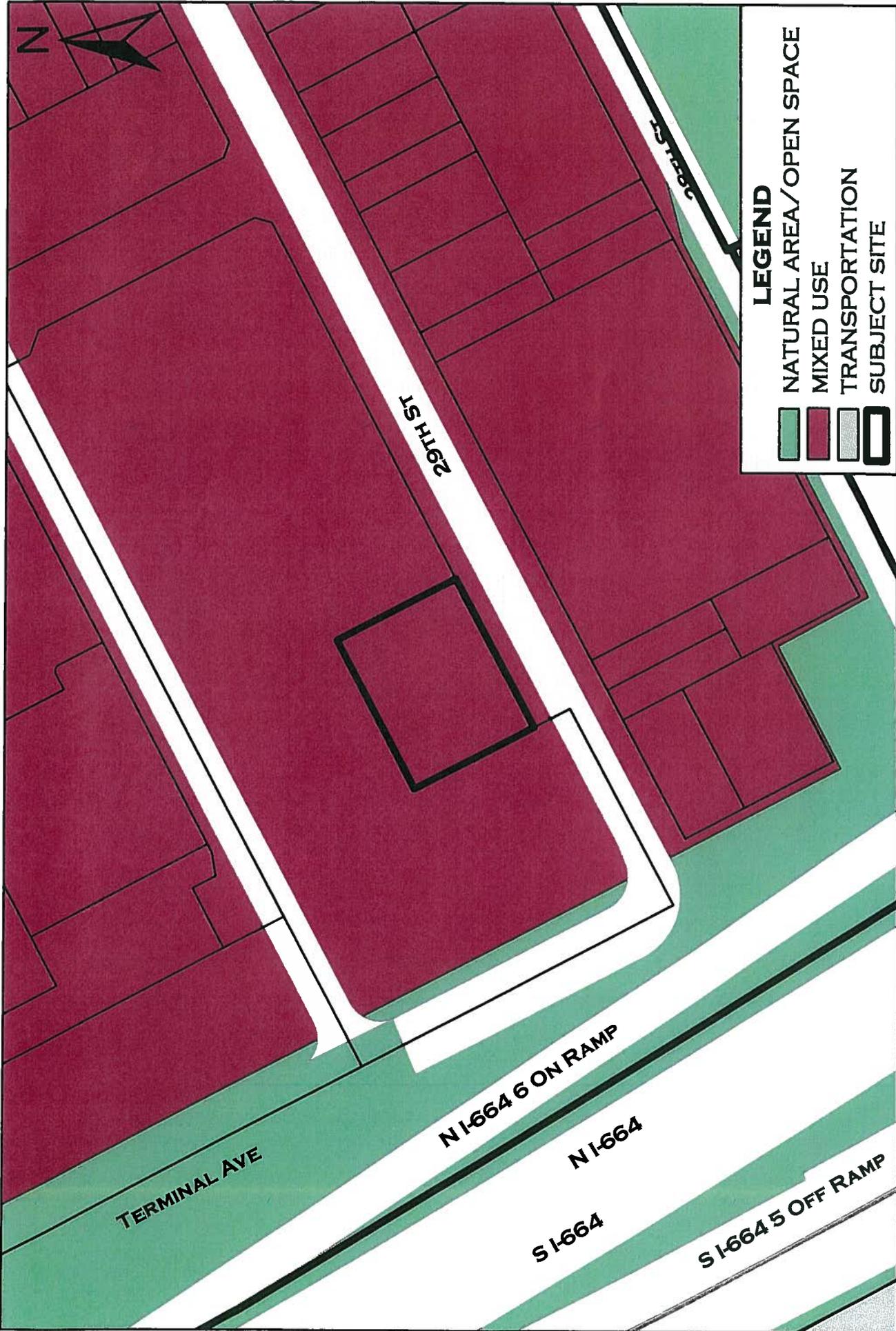
**A-7 EXCERPTS FROM THE CITY PLANNING COMMISSION MINUTES OF NOVEMBER 2, 2016**



**CROWN CASTLE GT  
COMPANY LLC**

**CU-2016-0002**



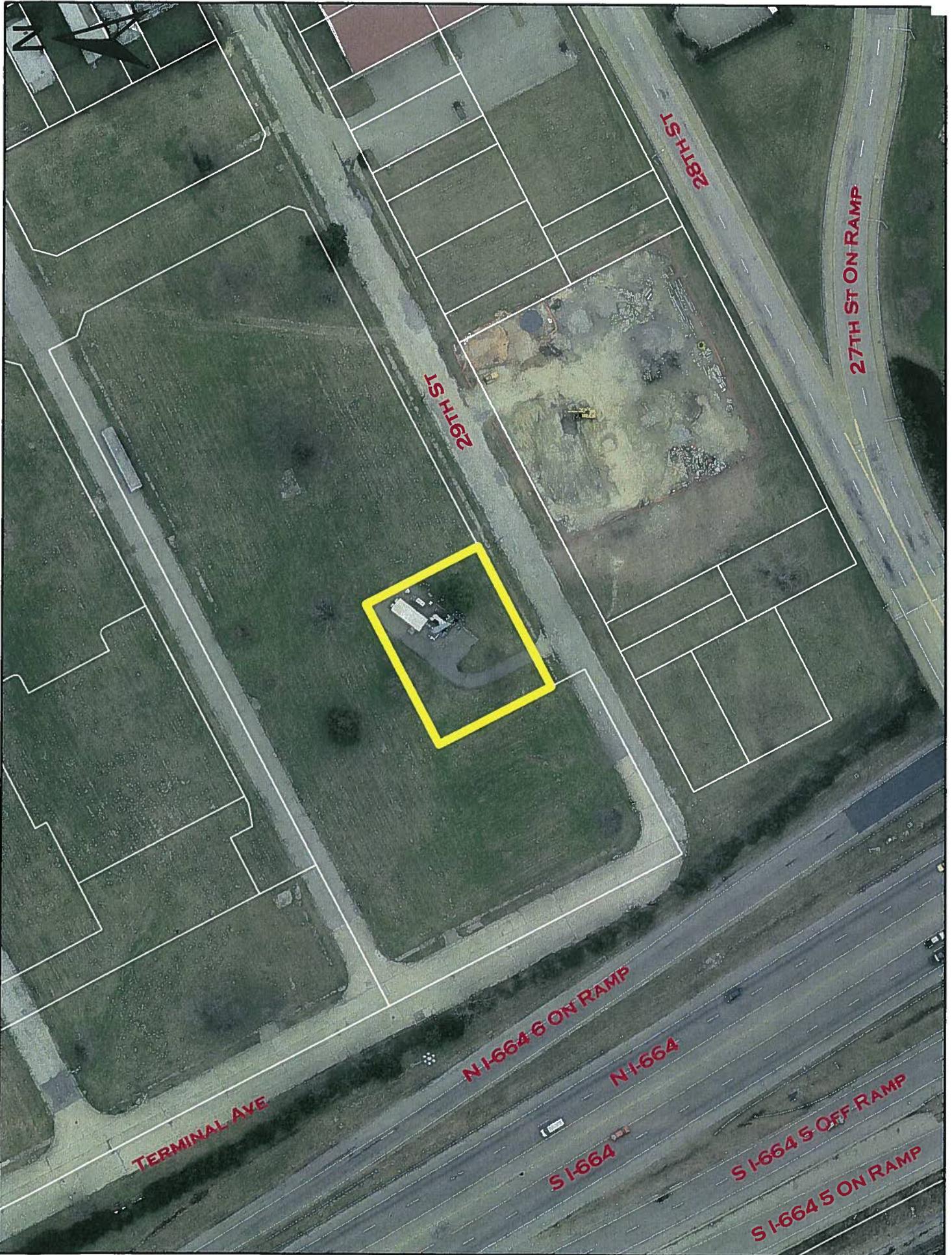


**LEGEND**

- NATURAL AREA/OPEN SPACE
- MIXED USE
- TRANSPORTATION
- SUBJECT SITE

**CROWN CASTLE GT  
COMPANY LLC**

**FRAMEWORK FOR  
THE FUTURE 2030**





NO.	DESCRIPTION BY	DATE
1	MOBILE	08/10/16
2		
3		
4		
5		

SITE NAME  
**TERMINAL**

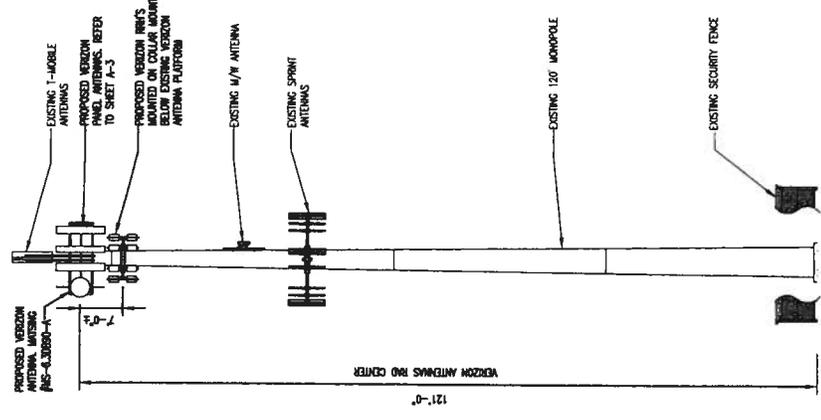
SITE NUMBER  
**816074**

SITE ADDRESS:  
817 28th ST.  
NEWPORT NEWS, VA 23607

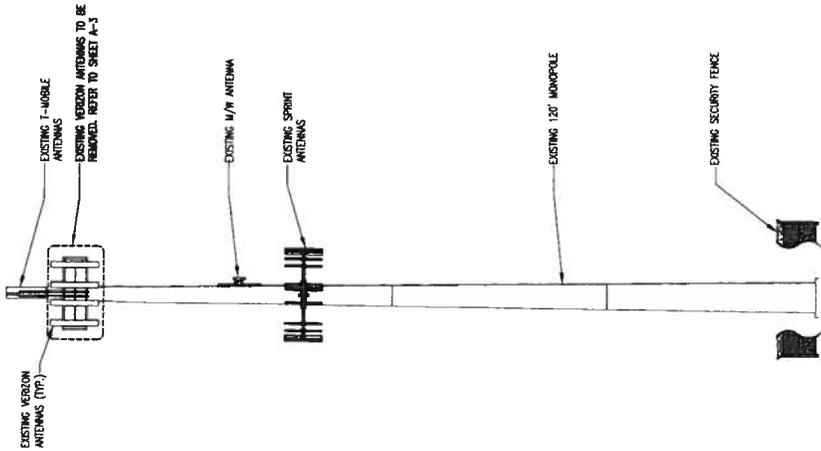


DESIGNED BY	DATE
CHECKED BY	DATE
DATE DRAWN	DATE
SUBMISSION	DATE
FINAL CDT'S	DATE
SHEET TITLE	

<b>TOWER ELEVATION</b>	
SHEET NUMBER	REV. #
A-2	1



PROPOSED ANTENNA AND RRH'S ON EXISTING TOWER ELEVATION  
SCALE: 1"=20' (11"x17")  
1"=10' (24"x36")



EXISTING ANTENNA ON EXISTING TOWER ELEVATION  
SCALE: 1"=20' (11"x17")  
1"=10' (24"x36")





**BC**  
Architects

1801 COLUMBIA AVE. SUITE 200  
FALLS CHURCH, VA 22034-3000  
TEL: (703) 471-8800  
FAX: (703) 471-8800

**CROWN CASTLE**  
1811 ABERDEEN PARKWAY  
RENO, NV 89509  
TEL: (703) 338-3114

SHEET REVISION DATE  
NO. DESCRIPTION BY  
1. 10/2/11  
2. 10/2/11  
3. 10/2/11  
4. 10/2/11

SITE NAME:  
**TERMINAL**  
SITE NUMBER:  
**816074**

SITE ADDRESS:  
517 20TH ST.  
RENO, NV 89507



CHECKED BY: [ ]  
DATE DRAWING: 08-22-10  
SUBMISSIONS: FINAL 0/3  
SHEET TITLE:

PLANTING  
NOTES &  
DETAILS

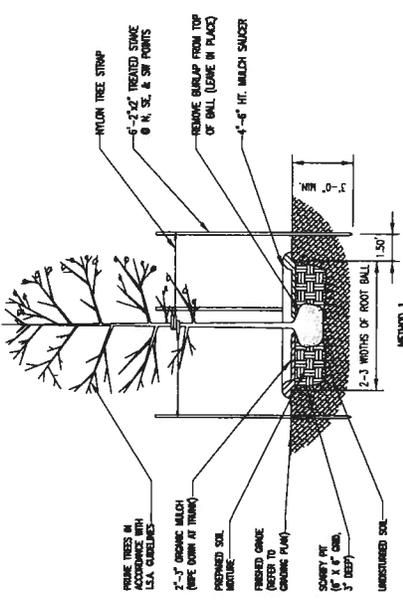
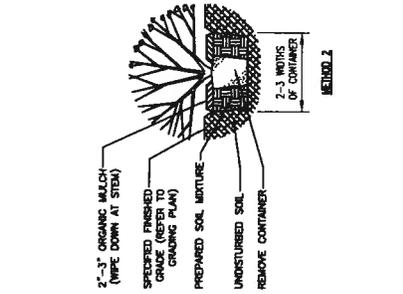
SHEET NUMBER: **L-2**  
REV. / **3**

**GENERAL PLANTING NOTES:**

1. ALL PLANT MATERIAL SHALL MEET THE USUAL REQUIREMENTS AND STANDARDS DESCRIBED IN THE USUAL TRADE PRACTICES AND SPECIFICATIONS FOR THE PLANTING OF TREES AND SHRUBS IN THE MIDWEST AND LANDSCAPE ASSOCIATION, 1000 VERMONT AVENUE, NW, SUITE 300, WASHINGTON D.C. 20005-8114.
2. PLANTING SEASON RESTRICTIONS: ALL MULLED AND BURLAPPED PLANTS SHALL BE INSTALLED BETWEEN OCTOBER 15 AND MARCH 31 UNLESS OTHERWISE AUTHORIZED BY THE LANDSCAPE ARCHITECT. ALL CONTAINER GROWN PLANTS SHALL BE INSTALLED BETWEEN SEPTEMBER 15 AND MAY 15 UNLESS OTHERWISE AUTHORIZED BY THE LANDSCAPE ARCHITECT.
3. FINISHED GRASSES ON GRADING PLAN THAT OCCUR IN SHRUB BEDS SPECIFY TOP OF FINISHED MALCH CHANGES. LANDSCAPE CONTRACTOR SHALL NOT EXCEED THESE GRASSES WHEN BEDS ARE COMPLETE WITH FINISHED GRASS. FINISHED GRASS SHALL BE INSTALLED TO THE FINISHED GRASS FINISH. FINISHED GRASS CONTRACTOR SHALL NOTIFY THE GENERAL CONTRACTOR OF SUCH CONDITIONS UNDER NO CIRCUMSTANCES SHALL FINISHED BED CHANGES INCLUDING TOP OF MALCH EXCEED THE GRADE ELEVATIONS AS PROVIDED FOR BY THE GRADING PLAN.
4. TOP OF MALCH SHALL FINISH 1" BELOW ADJACENT CONCRETE.
5. VOLUMES OF TOTAL QUANTITIES AS SHOWN IN THE "PLANT SCHEDULE" SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. THE PLANTING PLAN SHALL CONFORM.
6. NEW PLANTING SHALL BE LOCATED AS SHOWN ON PLANS. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE LOCATION OF ALL SITE ELEMENTS AND UTILITIES. IF DISCREPANCIES OCCUR, OR IF OBSTRUCTIONS BELOW THE GRADE ARE FOUND, THE CONTRACTOR SHALL NOTIFY THE LANDSCAPE ARCHITECT IMMEDIATELY. ANY NECESSARY ADJUSTMENTS SHALL BE MADE ONLY UPON APPROVAL OF THE LANDSCAPE ARCHITECT.
7. ALL PLANTING PITS AND BEDS SHALL BE BACKFILLED WITH PREPARED SOIL MIXTURE TO THE REQUIRED DEPTH AS SPECIFIED. THE MIXTURE SHALL BE COMPACTED TO THE REQUIRED DEPTH. THE MIXTURE SHALL BE PREPARED CONTINUOUSLY WITH SOIL MIXTURE TO THE REQUIRED DEPTH AS SPECIFIED.
8. ALL SHRUBS AND GROUND COVERS ARE TO BE MAINTAINED SO AS TO GROW TOGETHER AND FORM A MASS. PLANTING (TRAINING, SHEARING, ETC.) SHALL BE LIMITED TO TRAINING AS NECESSARY. THE NATURAL CROWN AND FORM OF THE PLANT SHALL BE MAINTAINED WITHOUT DAMAGE TO PRIMARY AND SECONDARY LEADERS.
9. ALL TREES SHALL BE SINGLE LEADER SPECIMENS UNLESS OTHERWISE NOTED.
10. THE OWNER OF THE PROPERTY SHALL BE RESPONSIBLE FOR THE CONTINUED PROPER MAINTENANCE, REPAIR, REPLACEMENT AND REMOVAL OF ALL PLANTING MATERIALS AND DEVICES IN ACCORDANCE WITH THE IMPROVED LANDSCAPE PLAN AND THE USUAL TRADE PRACTICES AND SPECIFICATIONS FOR THE PLANTING OF TREES AND SHRUBS AND BEDS AT ALL TIMES. ALL UNLAWFUL, PESTY (50) PERCENT OR MORE DEAD OR COMPLETELY DEAD, PLANTS SHALL BE REPLACED WITH A READY AVAILABLE WATER SUPPLY. MAINTENANCE SHOULD LANDSCAPED AREAS SHOULD BE PROVIDED WITH A READY AVAILABLE WATER SUPPLY. MAINTENANCE SHOULD BE PROVIDED FOR THE FIRST YEAR AFTER PLANTING AND THEREAFTER AS NECESSARY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING PLANTS AND OTHER NECESSARY UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING PLANTS AND OTHER NECESSARY UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING PLANTS AND OTHER NECESSARY UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING PLANTS AND OTHER NECESSARY UTILITIES.

**TREE PROTECTION NOTES:**

1. PRIOR TO ANY CLEARING, GRADING OR CONSTRUCTION, PROTECTION MEASURES SHALL BE PLACED AROUND ALL TREES TO BE REMOVED ON THE SITE PLAN TO PREVENT THE REMOVAL OR DAMAGE OF TREES. THESE SHALL BE LOCATED IN A CIRCULAR AREA WITH A DIAMETER EQUAL TO THE SPREAD OF THE TREE. THE PROTECTION SHALL BE INSTALLED AND MAINTAINED THROUGHOUT THE PROJECT. THE ONLY EXCEPTION TO THIS REQUIREMENT WILL BE THOSE SPECIFICALLY ALLOWED BY THESE PLANS AND SPECIFICATIONS.
2. BRANCHES OR LIMBS OF A TREE-PROTECTIVE BARRIER SHALL NOT BE HELD OR ATTACHED TO TREES DURING BUILDING OPERATIONS.
3. HEAVY EQUIPMENT OPERATORS SHALL BE CHARGED TO AVOID DAMAGE TO EXISTING TREES. BRANCHES AND LIMBS DAMAGED DURING OPERATIONS SHOULD NOT BE CUT IN ANY CASE. TO MAINTAIN THE TREE'S CIRCUMFERENCE (MEASURED 4 1/2" ABOVE GROUND LINE IN BIRCHES EXPOSED IN FEET), EXPLICIT CIRCUMFERENCE OF 10" WOULD HAVE A "TWO CUT ZONE" OF 10" ALL DIMENSIONS FROM THE TREE. THIS SHOULD APPLY TO PROTECT FOR ALL LIMB DIMENSIONS, IF POSSIBLE.
4. TREE TRUNKS AND EXPOSED ROOTS DAMAGED DURING EXISTING OPERATIONS SHALL BE REPAIRED IMMEDIATELY WITH A GOOD GRADE OF "TWO CUT ZONE" FOR THE TRUNKS AND ROOTS SHOULD BE PROTECTED BY THE CONTRACTOR.
5. ALL TREE LIMBS DAMAGED DURING BUILDING OR LAND OPERATIONS OR REMOVED FOR ANY OTHER REASON SHALL BE SHIPPED TO THE TRUCK AND PLANTED WITHIN A YEAR.
6. CROWN FOR REPLACEMENT TREES SHALL BE MAINTAINED AND PROTECTED. IF DAMAGED TREES ARE TO BE REPLACED, THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE TREE SPECIES OF THE QUALITY, AS SPECIFIED BY THE ARCHITECT.

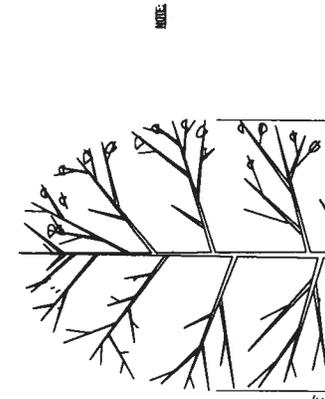


PLANTING METHODS

METHOD 1

METHOD 2

ALL TREES IN A TREE PROTECTION AREA OR ISOLATED SPECIMENS THAT ARE NOT SPECIFICALLY SHOWN TO BE REMOVED ARE TO BE SHIPPED. ANY EXCAVATION OR TRENCHING WHICH IMPACTS THE ROOT SYSTEM OR DOWN BRANCHING OF TREES NEEDS TO BE PROTECTED WITH PROTECTIVE BARRIERS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING PLANTS AND OTHER NECESSARY UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING PLANTS AND OTHER NECESSARY UTILITIES.



TREE PROTECTION

PLANTING NOTES & DETAILS

N.T.S.

## EXCERPTS FROM PLANNING COMMISSION MINUTES

**November 2, 2016**

**CU-2016-0002, Crown Castle GT Company, LLC.** Requests a conditional use permit to allow for the operation of a communications tower located at 517 29<sup>th</sup> Street zoned R9 Mixed Use. The Parcel No. is 305.04-04-53.

David Watson, Planner, presented the staff report (copy attached to record minutes).

Mr. Carpenter opened the public hearing.

Mr. Scott Johnson, 9011 Arboretum Parkway, Richmond, applicant, stated he was available for questions.

Mr. Groce asked if the applicant is expanding the Verizon Wireless capacity right now. Mr. Johnson stated yes, that is what precipitated this application. He stated that, with the shipyard allowing their employees to use cellular phones, they are experiencing an extreme lack of capacity and have come up with a new design with a three foot bulb that contains four separate antennas within it that can be directionally set in order to cover a full 120 degree isthmus.

Mr. Groce asked if there are three carriers on the existing tower. Mr. Johnson stated yes. He stated T-Mobile will be adding three antennas to the existing configuration to add broadband connectivity and also for additional capacity. Mr. Johnson stated they have not received any applications from Sprint yet, but anticipate they will.

Mr. Groce asked how many carriers can be put on a tower this size. Mr. Johnson stated the Middle Class Tax Relief and Job Creation Act of 2012 allows a tower to be extended for an additional carrier, up to 10% or 20 feet, whichever is greater. He stated they do not anticipate doing any extensions on this tower because there is still space available at a lower RAD center. Mr. Johnson stated we have three major carriers on there right now and the core business of Crown Castle is to encourage collocation.

Ms. Fox asked if collocating on this tower helps preclude the need for additional towers in that area. Mr. Johnson stated yes, that is correct.

Mr. Carpenter stated that, in regard to the Middle Class Tax Relief and Job Creation Act of 2012 which would allow for a 10% increase in height or 20 feet, the conditional use permit states the tower will not be taller than 120 feet. Ms. McAllister stated federal law supersedes the conditional use permit.

Mr. Carpenter closed the public hearing.

Mr. Groce made a motion to recommend approval of conditional use permit CU-2016-0002 to City Council, as recommended by staff. The motion was seconded by Ms. Fox.

Ms. Willis stated she supports the application because it allows the applicant to expand at their location and install landscaping.

**Vote on Roll Call**

**For: Fox, Jones, Simmons, Austin, Willis, Groce, Maxwell, Carpenter**

**Against: None**

**Abstention: None**

The Planning Commission voted unanimously (8:0) to recommend approval of conditional use permit CU-2016-0002 to City Council.

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

AN ORDINANCE GRANTING CONDITIONAL USE PERMIT NUMBER CU-2016-0002 FOR THE HEREINAFTER DESCRIBED PROPERTY FOR THE PURPOSE OF OPERATING A COMMUNICATION TOWER/ANTENNA ON A SITE ZONED R9 MIXED USE.

WHEREAS, application number CU-2016-0002 has been made by **CROWN CASTLE GT COMPANY, LLC, owner and applicant**, for a conditional use permit for the hereinafter described property for the purpose of operating a communication tower/antenna on a site zoned R9 Mixed Use; and

WHEREAS, the application has been referred to the Planning Commission of the City of Newport News for recommendation and has been duly advertised as required by law and the said Planning Commission has made its recommendation.

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

(a) That conditional use permit number CU-2016-0002 is hereby granted for the property described in paragraph (b) hereof for the purpose of operating a communication tower/antenna on a site zoned R9 Mixed Use; and

(b) That the property, hereinafter referred to as the "Property," to which the conditional use permit applies is particularly described below:

PARCEL ONE:

All those certain lots, pieces or parcels of land, lying, situate and being in the City of Newport News, Virginia, and designated by Lots Numbered Twenty-Seven (27) and Twenty-Eight (28), in Block Numbered One Hundred Fifty-Five (155), as shown on a certain map entitled, "Map of a part of the City of Newport News, VA," which said map is of record in the Clerk's Office of the Circuit Court (formerly Corporation Court) of the City of Newport News, Virginia, in Plat Book 1, page 3.

PARCEL TWO:

All those certain lots, pieces or parcels of land, lying, situate and being in the City of Newport News, Virginia, and designated by Lots Numbered Twenty-Nine (29) and Thirty (30) and Thirty-One (31), in Block Numbered One Hundred Fifty-Five (155), as shown on a certain map entitled, "Map of a part of the City of Newport News, VA," which said map is of record in the Clerk's Office of the Circuit Court (formerly Corporation Court) of the City of Newport News, Virginia, in Plat Book 1, page 3.

The property has a common street address of 517 29<sup>th</sup> Street. The parcel is assigned Real Estate Assessor's Tax I.D. #305.04-04-53.

(c) That this conditional use permit is granted subject to the following conditions, each of which shall be implemented upon approval of this ordinance:

1. The height of the communications tower shall not exceed 128 feet including antennas and appurtenances.
2. All equipment and materials shall be limited to within the 2,260 square foot enclosed lease area as depicted in Appendix A-2, which is attached hereto and made a part hereof.
3. The landscape plan shall be largely in conformance with the plan prepared by BC Architecture and Engineering, dated October 24, 2016 and noted as Appendix A-6, which is attached hereto and made a part hereof, and shall be submitted to and approved by the Director of Planning prior to site plan approval. All landscaping shall be installed in accordance with the approved plan and shall be maintained in a healthy condition in perpetuity. The use approved by this permit shall not commence until the landscaping has been installed.
4. The owner shall have a structural inspection conducted annually by a registered professional engineer licensed in the Commonwealth of Virginia and a copy of the inspection report shall be filed with the Department of Codes Compliance.
5. The applicant shall file with the Department of Codes Compliance a statement from a registered engineer that non-ionizing electromagnetic radiation (NEIR) emitted from the communications tower does not result in a ground level exposure at any point outside such facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
6. Obsolete, unused or abandoned communications towers/antenna facilities shall be removed within twelve (12) months of obsolescence, cessation of use or abandonment.
7. A bond of \$50,000 shall be required to expedite removal of the tower within twelve (12) months of obsolescence, cessation of use or abandonment.
8. Except where specified herein, all applicable provisions of Chapter 45, Zoning Ordinance of the Code of the City of Newport News, Virginia, Article

V, General Regulations Applicable without Reference to Zoning Districts, Section 45-523, Communication Tower/Antenna, shall be met, prior to issuance of a building permit, to include the requirement of a bond to expedite removal of the tower within twelve (12) months of obsolescence, cessation of use or abandonment.

9. The tower shall have no markings, signs, or lighting except for lighting that may be required by the Federal Aviation Administration (FAA).
10. The applicant, as well as successors, assigns and agents, if any, shall comply with all of the conditions stated herein, as well as all codes, ordinances and regulations of federal, state and local governments.
11. The applicant, as well as successors, assigns, and agents, if any, shall obtain all necessary licenses, approvals, conditional approvals, and permits prior to commencing any use, which is authorized by this conditional use permit or law. Furthermore, the applicants, as well as successors, assigns, and agents shall maintain all necessary licenses, approvals, conditional approvals, and permits for the entire period of time during which the real property, whether improved or otherwise is put to a use which is authorized by this conditional use permit.
12. Violation of any of the above conditions or safeguards attached thereto shall be deemed a violation of the Zoning Ordinance, and, in addition, and notwithstanding any other provision of law, shall serve as grounds for revocation of the conditional use permit by City Council.
13. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; therefore, the conditions contained in this conditional use permit are not severable; in the event that any condition contained herein, or part thereof, is found by a court of competent jurisdiction to be invalid, unconstitutional, or otherwise unenforceable, then this conditional use permit shall be void and the use permitted by this conditional use permit shall cease. If this conditional use permit becomes void as a result of a condition or a part thereof, or conditions therein, being ruled invalid, unconstitutional or otherwise unenforceable, the property owner shall be afforded the right to reapply for a conditional use permit.
14. Notwithstanding any other provision of law, this conditional use permit is being approved due, in part, to the mitigating effects of each and every condition contained herein; as such, in the event an amendment to the zoning of the property described in Section (b) hereof is produced by a comprehensive implementation of a new or substantially revised Zoning

Ordinance, the conditions imposed by the conditional use permit shall continue in effect.

(d) That this conditional use permit shall be deemed to have been abandoned and shall be revoked:

1. If the construction of the improvements or occupancy authorized by this conditional use permit has not commenced within twenty-four (24) months of November 22, 2016, or,
2. In the event of the continuous nonuse of the property as herein permitted for a period of twelve (12) months.





**BC**  
architects  
engineers

1001 COMMONWEALTH AVE. SUITE 200  
FALLS CHURCH, VA 22033  
TEL: (703) 971-4200

**CROWN  
CASTLE**

1001 COMMONWEALTH AVE. SUITE 200  
FALLS CHURCH, VA 22033  
TEL: (703) 971-4200

**SHEET REVISIONS**

NO.	DESCRIPTION	DATE
1	ISSUE FOR PERMITS	10/24/16
2	ISSUE FOR PERMITS	10/24/16
3	ISSUE FOR PERMITS	10/24/16
4	ISSUE FOR PERMITS	10/24/16
5	ISSUE FOR PERMITS	10/24/16

**SITE NAME:**  
TERMINAL

**SITE NUMBER:**  
816074

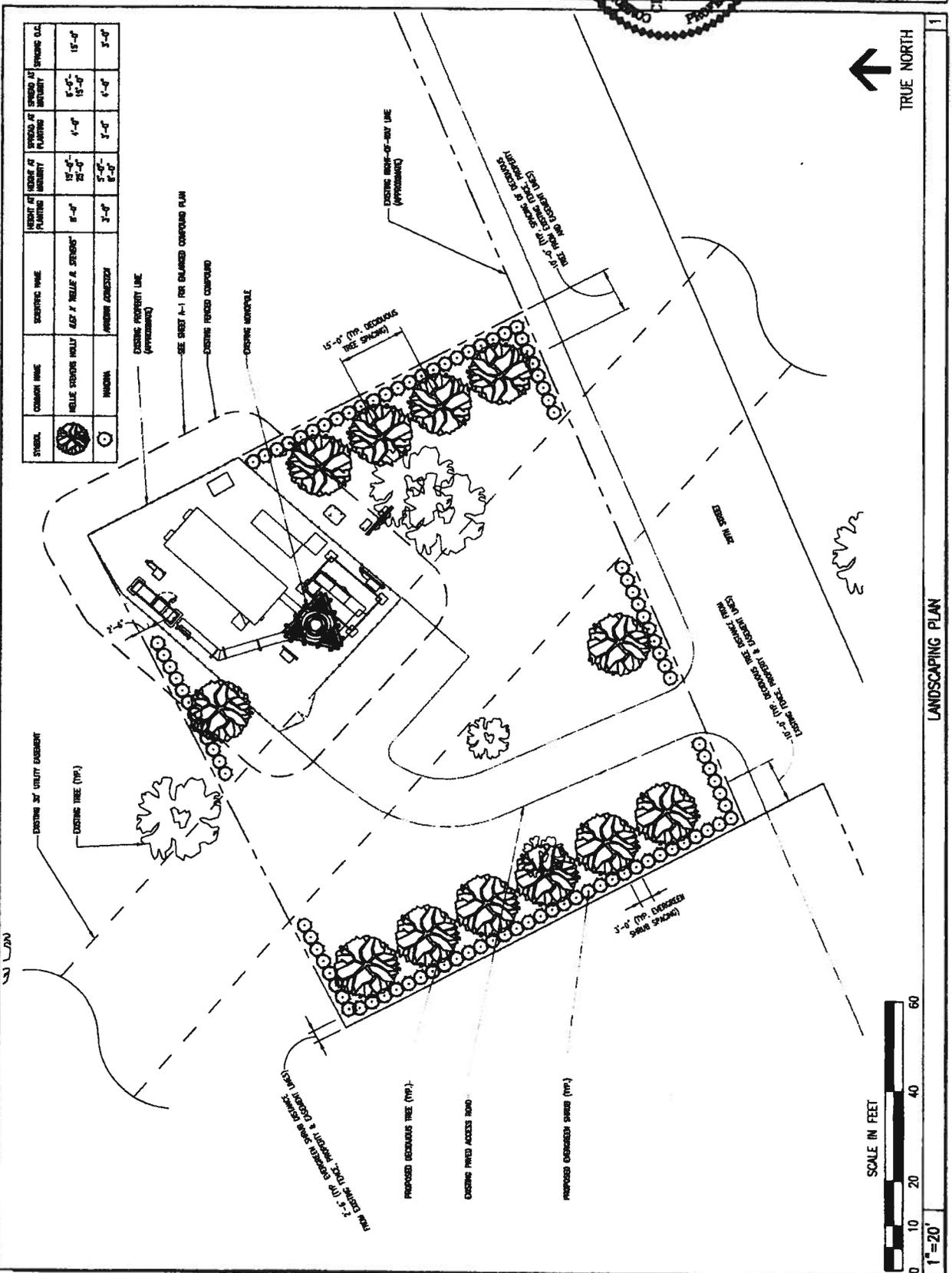
**DATE:**  
07/20/16

**PROJECT:**  
TERMINAL

**LANDSCAPING PLAN**

**SHEET NUMBER:** L-1

**REV. #:** 3



## E. Public Hearings

### 3. Ordinance Authorizing and Directing the City Manager to Execute A Deed of Vacation for a Waterline Easement Located at Marcella at Town Center Phase II, 2115 Executive Drive in Hampton, Virginia

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION TO COLISEUM INVESTMENT CO. 2, LLC, FOR A PORTION OF A WATERLINE EASEMENT LOCATED AT 2115 EXECUTIVE DRIVE IN HAMPTON, VIRGINIA AND AUTHORIZING THE CITY MANAGER TO TAKE SUCH FURTHER ACTIONS AS SHALL BE NECESSARY TO COMPLETE THE TRANSACTION.

**BACKGROUND:**

- The location of this property is 2115 Executive Drive, and is located at Marcella at Town Center in Hampton, Virginia.
- Coliseum Investment Co. 2, LLC has asked the City to formally vacate the unneeded portion of the existing waterline easement via a Deed of Vacation.
- A Notice of Public hearing has been published in the *Daily Press* for the required four consecutive weeks.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

#### ATTACHMENTS:

##### Description

CM Memo re Deed of Vacation-2115 Executive Dr in Hampton

sdm14730 Authorizing a Deed of Vacation to Coliseum Investment Co. 2, LLC

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council

**FROM:** City Manager

**SUBJECT:** Vacation of Waterline Easement at Marcella at Town Center, Phase 2

Coliseum Investment Co. 2, LLC is asking for a "partial vacation of an existing waterline easement" located at 2115 Executive Drive, Hampton, Virginia, because portions of the easements were created to accommodate development which existed on the property at one time, but since have been demolished. New construction involving an entirely different use and layout is underway. New easements have been created with the City of Newport News to accommodate the new development.

In a letter dated September 1, 2016, Laurie L. Dawson, Assistant General Counsel for Coliseum Investment Co. 2, LLC, asked that the City formally vacate the portion of the existing Waterworks Department easement. A Notice of Public Hearing has been published in the *Daily Press* for the required four consecutive weeks.

I recommend that City Council adopt the ordinance authorizing me to execute a Deed of Vacation to Coliseum Investment Co. 2, LLC for that portion of the waterline easement no longer utilized by the City.

  
James M. Bourey

JMB:WW:sjth

cc: Scott Dewhirst, Interim Director, Waterworks Department

**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, A DEED OF VACATION OF AN INTEREST IN REAL PROPERTY AS DESCRIBED HEREIN TO COLISEUM INVESTMENT CO. 2, LLC, AND AUTHORIZING THE CITY MANAGER TO TAKE SUCH FURTHER ACTIONS AS SHALL BE NECESSARY TO COMPLETE THE TRANSACTION.

WHEREAS, the City Manager recommends that the City Council authorize the conveyance of a certain interest in real property located at 2115 Executive Drive, Hampton, Virginia, by quitclaim deed to Coliseum Investment Co. 2, LLC; and

WHEREAS, the property to be conveyed consists of an unneeded portion of waterline easements at Marcella at Town Center, Phase II; and

WHEREAS, the City Council wishes to provide City Manager general authority to cause the real estate transaction to be completed.

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, a deed of vacation, vacating and quitclaiming the portion of the easement described in the deed attached hereto and made a part hereof to Coliseum Investment Co. 2, LLC.
2. That the City Manager is hereby authorized and directed to take such further actions as shall be necessary to complete the transaction.
3. That all deeds and other documents shall be subject to the review and approval of the City Attorney.
4. That this ordinance shall be in effect on and after the date of its adoption, November 22, 2016.

LRSN: 7001340

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 Underwriter: Unknown  
Deed prepared without benefit of title examination

**THIS DEED OF VACATION**, made this 22<sup>nd</sup> day of November, 2016, by and between the **CITY OF NEWPORT NEWS, VIRGINIA**, a municipal corporation, Grantor, and **COLISEUM INVESTMENT CO. 2, LLC**, a Virginia limited liability company, Grantee, whose mailing address is 544 Newtown Road, Suite 128, Virginia Beach, Virginia 23462

**RECITALS**

**WHEREAS**, by Deeds recorded in the Clerk's Office of the Circuit Court for the City of Hampton, Virginia, in Deed Book 626, page 316, Deed Book 1030, page 1917, and Deed Book 1123, page 1924, certain water pipeline easements across property now owned by Grantee were conveyed to Grantor; and

**WHEREAS**, a portion of the waterline easements thereby dedicated is not being utilized by Grantor, and Grantee has requested that Grantor vacate said portion of the waterline easements; and

**WHEREAS**, Grantor agrees to the vacation of said portion of its easement, and the Council of the City of Newport News, by Ordinance No. \_\_\_\_\_, adopted on November 22, 2016, authorized the vacation and quitclaim conveyance of that portion of the waterline easements that is no longer needed.

**NOW, THEREFORE, WITNESSETH:** That for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor does hereby vacate, remise, release, grant,

convey and forever quitclaim to Grantee, any and all right, title and interest of the Grantor, either at law or in equity, to that certain portion of its waterline easement, described as follows:

All of that area shown and identified as “UNUSED PORTION OF EXISTING NNWW EASEMENT TO BE VACATED” on that plat entitled “EXHIBIT FOR PARTIAL VACATION OF WATERLINE EASEMENT AT MARCELLA AT TOWN CENTER PHASE 2 BY THE CITY OF NEWPORT NEWS” made by Mark Houston Ricketts, Land Surveyor, dated August 24, 2016, a copy of which is attached hereto for a more complete and accurate description of the easement hereby vacated.

**TO HAVE AND TO HOLD** whatever interest the Grantor may possess in said vacated easement unto the Grantee, its successors and assigns, forever.

**WITNESS** the following signatures and seals:

[Signature Page Follows]

**CITY OF NEWPORT NEWS, VIRGINIA**

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

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

COMMONWEALTH OF VIRGINIA  
City of Newport News, to wit:

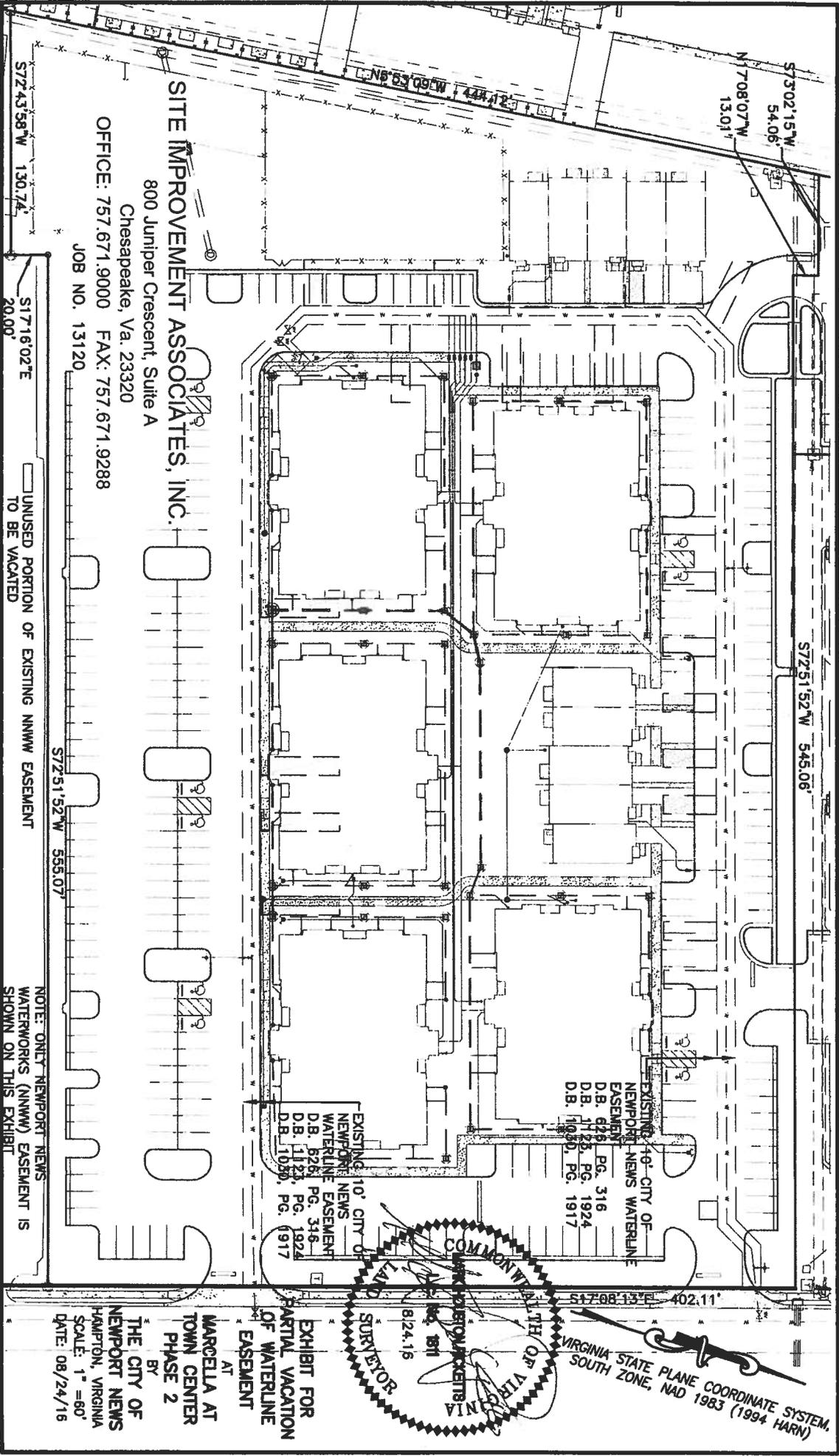
I, \_\_\_\_\_, a Notary Public in and for the City and Commonwealth aforesaid, do hereby certify that the CITY OF NEWPORT NEWS, VIRGINIA by James M. Bourey, its City Manager, and attested by Mabel Washington Jenkins, MMC, its City Clerk, whose names are signed to the foregoing writing, hereto annexed,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

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

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_  
Registration No.: \_\_\_\_\_

sdm14731



**SITE IMPROVEMENT ASSOCIATES, INC.**

800 Juniper Crescent, Suite A  
 Chesapeake, Va. 23320  
 OFFICE: 757.671.9000 FAX: 757.671.9288  
 JOB NO. 13120

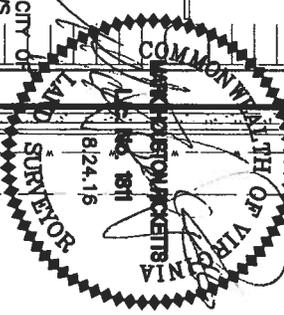
S17.16'02"E  
 UNUSED PORTION OF EXISTING NNW EASEMENT  
 TO BE VACATED

NOTE: ONLY NEWPORT NEWS  
 WATERWORKS (NNW) EASEMENT IS  
 SHOWN ON THIS EXHIBIT

AT  
 MARCELLA AT  
 TOWN CENTER  
 PHASE 2  
 BY  
 THE CITY OF  
 NEWPORT NEWS  
 HAMPTON, VIRGINIA  
 SCALE: 1" = 80'  
 DATE: 08/24/16

EXISTING 10' CITY OF  
 NEWPORT NEWS  
 WATERLINE EASEMENT  
 D.B. 826, PG. 316  
 D.B. 1128, PG. 1924  
 D.B. 1050, PG. 1917

EXISTING 16' CITY OF  
 NEWPORT NEWS WATERLINE  
 EASEMENT  
 D.B. 626, PG. 316  
 D.B. 1128, PG. 1924  
 D.B. 1050, PG. 1917



VIRGINIA STATE PLANE COORDINATE SYSTEM,  
 SOUTH ZONE, NAD 1983 (1994 HARN)

## **E. Public Hearings**

### **4. Ordinance Authorizing and Directing the City Manager to Execute Any and All Documents Necessary to Effectuate the Conveyance of City-owned Property Located at 1151 29<sup>th</sup> Street to 1149 29<sup>th</sup> Street Land Trust**

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AND ALL DOCUMENTS, INCLUDING DEEDS, NECESSARY TO EFFECTUATE THE CONVEYANCE OF CITY-OWNED PROPERTY LOCATED AT 1151 29TH STREET TO 1149 29TH STREET LAND TRUST.

**BACKGROUND:**

- Approval is sought for the conveyance of City-owned property located at 1151 29th Street to 1149 29th Street Land Trust (Land Trust), the owner of the adjacent undeveloped parcel at 1149 29th Street.
- The potential sale has been circulated for interdepartmental review, to which no objections to the conveyance were noted.
- The Department of Planning requested, and Land Trust agreed, to certain conditions and restrictions to be incorporated in the deed related to the use of the parcel and construction on the parcel.

**FISCAL IMPACT:**

- The purchase price of the 17x100-foot lot is the current City-assessed value of \$1,700.
- The City Manager recommends approval.

#### **ATTACHMENTS:**

##### **Description**

CM Memo re Conveyance of 1151 29th Street

##### **Attachment**

rag1130 Authorizing re Any and All Documents for Conveyance of 1151 29th Street

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

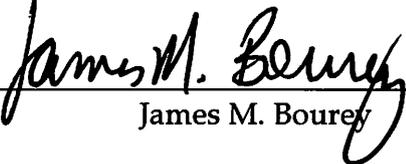
**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Conveyance of City-owned Property Located at 1151 29<sup>th</sup> Street

Council action is requested to approve the conveyance of an undeveloped City-owned parcel located at 1151 29<sup>th</sup> Street, as shown on the attached map. A request has been received from 1149 29<sup>th</sup> Street Land Trust (Land Trust) to acquire the 17-foot x 100-foot lot located immediately adjacent to Land Trust's lot at 1149 29<sup>th</sup> Street. Land Trust has agreed to pay the City-assessed value of \$1,700 for the lot.

The potential sale has been circulated for interdepartmental review, to which no objections to the conveyance were noted. The Department of Planning has asked, and Land Trust has agreed, to incorporate the following conditions and restrictions in the deed:

- 1) The Property shall be used only for single-family residential purposes, in conjunction with 1149 29<sup>th</sup> Street.
- 2) Any construction on the Property shall be in accordance with all applicable City and state codes and regulations, and shall be subject to the review and approval of the City of Newport News' Director of Planning.

I recommend Council approve the conveyance of this surplus City-owned parcel located at 1151 29<sup>th</sup> Street, as outlined above, and authorize me to execute any documents necessary to effectuate the transaction.

  
James M. Bourey

JMB:tcf

Attachment

cc: Florence G. Kingston, Director, Department of Development



**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 1149 29<sup>TH</sup> STREET LAND TRUST.

WHEREAS, the City Manager has recommended that certain City owned property be conveyed to 1149 29<sup>th</sup> Street Land Trust; and

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

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 deed, of the City owned property listed below to 1149 29<sup>th</sup> Street Land Trust:

<u>ACCOUNT</u>	<u>ADDRESS</u>	<u>LEGAL DESCRIPTION</u>
301.0303-45	1151 - 29 <sup>th</sup> Street	Pt Lot 11 & Pt. Alley, Block 5C

2. That the sale price of the property to be conveyed shall be ONE THOUSAND SEVEN HUNDRED DOLLARS (\$1,700.00).

3. That the documents necessary to implement the property conveyance authorized herein shall either be prepared by or reviewed by the City Attorney before their execution.

4. That the property conveyance authorized herein shall be subject to the following conditions:

- (i) The property shall be used only for single-family residential purposes in conjunction with the adjacent parcel located at 1149 - 29<sup>th</sup> Street; and
- (ii) Any construction on the property shall be in accordance with all applicable city and state codes and regulations, and shall be subject tot he review and approval of the City of Newport News Director of Planning.

## E. Public Hearings

### 5. Ordinance Authorizing and Directing the City Manager to Execute a Newport News Seafood Industrial Park Lease of Office Space Located at 34 Jefferson Avenue to Davis Boat Works, Inc., d/b/a Fairlead Boatworks

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE A NEWPORT NEWS SEAFOOD INDUSTRIAL PARK LEASE OF OFFICE SPACE LOCATED AT 34 JEFFERSON AVENUE, BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND DAVIS BOAT WORKS, INC., D/B/A FAIRLEAD BOATWORKS.

**BACKGROUND:**

- The current lease, which has been renewed several times since its origination in 1996, will expire December 31, 2016.
- Fairlead has requested an additional 152 square-feet of office space, for a total of 4,049 square-feet.
- The new lease will also include 40 reserved parking spaces within the lot.

**FISCAL IMPACT:**

- The initial term of the new lease will be from January 1, 2017 to December 31, 2017, with four additional one-year renewal options.
- The rental rate will be \$10.95 per square foot, for a total annual rent of \$44,336.55.
- All other terms and conditions of the existing lease and addendum will remain the same.
- The City Manager recommends approval.

#### ATTACHMENTS:

##### Description

CM Memo re Lease of Office Space in the SIP

##### Attachment

rag1139 Authorizing Lease of Office Space at 34 Jefferson Avenue to Davis Boat Works

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Lease of Office Space to Davis Boat Works, Inc. d/b/a Fairlead Boatworks

The City leases 3,897 square-feet of office and storage space in the City-owned building at 34 Jefferson Avenue, in the Seafood Industrial Park (SIP) to Fairlead. The current lease, which has been renewed several times since its origination in 1996, will expire December 31, 2016. For your convenience of reference, 34 Jefferson Avenue is located generally as outlined in red on the attached map.

Fairlead has requested a new lease, with terms and conditions substantially similar to the current lease. Fairlead's request includes an additional 152 square-feet of office space within the building, for a total of 4,049 square-feet. Also included in the new lease will be additional parking within the 34 Jefferson Avenue lot. The initial term of the proposed new lease will be from January 1, 2017 to December 31, 2017, with four additional one-year renewal options. The rental rate will be \$10.95 per square foot, for a total annual rent of \$44,336.55. All other terms and conditions of the proposed new lease will remain the same as the existing lease and addendum.

I recommend that Council approve the Resolution, prepared and provided to you by the City Attorney's office, authorizing the requested lease to allow Fairlead's continued use of the office space it has occupied since 1996 and authorizing me to execute any documents necessary to effectuate the transaction.

  
James M. Bourey

JMB:dpk

Attachment

cc: Florence G. Kingston, Director, Department of Development

# 34 Jefferson Avenue



Office Building

Parking Lot

**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 NEWPORT NEWS SEAFOOD INDUSTRIAL PARK LEASE OF OFFICE SPACE LOCATED AT 34 JEFFERSON AVENUE, NEWPORT NEWS, VIRGINIA BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND DAVIS BOAT WORKS, INC., DATED THE 22<sup>ND</sup> DAY OF NOVEMBER, 2016.

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

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Newport News Seafood Industrial Park Lease of Office Space Located at 34 Jefferson Avenue, Newport News, Virginia by and between the City of Newport News, Virginia, and Davis Boat Works, Inc., dated the 22<sup>nd</sup> day of November, 2016.
2. That a copy of the said Lease is attached hereto and made a part hereof.

**NEWPORT NEWS SEAFOOD INDUSTRIAL PARK**  
**LEASE OF OFFICE SPACE LOCATED AT**  
**34 JEFFERSON AVENUE, NEWPORT NEWS, VIRGINIA**

**THIS COMMERCIAL LEASE**, made this 22<sup>nd</sup> day of November, 2016, by and between the **CITY OF NEWPORT NEWS, VIRGINIA** a Municipal Corporation in the Commonwealth of Virginia, hereinafter called "Lessor," party of the first part, and **DAVIS BOAT WORKS, INC.**, hereinafter called "Lessee," party of the second part.

**WITNESSETH:** That in consideration of the rent, provisos and agreements herein contained, which Lessee, its successors and assigns, expressly agree to be paid, done and performed; Lessor doth grant and lease unto Lessee the following described property, to-wit:

Four thousand forty nine (4,049) square feet of office space located at 34 Jefferson Avenue, Newport News Seafood Industrial Park (SIP), plus forty (40) reserved parking spaces in the parking lot in front of said building located in the City of Newport News, Virginia, hereinafter referred to as the "Leased Premises".

The initial term of this lease shall be for a period of one (1) year to commence on January 1, 2017, and terminate on December 31, 2017, unless sooner terminated as a result of a breach of the terms or conditions of this lease by Lessee, or by abandonment of the Leased Premises by Lessee, or as otherwise provided herein. At the termination of the initial term of this lease, if all the terms and conditions of this lease have been complied with by Lessee, Lessee may renew this lease as provided herein for up to four (4) additional one-year terms at the existing rental rate. Lessee shall, no less than ninety (90) days prior to the termination of any one of the terms provided for herein, give notice in writing to Lessor's City Manager of its request to renew, otherwise, Lessee shall vacate the Leased Premises by the end of the said term.

Lessee shall pay to Lessor for the use and occupancy of the Leased Premises pursuant to this lease an initial annual rental equal to TEN DOLLARS AND NINETY-FIVE CENTS (\$10.95) per square foot multiplied by the total 4,049 square foot area of the Leased Premises, for a total annual rental of FORTY-FOUR THOUSAND THREE HUNDRED THIRTY-SIX AND 52/100 DOLLARS (\$44,336.52).

The Annual rental payments are due and payable in monthly installments, in advance, on or before the fifth (5th) day of each month. Failure to pay rent by the fifth (5th) day of each month shall subject Lessee to a monthly late payment charge of TEN PERCENT (10%) of the monthly rent. This late charge shall be compounded and added to the outstanding balance after the fifth (5th) day of each following month until the total payment and late charges are paid to Lessor. Failure to timely remit such rental payments to Lessor shall also be subject to paragraph 9 of this lease. On any matter pertaining to rental collection, Lessee agrees to pay all court costs and any other expenses of collection, as well as reasonable attorney's fees.

It is further covenanted and agreed between the parties hereto as follows:

1. The use of the Leased Premises shall be subject to all Federal, State and local laws, as well as all regulations issued pursuant thereto.
2. Neither the whole or any portion of the said Leased Premises shall be sublet or assigned for any purpose without the prior consent of Lessor in writing. In the event the Lessor agrees to allow Lessee to sublet or assign the whole or any portion of the Leased Premises, Lessor reserves the right to renegotiate the terms of the original lease and to establish a new lease with the sublessee or assignee. In the event that Lessor agrees to allow Lessee to sublet or assign the whole or any portion of the Leased Premises, such assignee shall have no greater rights and shall be subject

to the same terms and conditions as Lessee. The total rental paid by the sublessee or assignee to Lessee shall not exceed the square foot rental paid by Lessee to Lessor, as it is the intent of Lessor not to allow Lessee to profit from the subleasing the Leased Premises.

3. Lessee agrees that this lease is non-transferable and non-assignable to any third person or entity. Any such transfer or assignment shall constitute cause for immediate termination of this lease at the sole option of Lessor.

4. Lessor agrees to maintain and keep in good repair the Leased Premises, except that Lessee agrees to repair any damage to the Leased Premises due to the negligence of Lessee. Lessee also agrees to notify Lessor of any damages or defects in the Leased Premises as soon as is practicably possible after their discovery. Included in the maintenance and good repair are all heating/air conditioning units, the electrical stove and oven, the hot water heater and the installed security system. Lessee shall maintain all equipment provided and owned by Lessee. Normal janitorial services shall be provided by Lessor and shall include one annual cleaning of the carpeting existing in place in the Leased Premises at the beginning of the initial term of this lease.

5. No materials or supplies shall be stored in any area on the property except in an enclosed building or behind a visual barrier approved by Lessor.

6. Lessor reserves the right of prior approval for installation of any security fence on the Leased Premises.

7. Mooring of barges, boats, vessels or any other floating structure inside the Newport News Seafood Industrial Park Jetty is not provided for in this lease. Jetty utilization is covered by separate agreements and regulations.

8. No litter or debris shall be allowed to accumulate in open spaces on or within the Leased Premises.

9. It is further covenanted and agreed by the parties hereto that in the case of default or breach of any of the covenants and agreements herein contained to be performed by Lessee, as herein set out to be observed, kept and performed by it, then Lessor reserves the right unto itself to cancel this lease, and it shall have the right, at any time afterward to enter into and upon the said Leased Premises, or any part thereof, and the same again to have, repossess and enjoy as of its former estate. Except for failure to timely remit rental payments, prior to the exercise of its option to cancel this lease agreement pursuant to this paragraph, Lessor agrees to give notice of such default or breach to Lessee. In the event Lessee cures the default or breach within a reasonable time, no basis for action pursuant to this paragraph will lie. The time period within which Lessee must cure the default or breach shall in no instance exceed sixty (60) days, except that lease payments must be made by the 5th day of each month, without notice, and failure to do so is an event of substantial default. Repeated defaults, breaches and violations of law or regulations by Lessee will not be tolerated, and Lessee agrees that the notice-to-cure provision of this paragraph may be, after thirty (30) days written notice, unilaterally withdrawn by the Newport News, Virginia, City Council if it finds that the provision has been abused. In the event this lease is canceled pursuant to this paragraph, all unpaid rents will become due and payable immediately upon cancellation.

10. It is understood and agreed that Lessee will indemnify, defend, protect and save harmless the City of Newport News, Virginia, from and against all losses and claims of physical damages to property, and bodily injury or death to any person or persons, which may arise out of or be caused by the use and maintenance of the Leased Premises by Lessee or any claim as aforesaid

growing out of Lessee's business or businesses referred to herein. In addition, Lessee agrees to obtain, and continuously keep in force, an insurance policy with a company qualified to do business in the Commonwealth of Virginia. The policy shall at least provide for the following coverage:

- a. Bodily injury or death to any person or persons      \$1,000,000.00
- b. Physical damage to property      \$500,000.00

Said policy shall provide that the City of Newport News, Virginia is added as an additional insured under the terms of the policy and shall first be approved by the Newport News, Virginia, Office of Self-insurance. Failure to keep the required insurance coverage continuously in force constitutes an event of substantial default of this lease.

11. Lessor shall pay the water, sewer and security bills for the building. Lessee shall pay its own electric bill, the usage being measured by separate meter, and its own telephone bill. Lessee agrees to reimburse Lessor a portion of the water and sewer bills based upon the percent of total square feet of the building leased by Lessee which is calculated to be SEVENTY-SIX PERCENT (76%).

12. Lessee shall provide a sufficient number and size of solid waste disposal containers so as to accommodate Lessee's waste generated by the use of the Leased Premises and dispose of solid waste on a weekly basis at its own expense.

13. It is mutually agreed that Lessor has the right to enter onto the property during reasonable business hours for the purpose of insuring that Lessee complies with applicable laws, as well as the terms of this lease.

14. The Leased Premises shall be used only for general office use.

15. Lessee agrees to pay to Lessor as rent, in addition to the fixed rental herein required, any and all sums which may become due by reason of the failure of Lessee to comply with all the covenants of this Lease, and any and all damages, costs and expenses which Lessor may suffer or incur by reason of any default of Lessee or failure on Lessee's part to comply with the covenants of this Lease, as well as the cost of repairing any and all damages to the Leased Premises or the building of which the Leased Premises are a part caused by any negligence of Lessee, its agents and invitees.

16. Lessee will give to Lessor prompt written notice of any defect, accident, fire or damage occurring on or to the Leased Premises.

17. Lessee will peacefully deliver up and surrender possession of the Leased Premises to Lessor at or prior to the expiration or earlier termination of this Lease, or any renewal thereof, in the same good order and condition, normal wear and tear excepted, in which Lessee has herein agreed to keep the same during the continuance of this Lease. Lessee will at or prior to the expiration or earlier termination of this Lease or any renewal thereof remove all of its property from the Leased Premises so that Lessor may again have and repossess the same not later than noon on the day on which this Lease or the renewal thereof shall terminate.

18. Lessee shall not do or suffer to be done any act, or employ or allow any person to do any act, as a result of which the fire insurance or any other insurance now in force or hereafter to be placed on the Leased Premises, or any part thereof, or the building of which the Leased Premises are a part, shall become void or suspended, or whereby the same shall be rated as a more hazardous risk than at the date of execution of this Lease. Lessee shall not carry or have any benzine

or explosive matter of any kind on and about the Leased Premises, except in quantities and containers approved in advance by the Port Development Administrator.

19. At any time after notice properly given by either party to the other of an intention to terminate this Lease, Lessor may conduct persons who may be interested in leasing the Leased Premises in and about the same.

20. In the event that the Leased Premises are totally destroyed or rendered unfit for occupancy or are so damaged by fire or other casualty, not occurring through fault or negligence of Lessee or of those employed by or acting for Lessee, that the same cannot be repaired and restored within a time the parties shall by mutual agreement deem reasonable, this Lease shall absolutely cease and terminate as of the date of occurrence of said destruction or damage, and the rental payments shall thereafter abate for the balance of the term. If damage to the Leased Premises is only partial, and such that the Leased Premises can be repaired and restored to their former condition within a time which the parties by mutual agreement deem reasonable, Lessor may, at its sole option, repair and restore the same with reasonable promptness. The rental payments shall be apportioned and suspended during the time Lessor is in possession for the purpose of such repair and restoration, taking into account the proportion of the Leased Premises rendered untenable and the duration of Lessor's possession.

21. Lessor shall not be liable for any loss or damage howsoever occurring to the contents of the Leased Premises.

22. Lessor shall not be liable for any damages, compensation or claim by reason of inconvenience, annoyance, injury or loss resulting from the termination of this Lease by reason of the destruction of the Leased Premises, from the making of repairs, alterations, additions or

improvements to any portion of the Leased Premises, the building or the facilities thereof, from any of the services or facilities supplied by Lessor, or from the leaking of rain, snow, water, steam or gas into, in or about the Leased Premises or the building of which the Leased Premises is a part.

23. It is hereby covenanted and agreed, any law, usage or custom to the contrary notwithstanding, that Lessor shall have the right at all times to enforce the covenants and provisions of this Lease in strict accordance with the terms hereof, notwithstanding any conduct on the part of Lessor in refraining from so doing at any time or times; and, further, that the failure of Lessor at any time or times to enforce its rights under said covenants and provisions strictly in accordance with the same shall not be construed as having created a custom in any way or manner contrary to the specific terms, conditions and covenants of this Lease, or as having in any way or manner modified the same.

24. It is expressly understood and agreed by and between the parties hereto that this lease sets forth all the promises, agreements, conditions and understandings between Lessor and Lessee relative to the Leased Premises, and that there are no promises, agreements, conditions or understandings, either oral or written, between them other than are herein set forth. It is further understood and agreed that, except as herein otherwise provided, no subsequent alterations, amendment, change or addition to this lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by both parties.

25. It is expressly understood and agreed by and between the parties hereto that the indoor portion of the Leased Premises is a non-smoking building in its entirety, thus smoking is prohibited therein.

26. Pre-Existing Hazardous Materials: Lessor acknowledges that polychlorinated

biphenyls (“PCBs”), petroleum, and contamination resulting therefrom have been identified as being present in the Newport News Seafood Industrial Park. Lessor agrees that any petroleum and PCBs that existed on the premises prior to Lessee’s tenancy (the “Pre-Existing Hazardous Materials”) are neither due to, nor the result of, any act or omission on the part of Lessee. Lessor agrees that Lessee shall have no liability or obligation whatsoever to Lessor with respect to the Pre-Existing Hazardous Materials that may be located on the Leased Premises, or the cleanup and remediation thereof. Landlord agrees that any remediation of the Pre-Existing Hazardous Materials undertaken by Landlord during the Term of this Lease or any Renewal term shall be scheduled so as not to unreasonably impair or impede Lessee’s business operations nor unreasonably interfere with its right to quiet enjoyment of the Leased Premises.

**IN WITNESS WHEREOF**, the City of Newport News, Virginia has caused these presents to be executed by its City Manager, with its seal hereto affixed, duly attested by its City Clerk, both in that behalf first duly authorized; and Davis Boat Works, Inc., has caused these presents to be executed by \_\_\_\_\_ in that behalf having been duly authorized.

LESSOR: CITY OF NEWPORT NEWS, VIRGINIA

By: \_\_\_\_\_  
James M. Bourey  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

Reviewed by:

\_\_\_\_\_  
Senior Assistant City Attorney

Approved as to form:

\_\_\_\_\_  
City Attorney

LESSEE: DAVIS BOAT WORKS, INC.

By: \_\_\_\_\_  
President

COMMONWEALTH OF VIRGINIA

CITY OF NEWPORT NEWS, to wit:

The undersigned Notary Public in and for the jurisdiction aforesaid hereby certifies that James M. Bourey and Mabel Washington Jenkins, whose names appear as City Manager and City Clerk respectively, of the CITY OF NEWPORT NEWS, VIRGINIA, acknowledged the foregoing Lease before me in my jurisdiction aforesaid.

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

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Registration No.: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_ to wit:

The undersigned Notary Public in and for the jurisdiction aforesaid hereby certifies that \_\_\_\_\_, whose name appears as President of Davis Boat Works, Inc., acknowledged the foregoing Lease before me on this date in my jurisdiction aforesaid.

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

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Registration No.: \_\_\_\_\_

## E. Public Hearings

6. Ordinance Authorizing and Directing the City Manager to Execute Lease Amendment No. 22 for a Portion of Property Located at 4600 Huntington Avenue to Huntington Ingalls Incorporated, (f/k/a Newport News Shipbuilding and Dry Dock Company) for Parking Purposes (Former Jackson School Site)

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE LEASE AMENDMENT NO. 22 FOR A PORTION OF PROPERTY, BY AND BETWEEN THE CITY AND HUNTINGTON INGALLS INCORPORATED (F/K/A NEWPORT NEWS SHIPBUILDING & DRY DOCK COMPANY) FOR PARKING PURPOSES (FORMER JACKSON SCHOOL SITE).

**BACKGROUND:**

- This is a one-year lease renewal for the use of the former Jackson School Site for parking purposes.
- The renewal term will commence January 1, 2017, and will terminate on December 31, 2017.
- All other terms and conditions of the original lease, as amended, will remain in full force and effect.

**FISCAL IMPACT:**

- Incorporated in Amendment No. 22 is an adjustment of 3% to the current rental rate, raising the annual rate to \$153,288.68.
- The City Manager recommends approval.

### ATTACHMENTS:

#### Description

CM Memo re Lease Amdmnt to HII for Parking Purposes  
rag1144 Authorizing re Amendment No. 22 - Jackson School Site

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Lease Amendment No. 22 to Huntington Ingalls Incorporated for Parking Lot

The City has been notified by Huntington Ingalls Incorporated ("Shipyard," formerly known as Newport News Shipbuilding & Dry Dock Company) of its desire to renew its lease for parking at the former Jackson School Site for one additional year. Amendment No. 21 to the original lease, dated December 13, 1994, will expire December 31, 2016. The Shipyard may renew the lease on an annual basis if the City approves such renewals.

Amendment No. 22 to the lease incorporates an adjustment of three percent (3%) above the current rental rate, raising the annual rate to \$153,288.68. Amendment No. 22 reflects a commencement date of January 1, 2017 and terminates December 31, 2017. All other terms and conditions are consistent with the original agreement, as amended.

I recommend approval of the Ordinance authorizing the execution of Amendment No. 22 to the referenced lease.

  
James M. Bourey

JMB:tcf

cc: Florence G. Kingston, Director, Department of Development

**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 AMENDMENT NO. 22 TO A LEASE FOR A PORTION OF THE FORMER JACKSON SCHOOL SITE, BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND HUNTINGTON INGALLS INCORPORATED, F/K/A NEWPORT NEWS SHIPBUILDING AND DRY DOCK COMPANY, DATED THE 22<sup>ND</sup> DAY OF NOVEMBER, 2016.

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

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Amendment No. 22 to a Lease for a portion of the former Jackson School Site, by and between the City of Newport News, Virginia, and Huntington Ingalls Incorporated, f/k/a Newport News Shipbuilding and Dry Dock Company, dated the 22<sup>nd</sup> day of November, 2016.
2. That a copy of the said Amendment is attached hereto and made a part hereof.
3. That this ordinance shall be in effect on and after the date of its adoption, November 22, 2016.

## AMENDMENT NO. 22

**THIS AMENDMENT NO. 22** dated November 22, 2016, to that certain Lease dated December 13, 1994 (the "Lease"), by and between **CITY OF NEWPORT NEWS, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia, hereinafter called "City" and **HUNTINGTON INGALLS INCORPORATED, f/k/a NEWPORT NEWS SHIPBUILDING AND DRY DOCK COMPANY**, hereinafter called "Lessee."

**WHEREAS**, the parties to this Amendment No. 22 have heretofore entered into the Lease for a portion of the former Jackson School site; and

**WHEREAS**, the parties desire to extend the term of the said Lease for one year and to increase the amount of the rent.

**NOW, THEREFORE**, it is understood and agreed by the parties hereto that the Lease shall be amended as follows:

1. The term of the Lease between the parties for a portion of the former Jackson School site, dated December 13, 1994, and previously extended and amended by Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, Amendment No. 5, Amendment No. 6, Amendment No. 7, Amendment No. 8, Amendment No. 9, Amendment No. 10, Amendment No. 11, Amendment No. 12, Amendment No. 13, Amendment No. 14, Amendment No. 15, Amendment No. 16, Amendment No. 17, Amendment No. 18, Amendment No. 19, Amendment No. 20, and Amendment No. 21 to said Lease, is hereby extended for one year which will commence on January 1, 2017.

2. Effective January 1, 2017, the Lessee shall pay to the City for the use and occupancy of the leased premises an annual rent of One Hundred Fifty Three Thousand Two Hundred Eighty-

Eight and 68/100 Dollars (\$153,288.68).

3. All other terms and conditions of said Lease, except as herein specifically amended, shall remain in full force and effect.

**WITNESS** the following signatures and seals:

**CITY OF NEWPORT NEWS, VIRGINIA**

By: \_\_\_\_\_  
James M. Bourey  
City Manager

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

**HUNTINGTON INGALLS  
INCORPORATED, f/k/a NEWPORT  
NEWS SHIPBUILDING AND DRY  
DOCK COMPANY**

By: \_\_\_\_\_  
Its President/Vice President

rag1145

## **E. Public Hearings**

7. Ordinance Amending Ordinance No. 7114-14, Authorizing the City Manager to Make Offers to Acquire, by Purchase, or Condemnation, Additional Property in Fee Simple and for Easements for the Warwick Boulevard Over Lake Maury Bridge Replacement Project, to Provide Funds for this Purpose, and Authorizing the City Manager to Execute All Documents Necessary to Effect the Purchase Authorized

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AMENDING ORDINANCE NO. 7114-14, AUTHORIZING THE CITY MANAGER TO MAKE OFFERS TO ACQUIRE, BY PURCHASE OR CONDEMNATION, ADDITIONAL PROPERTY IN FEE SIMPLE AND FOR EASEMENTS FOR THE WARWICK BOULEVARD OVER LAKE MAURY BRIDGE REPLACEMENT PROJECT, TO PROVIDE FUNDS FOR THIS PURPOSE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY TO EFFECT THE PURCHASE AUTHORIZED.

**BACKGROUND:**

- The proposed bridge replacement project is located along Warwick Boulevard over Lake Maury adjacent to Riverside Regional Medical Center.
- A dedicated turn lane at the Riverside Medical Center Warwick Boulevard entrance will be provided.
- The acquisitions are required to construct a 14-foot wide shared use path along with a retaining wall and additional sloped embankment.

**FISCAL IMPACT:**

- The total appraised value of all acquisitions is \$25,100.
- Funding for these acquisitions is available through previously appropriated State and local funds.
- The City Manager recommends approval.

### **ATTACHMENTS:**

#### **Description**

CM Memo re Warwick Blvd over Lake Maury Bridge

Attachment Location Map Lake Maury Bridge

sdm006 Amending Ordinance No. 7114-14 re Warwick Blvd over Lake Maury Bridge Replacement

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council

**FROM:** City Manager

**SUBJECT:** Warwick Boulevard over Lake Maury Bridge Replacement - Property Acquisition

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, permanent slope and drainage easements, temporary construction easements and variable width easements located at 100 Museum Drive and 1510 Gatewood Drive for the Warwick Boulevard over Lake Maury Bridge Replacement Project.

The proposed bridge replacement project is located along Route 60 (Warwick Boulevard) over Lake Maury adjacent to Riverside Regional Medical Center, J. Clyde Morris Boulevard, Gatewood Road and the Mariners' Museum and includes an additional dedicated turn lane at the Riverside Medical Center Warwick Boulevard entrance and a 14-foot wide shared use path for bicycles and pedestrians.

A right-of-way acquisition, permanent slope and drainage easements and temporary construction easements are required to construct a 14-foot wide shared use path on the west side of the bridge. The shared use path has been integrated into the bridge project requiring a retaining wall and additional sloped embankment.

Appraisals have been conducted for each location with an approximate combined value of \$24,500. Funding for these acquisitions is available through previously appropriated State and local funds.

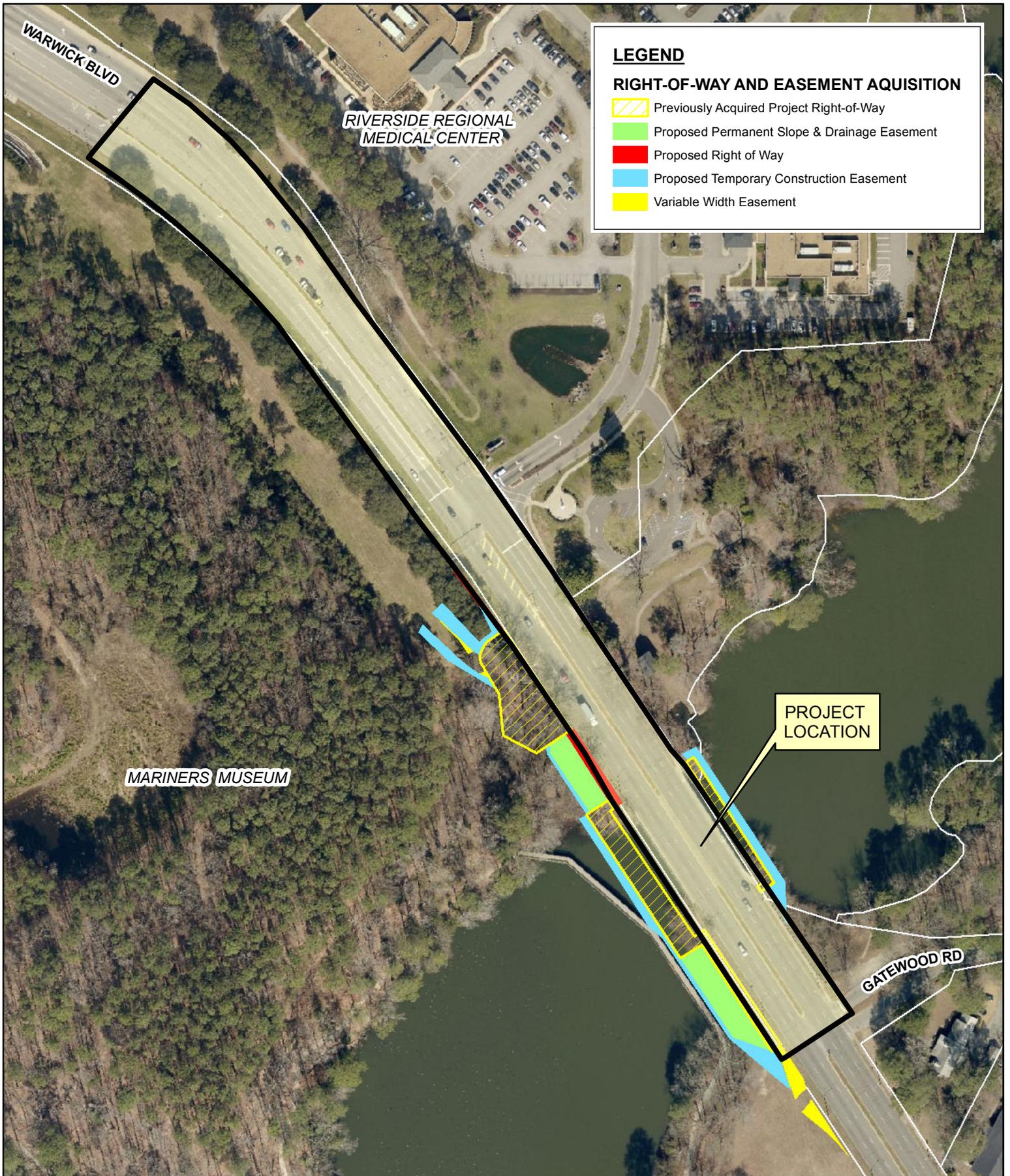
I recommend approval of the resolution.

  
James M. Bourey

JMB/CDB/plw

Attachment

cc: Everett Skipper, Director, Department of Engineering



**LEGEND**

**RIGHT-OF-WAY AND EASEMENT AQUISION**

-  Previously Acquired Project Right-of-Way
-  Proposed Permanent Slope & Drainage Easement
-  Proposed Right of Way
-  Proposed Temporary Construction Easement
-  Variable Width Easement

PROJECT LOCATION

CITY OF NEWPORT NEWS, VIRGINIA

**WARWICK BOULEVARD OVER LAKE MAURY  
BRIDGE REPLACEMENT**



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

AN ORDINANCE AMENDING ORDINANCE NO. 7114-14, AUTHORIZING THE CITY MANAGER TO MAKE OFFERS TO ACQUIRE, BY PURCHASE OR CONDEMNATION, ADDITIONAL PARCELS OF REAL PROPERTY IN FEE SIMPLE AND FOR EASEMENTS HEREINAFTER MORE PARTICULARLY DESCRIBED, FOR THE WARWICK BOULEVARD OVER LAKE MAURY BRIDGE REPLACEMENT 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 replacing the Warwick Boulevard over Lake Maury Bridge, and for the preservation of the safety, health, peace, good order, comfort, convenience, morals and welfare of the City of Newport News; and

WHEREAS, City Council previously Approved Ordinance 7114-14 on November 12, 2014 authorizing Acquisition of fee simple and easement interests from The Mariners' Museum for the Warwick Boulevard Over Lake Maury Bridge Replacement Project; and

WHEREAS, the Department of Engineering has determined that additional property must to acquired to complete the project.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia, after a properly noticed Public Hearing on November 22, 2016, pursuant to Virginia Code §15.2-1903:

Section 1. That the Council hereby authorizes the acquisition of unencumbered fee simple title and easements 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 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 replacement of the Warwick Boulevard Over Lake Maury Bridge 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.

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 TWENTY-FOUR THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$24,500.00) 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. That Portion of parcels of real estate owned by The Mariners' Museum, Inc., for right-of-way drainage easements and temporary construction easements for the purpose of replacement of the Warwick Boulevard Bridge over Lake Maury Project and construction of approaches as shown on a plat entitled "Plat Showing Right-of-Way & Various Easements To Be Acquired From The Mariners' Museum By The City of Newport News for Warwick Boulevard Corridor Improvements, Newport News, Virginia", dated September 30, 2016, Sheet 2 of 3 and Sheet 3 of 3, completed by NXL Engineers, Surveyors and Property Managers (attached as Exhibit 1); and

B. Purposes and values attributed to acquired property is attached as Exhibit 2.

Section 7. That this ordinance shall be in effect on and after the date of its adoption, November 22, 2016.







# Acquisition Value

## Description of Acquisition

This is a partial acquisition and there will be a fee taking of the subject. The land included in the acquisition area is described in the following paragraphs. The acquisition areas that will be in the P-1 zoned land will be valued separately than the area in the potential rezoning to O-2 land. There are no buildings located within the acquisition areas.

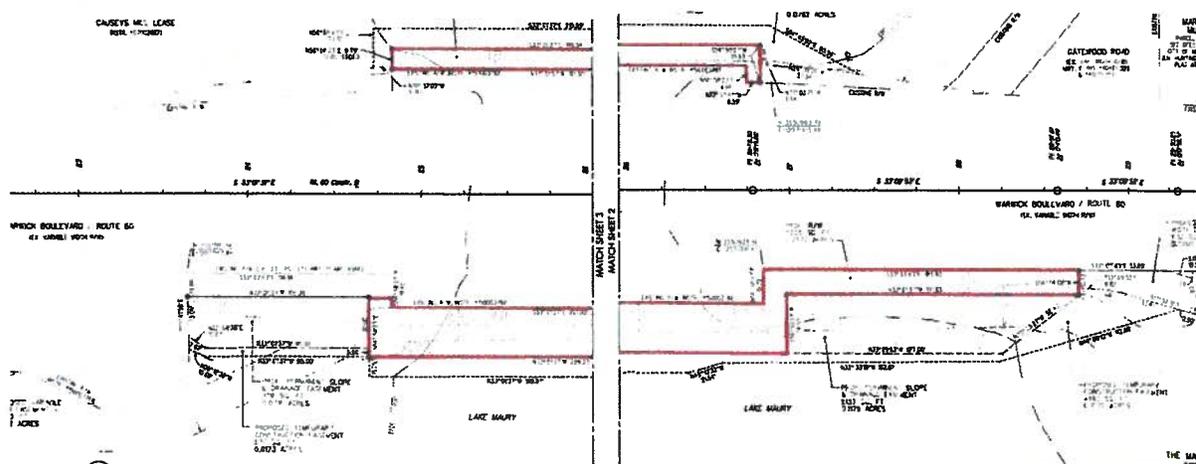
### Land Acquired in the P-1 Zoned Land (Area A)

The subject site is located along Warwick Boulevard. The plats below are shown facing the east/west direction, but when looking at an overhead map it would be in the north south direction. There are three separate acquisition areas along both the north and south sides of Warwick Boulevard. These areas are outlined in the color red. There are two acquisition areas on the south side of Warwick Boulevard and one on the north side of Warwick Boulevard. These areas have been highlighted in red in the plat below.

There are two plats, but we have combined them into one plat at the match line for ease of understanding. The acquisition areas to the south of Warwick Boulevard along the left side of the "edge of water" line (which is to the left of the vertical match line in the center of the plat) is located within the area that we believe could possibly be rezoned to O-2 and will be valued separately. The entire acquisition area along the north side of Warwick Boulevard and the acquisition area to the right side of the "edge of water" line to the left side of the match line are located within the P-1 zoned area.

The acquisition area on the north side of Warwick Boulevard is 2,480 square feet. The total acquisition area on the south side of Warwick Boulevard totals 12,022, but we have estimated that 2,483 square feet are located within the possible O-2 zoned area, leaving approximately 9,539 square feet within the P-1 zoned area; therefore, the total acquisition area within Zone A (P-1 zoned land) totals 12,019 square feet.

We have only highlighted the acquisition areas within Zone A below. Fully colored plats are located in the addenda of this report.

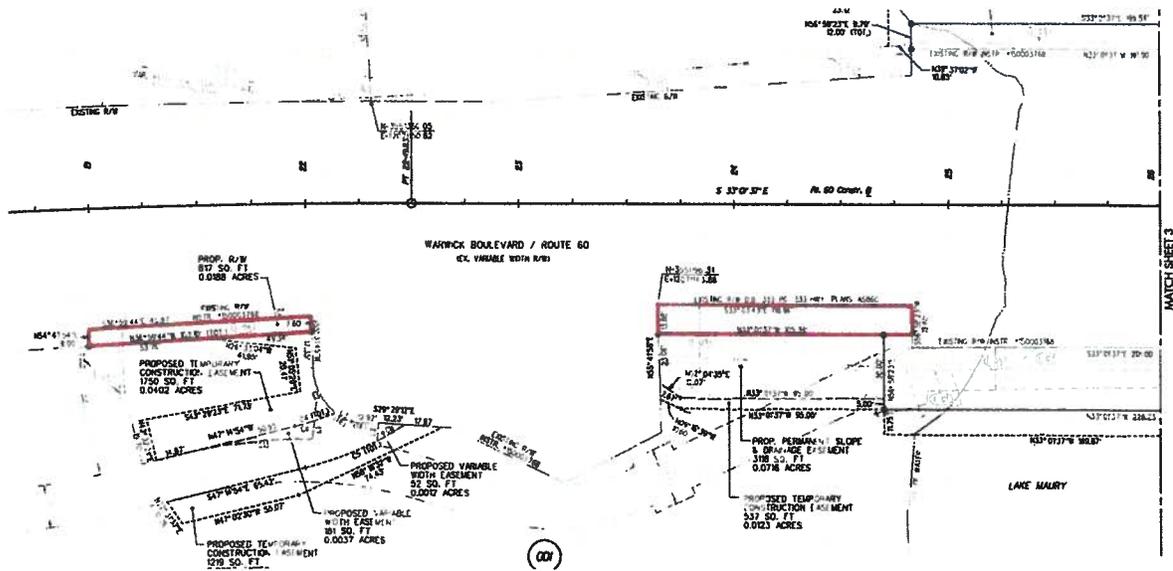


According to the plat provided, the total acquisition area within "Area A" has been estimated at 12,019± square feet. The Land Value "Before Acquisition" was estimated earlier at \$0.02 per square foot; therefore, the land value of the 12,019± square feet acquired x \$0.02 per square foot equals \$241.

Market Value of the Acquisition Land in "Area A" = \$241

Land Acquired in P-1 Zoned Land with Potential O-2 Rezoning (Area B)

The total acquisition area in this area has been estimated at 2,483 square feet. It is located in the area outlined in red on the plat shown below.



The Land Value "Before Acquisition" was estimated earlier as \$5.05 per square foot; therefore, the land value of the 2,483± square feet acquired x \$5.05 per square foot equals \$12,540.

Market Value of the Acquisition Land (Area B) = \$12,540

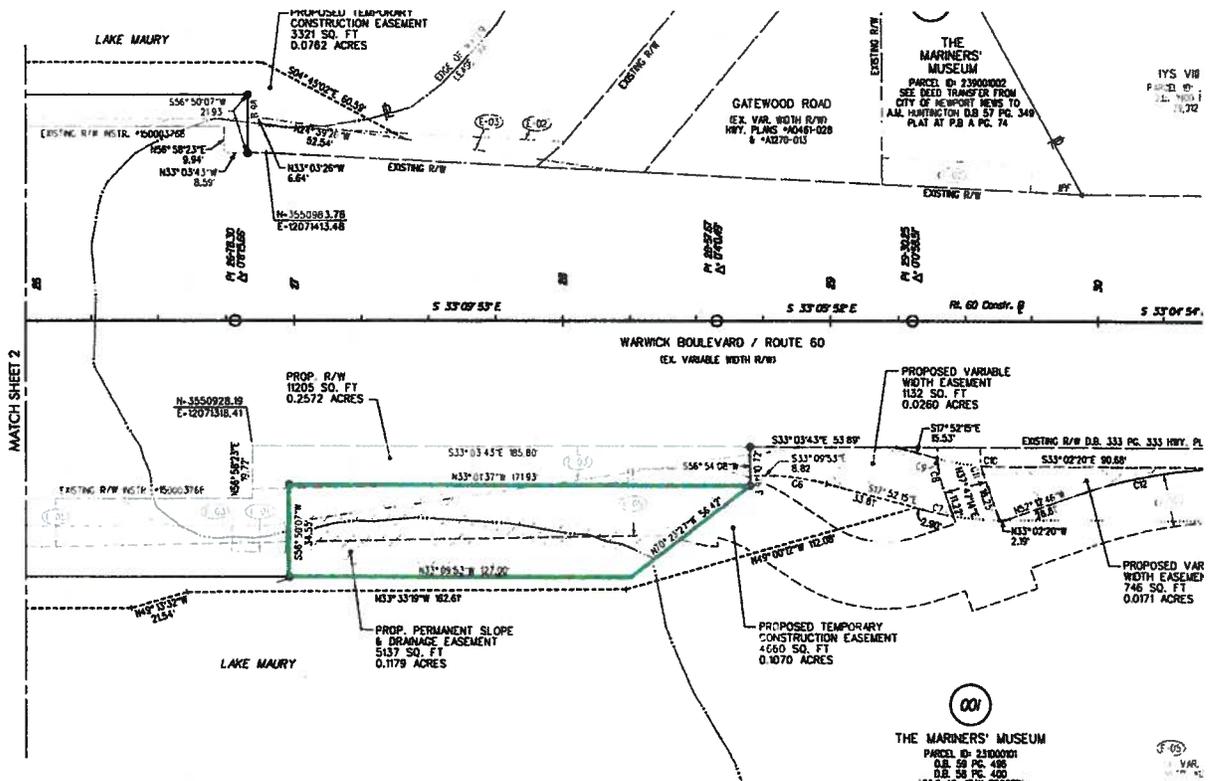
### Easements Acquired

According to the plats provided by the client, there appears to be existing variable width easements encumbering the subject site on both the north and south sides of Warwick Boulevard. For the purposes of this report, we have valued the proposed easements according to the plats in their entirety, whether or not they overlap with existing easements on the subject site.

There are two different easements proposed for the site along the north and south sides of Warwick Boulevard; Permanent Drainage Easements and Temporary Construction Easements. These easements will be discussed and valued individually.

#### Permanent Drainage Easement – P-1 Zoned Land (Area A)

There is only one Permanent Utility Easement located in Area A. It is located along the south side of Warwick Boulevard. The total area of this easement is approximately 5,137 square feet. Based on the plat provided, there are no significant improvements/site improvements located within the easement areas with exception to landscaping. This easement is highlighted in green on the plat below:

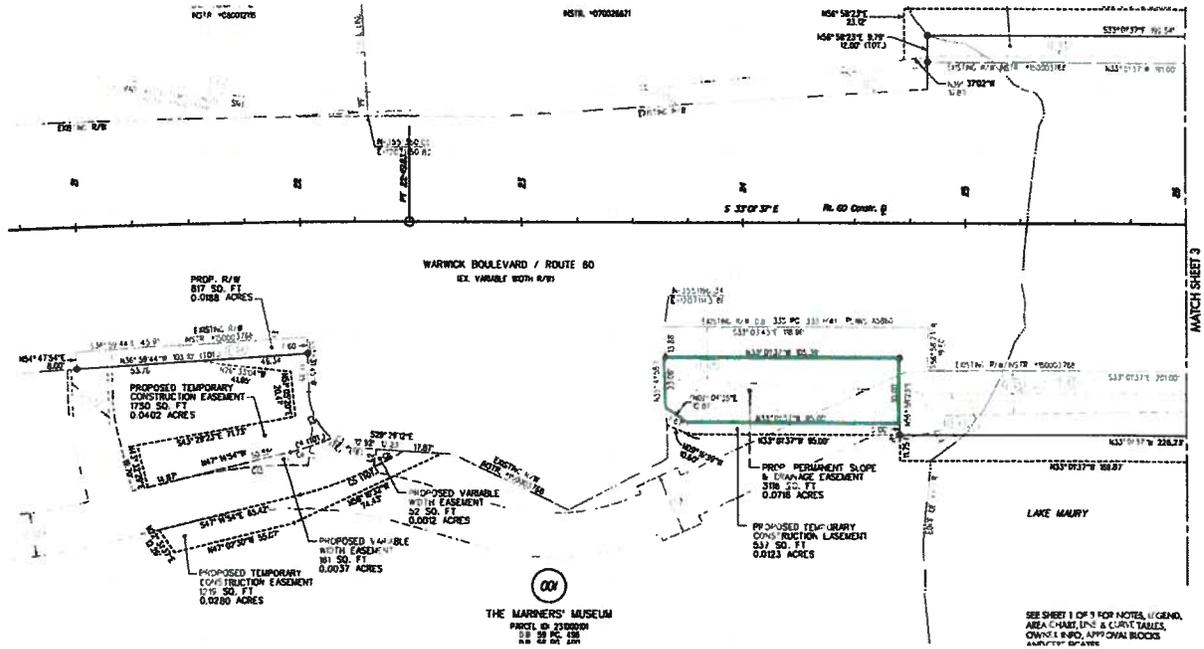


After examining the bundle of rights, the market value of the easement is estimated at 50% of the market value of the land. The Total Land Value "Before Acquisition" was estimated earlier at \$0.02 per square foot. The market value of the Permanent Drainage Easement is \$0.02 per square foot x 50% x 5,137 square feet for a total of \$52.

Market Value of the Permanent Drainage Easement – Area A = \$52

*Permanent Drainage Easements— P-1 Zoned Land with Potential O-2 Rezoning (Area B)*

There is only one Permanent Utility Easement located in Area B. It is located along the south side of Warwick Boulevard. The total area of this easement is approximately 3,118 square feet. Based on the plat provided, there are no significant improvements/site improvements located within the easement areas with exception to landscaping. This easement is highlighted in green on the plat below:



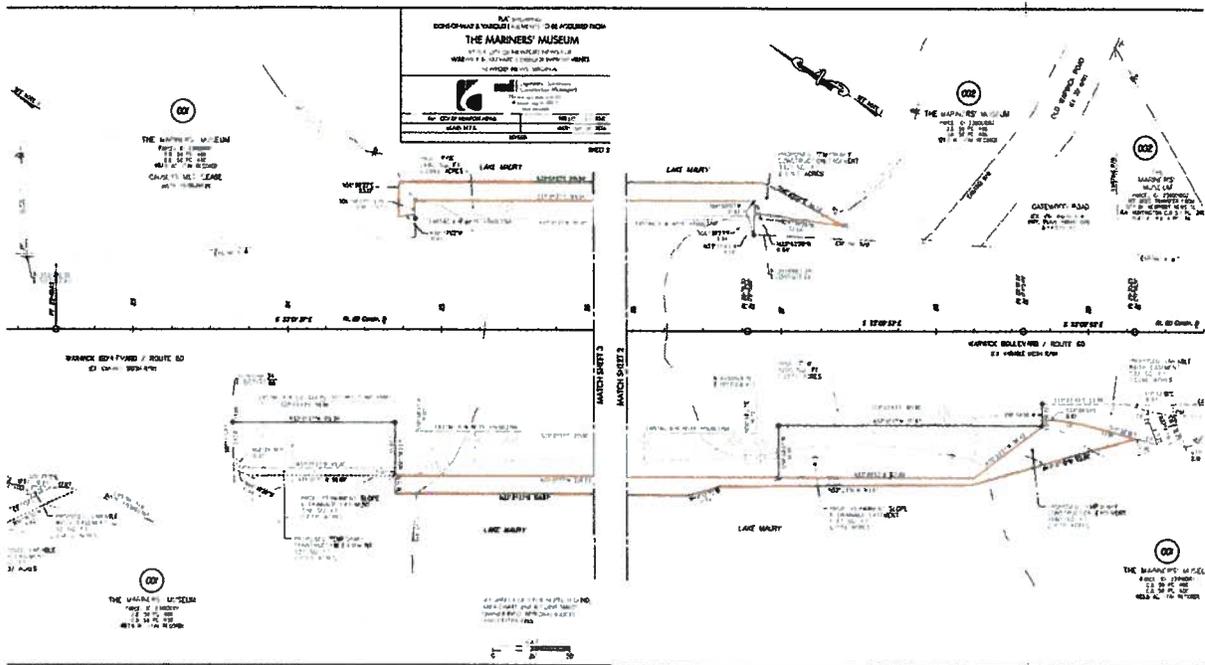
After examining the bundle of rights, the market value of the easement is estimated at 50% of the market value of the land. The Total Land Value "Before Acquisition" was estimated earlier at \$5.05 per square foot. The market value of the Permanent Drainage Easement is \$5.05 per square foot x 50% x 3,118 square feet for a total of \$7,873.

Market Value of the Permanent Drainage Easement – Area B = \$7,873

### Temporary Construction Easements – P-1 Zoned Land (Area A)

According to the plat provided, there will be multiple Temporary Construction Easements. There is one Temporary Construction Easement located along the north side of Warwick Boulevard and three Temporary Construction Easements located along the south side of Warwick Boulevard, but only one of the areas along the south side of Warwick Boulevard is within “Area A”. The total Temporary Construction Easement area located within “Area A” amounts to approximately 7,981 square feet.

The Temporary Construction Easements within “Area A” are highlighted in orange on the plats below:



The temporary construction easement gives the contractor the right to occupy the encumbered land for the duration of the construction period. The compensation of the temporary easement is estimated at 10% of the market value of the land per year. The estimated construction period is two years; therefore, the calculation is 20% (10% per year x 2 years).

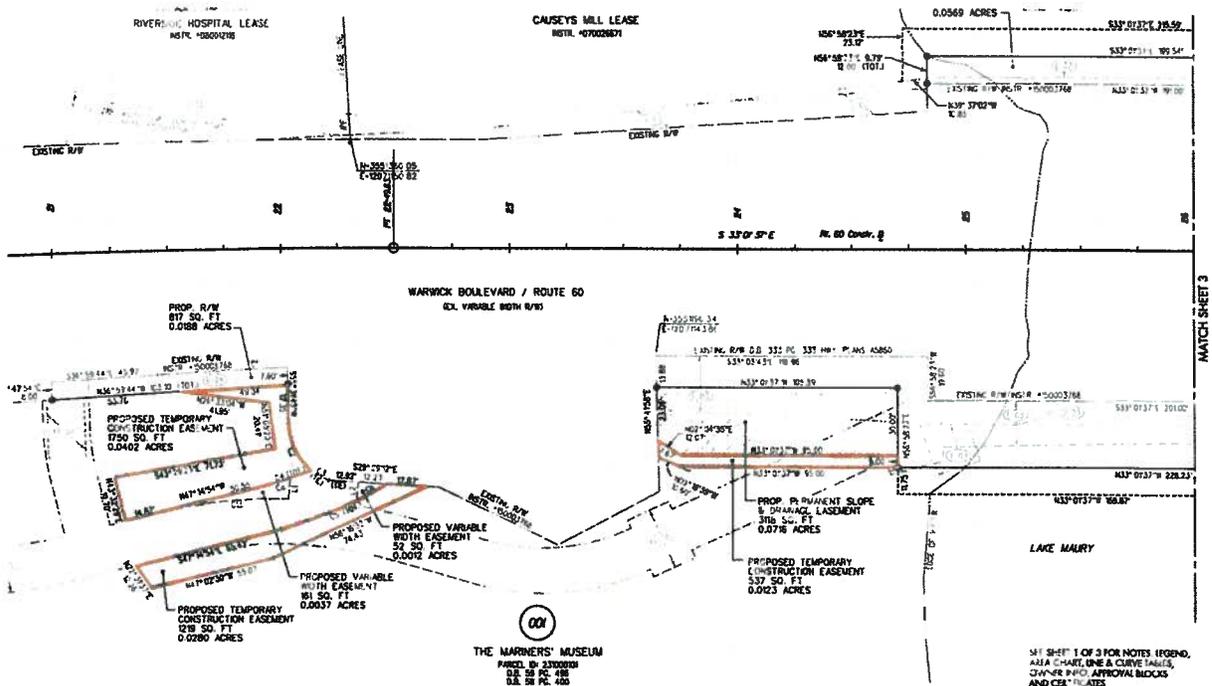
The market value of the Temporary Construction Easement of 7,981 ± square feet is \$0.02 per square foot x 20% for a rounded total of \$32.

Market Value of the Temporary Construction Easements – Area A = \$32

*Temporary Construction Easements – P-1 Zoning with Potential O-2 Rezoning (Area B)*

According to the plat provided, there will be three Temporary Construction Easements located within "Area B". The total Temporary Construction Easement area located within "Area B" amounts to approximately 3,506 square feet.

The Temporary Construction Easements within "Area B" are highlighted in orange on the plat below:



The temporary construction easement gives the contractor the right to occupy the encumbered land for the duration of the construction period. The compensation of the temporary easement is estimated at 10% of the market value of the land per year. The estimated construction period is two years; therefore, the calculation is 20% (10% per year x 2 years).

The market value of the Temporary Construction Easement of 3,506± square feet is \$5.05 per square foot x 20% for a rounded total of \$3,542.

Market Value of the Temporary Construction Easements – Area B = \$3,542

*Buildings Disturbed*

There are no buildings within the easement area that would be disturbed by the construction.

*Other Improvements Disturbed*

It is typical for the contractor to restore the asphalt parking, concrete sidewalks and landscaped areas located within an easement at completion of the construction project. This appraisal is based upon the extraordinary assumption that the horizontal improvements in the easement areas that are

## **E. Public Hearings**

8. Ordinance Authorizing the City Manager to Make Offers to Acquire, by Purchase or Condemnation, Additional Property for Easements for the Mariners' Museum Multi-Purpose Trail Project, to Provide Funds for this Purpose and Authorizing the City Manager to Execute All Documents Necessary to Effect the Purchase Authorized

**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 MARINERS' MUSEUM MULTI-PURPOSE TRAIL PROJECT, TO PROVIDE FUNDS FOR THIS PURPOSE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTIONS.

**BACKGROUND:**

- The proposed trail project is located along the west side of Warwick Boulevard from Harpersville Road to J. Clyde Morris Boulevard.
- The acquisitions are required to construct the two portions of a 14-foot wide shared use path which has been integrated into the Warwick Boulevard over Lake Maury Bridge Replacement Project.

**FISCAL IMPACT:**

- The total appraised value of all acquisitions is \$600.
- Funding for these acquisitions is available through previously appropriated State and local funds.
- The City Manager recommends approval.

### **ATTACHMENTS:**

#### **Description**

CM Memo re Mariners Museum MultiPurpose Trail

#### **Location Map**

sdm004 Authorizing the Purchase of Real Property (Mariners' Museum Multipurpose Trail)

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Mariners' Museum Multi-Purpose Trail - Property Acquisition

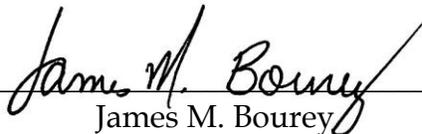
City Council is requested to approve an ordinance authorizing the City Manager to make offers, negotiate, or condemn if necessary, and to execute all documents necessary to acquire, by purchase or condemnation, variable width easements located at 100 Museum Drive for the Mariners' Museum Multi-Purpose Trail Project.

This proposed project includes the construction of a shared use path along the west side of Warwick Boulevard from Harpersville Road to J. Clyde Morris Boulevard providing pedestrian and bicycle connectivity between the Christopher Newport University, Mariners' Museum/Park and Riverside Hospital area and the area of Warwick High School, Dutch Village and North Hilton.

Variable width easements are required to construct the two portions of the 14-foot wide shared use path which has been integrated into the Warwick Boulevard over Lake Maury Bridge Replacement Project.

Appraisals have been conducted for each location with an approximate value of \$600. Funding for these acquisitions is available through previously appropriated State and local funds.

I recommend approval of the resolution.

  
James M. Bourey

JMB/CDB/plw

Attachment

cc: Everett Skipper, Director, Department of Engineering



**LEGEND**

 Variable Width Easement

PROJECT LOCATION

MARINERS MUSEUM

RIVERSIDE REGIONAL  
MEDICAL CENTER

LAKE  
MAURY

GATEWOOD RD

PROJECT LOCATION

CITY OF NEWPORT NEWS, VIRGINIA

**MARINERS MUSEUM MULTI-PURPOSE  
TRAIL PROJECT**



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

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO MAKE OFFERS TO ACQUIRE, BY PURCHASE OR CONDEMNATION, ADDITIONAL PARCELS OF REAL PROPERTY FOR EASEMENTS HEREINAFTER MORE PARTICULARLY DESCRIBED, FOR THE MARINERS' MUSEUM MULTIPURPOSE TRAIL 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 The Mariners' Museum Multipurpose Trail, and for the preservation of the safety, health, peace, good order, comfort, convenience, morals and welfare of the City of Newport News; AND

WHEREAS, City Council previously acquired property for The Mariners' Museum Multipurpose Trail Project by a Corrected Deed of Easement Dedication dated September 19, 2013, which was recorded in the Office of the Clerk of the Circuit Court on September 25, 2013 as Instrument No. 130017807; and

WHEREAS, the Department of Engineering has determined that additional easements must be acquired to complete the project, by relocating the portion of the trail crossing Lake Maury to the reconstructed bridge on Warwick Boulevard crossing Lake Maury.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia, after a properly noticed Public Hearing on November 22, 2016, pursuant to Virginia Code §15.2-1903:

Section 1. That the Council hereby authorizes the acquisition of unencumbered fee simple title and easements 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 Mariners' Museum Multipurpose Trail 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.

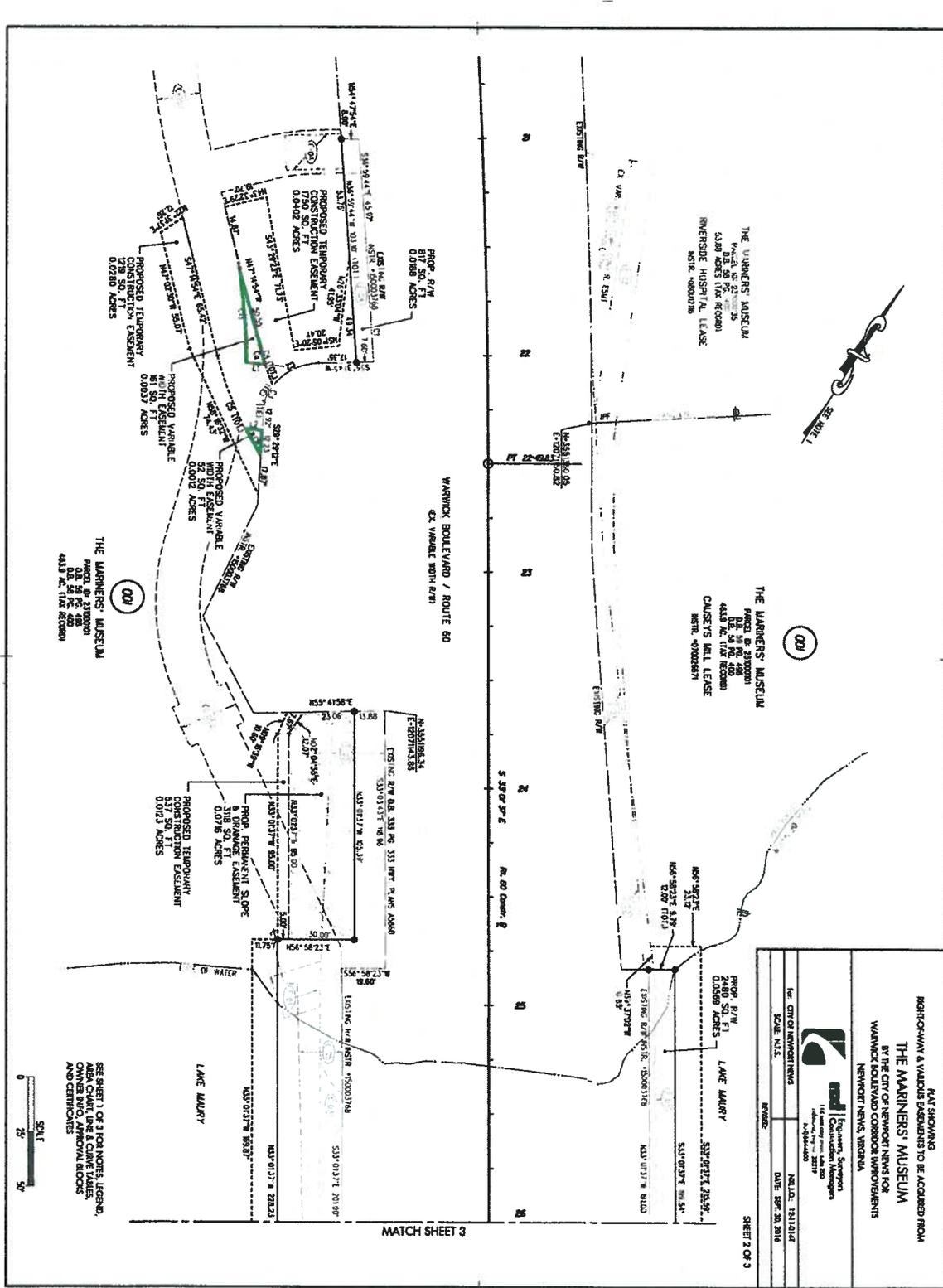
Section 4. That in order to provide funds for the acquisition of interests in the said properties and to defray the costs incident thereto, the sum of SIX HUNDRED AND 00/100 DOLLARS (\$600.00), or so much thereof as may be necessary, is hereby designated from funds appropriated for acquisition of the 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):

That Portion of parcels of real estate owned by The Mariners Museum, Inc., for various easements for the purpose of The Mariners' Museum Multipurpose Trail Project as shown on a plat entitled "Plat Showing Right-of-Way and Various Easements to be acquired from The Mariners' Museum By The City of Newport News for Warwick Boulevard Corridor Improvements, Newport News, VA, dated September 30, 2016 (Sheet 2 of 3 and Sheet 3 of 3), and completed by NXL Engineers, Surveyors and Construction Managers, attached herewith as Exhibit 1.

Section 7. That this ordinance shall be in effect on and after the date of its adoption, November 22, 2016.



<p>PLAN SHOWING RIGHT-OF-WAY &amp; VARIOUS EASEMENTS TO BE ACQUIRED FROM <b>THE MARINER'S MUSEUM</b> BY THE CITY OF NEWPORT NEWS FOR WARWICK BOULEVARD CORRIDOR IMPROVEMENTS NEWPORT NEWS, VIRGINIA</p>	
<p>FOR: CITY OF NEWPORT NEWS SCALE: N.T.S.</p>	<p>DATE: SEP 20, 2016</p>
<p>REVISIONS:</p>	
<p>PROJECT: MARINER'S MUSEUM 2480 SQ. FT. 0.0569 ACRES LAKE MARY</p>	
<p>PREPARED BY: [Logo] Engineering, Surveying &amp; Construction Management DATE: [Date]</p>	
<p>PROJECT NO.: 2016-001</p>	





## **F. Consent Agenda**

### 1. Minutes of the Work Session of October 25, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

#### ATTACHMENTS:

##### Description

Minutes of the Work Session of October 25, 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 25, 2016  
2:30 p.m.**

**PRESENT:** Tina L. Vick; Dr. Patricia P. Woodbury; Herbert H. Bateman, Jr.; Sandra N. Cherry, D. Min.; Marcellus L. Harris III; McKinley L. Price, DDS; and Sharon P. Scott -----7

**ABSENT:** None -----0

**OTHERS PRESENT:** James M. Bourey; Collins L. Owens; Mabel Washington Jenkins; Alan Archer; Cynthia Rohlf; Darlene Bradberry; Wanda Pierre; Lisa Cipriano; Chad Pritchett; Keith Ferguson; Sherry Crocker; Tylisha Sample; Florence Kingston; Carol Meredith; Shelia McAllister; Claudia Cotton; Britta Ayers; Reed Fowler; Michael Nealer; Everett Skipper; Chris Morello; Mary Lou Roaseau; Gary Hunter; Scott Dewhirst; Richard W. Myers; Neel Desai; Kimberly Schlick; Elizabeth Parker; Jerri Wilson; Cleder Jones; Kim Lee; Jennifer D. Walker; and Reema Amin

I. FY 2018 – 2022 City Manager’s Recommended Capital Improvements Plan (CIP)

City Manager Bourey advised that the submission of the CIP had to be made prior to November 1. Further details of the FY 2018 – 2022 Recommended Capital Improvements Plan (CIP) would be provided at the November 22 and December 13, 2016 Work Sessions of City Council. Adoption of the CIP would take place in January 2017. He stated the FY 2018 - 2022 CIP and prior CIP had been a challenge to assemble. He asked the Department Directors to emphasize what their true needs were.

City Manager Bourey stated the FY 2018 – 2022 CIP requests totaled approximately \$1.09 billion, which revealed that the City had fallen behind on projects over the past several years. The FY 2017 – 2021 CIP requests totaled approximately \$500 million, and was 25% funded. Strides had been taken in the FY 2018 - 2022 CIP to increase resurface funding from \$1.5 million to \$2 million, which would help address needed repairs. The condition of the pavement was becoming increasingly inadequate. Approximately, \$6.9 million was added for the Schools beyond what was in the FY 2017 CIP. This would address some, but not all School needs. Further conversation was needed to determine how to increase the City’s revenue to provide additional funding to Schools. City Manager Bourey introduced Ms. Lisa Cipriano, Director, Department of Budget and Evaluation, and Mr. Chad Pritchett, Senior Budget Analyst, Department of Budget and Evaluation, to provide the presentation on the City Manager’s Recommended FY 2018 – 2022 CIP.

Councilman Bateman inquired whether the Schools were included in the CIP Committee meetings. Mr. Pritchett replied that the Schools were invited to be a member of the CIP Committee and to submit their requests (a copy of the presentation, “FY 2018 – FY 2022 CIP, Capital Improvement Plan,” is attached and made a part of these minutes).

Mr. Pritchett advised that the FY 2018 – 2022 CIP included approximately 11 General Fund General Obligation Bond (GOB) cash funded new projects, which was not that significant considering there were 160 – 170 total projects included in the plan. There were very few adjustments and new projects in the plan. Funding was increased in Streets and Bridges, Public Buildings for major renovation and repairs, and Schools.

Mr. Pritchett indicated there were two perspectives on capital spending reflected in the CIP:

1. Uses of CIP Funds (how, when, and where funds would be spent)
  - a. Property Acquisition
  - b. Design, Construction
  - c. Facility Maintenance/Renovation
  - d. Vehicle/Apparatus Replacement
  - e. Technology Investment
2. Sources of Funds
  - a. Debt
  - b. Cash Capital
  - c. Grants
  - d. Other

Mr. Pritchett noted the rationale for updating the CIP annually:

- City Code requirement to be delivered by November 1
- Systematic evaluation of capital requests
- Preservation of capital assets
- Cooperation and coordination between departments
- To keep the public informed
- Relate public and private investment
- Impact on the Operating Budget
- Capital Financing and Debt Management Policies
- Strategic Initiatives
- Respond to Federal and State mandates
- Address health and safety concerns

Mr. Pritchett stated the FY 2018 – 2022 projects fell under two categories:

1. General Fund Projects (projects that had capital requirements which were funded from the General Fund Operating Budget) – Community Development; Environmental; Community Facilities; Transit; Equipment; Parks and Recreation; Public Buildings; Schools; and Streets and Bridges

2. Self-Supporting Funds (Capital requirements funded from User-Fees) – Waterworks; Sewer Rehabilitations; Solid Waste; and Stormwater Drainage

Mr. Pritchett stated the FY 2018 - 2022 CIP Total Requests (All Funding Sources), amounted to \$1,891,373,726 (see totals on page 5 of the presentation attached to these minutes). He pointed out that there were no requests dealing with Community Facilities or Solid Waste in the FY 2018-2022 CIP. All of the Community Facility commitments for Sentara, Peninsula Fine Arts Center (PFAC), and the Monitor Center were satisfied in FY 2016.

Councilwoman Cherry inquired about the funding provided to PFAC. Mr. Pritchett responded that the City had an ongoing commitment to provide Community Facility funding to PFAC, but 2016 was the last year for that obligation.

Councilwoman Cherry inquired whether the City had recently provided \$12,000 to PFAC. She recalled the City meeting such a provision. Ms. Cipriano replied that funding was provided to the PFAC to cover a long-term capital project; however, the City's obligation ended in FY 2016. City Manager Bourey pointed out that the City had a separate request for PFAC's HVAC system, which was outside of the CIP. He reminded that the representatives of PFAC provided a presentation to City Council, where they noted that the air-conditioning unit and chiller had failed, and they needed assistance from the City.

Councilwoman Cherry inquired whether the \$12,000 had anything to do with the HVAC repair. Ms. Cipriano replied that the \$12,000 was program funding from the Newport News Arts Commission.

Mr. Pritchett noted the Cash Capital Financing and Debt Management Policies adopted in 2007, that guided the FY 2018 – 2022 CIP recommendations:

- 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 General Fund 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: 22.3%

Mr. Pritchett advised that the City's bond ratings were important when issuing bonds. He stated the rating agencies were watching to ensure that the City stayed within its debt limit. The City had a positive Aa1 Bond rating with Moody's Investor Services and an AA+ Bond rating with Standard & Poor's (S&P). He noted Moody's and the S&P's bond ratings from June 2011 to December 2015, and advised that the ratings had increased positively. He noted the positives and concerns voiced by the two rating agencies (see information on pages 7 and 8 of the presentation attached to these minutes).

Mr. Pritchett stated the FY 2018 – 2022 City Manager's Recommended CIP (Total of All Funding Sources, including Grants and Other), totaled \$577,806,000, and resulted in an increase of \$74,875,700 over the approved FY 2017 – 2021 CIP, which totaled \$502,930,300. The majority of the increase was driven by fully funding the construction of the Grissom Library and Fire Station 11. He stated the City Manager's Recommended FY 2018 – 2022 CIP was comprised of the following:

Community Development	-	\$ 44,052,000
Environmental	-	\$ 1,125,000
Community Facilities	-	\$ 0
Transit	-	\$134,663,983
Equipment	-	\$ 11,458,000
Parks and Recreation	-	\$ 15,455,000
Public Buildings	-	\$ 43,133,920
Schools	-	\$ 49,303,655
Streets and Bridges	-	\$117,544,942
Sewer Rehabilitations	-	\$ 27,343,000
Solid Waste	-	0
Stormwater Drainage	-	\$ 51,566,000
Waterworks		\$ 82,160,000

Mr. Pritchett noted the composition of the FY 2018 – 2022 CIP, by source:

• Schools	24.3%
• Streets & Bridges	24.0%
• Public Buildings	21.3%
• Community Development	16.9%
• Transit	0.3%
• Parks & Recreation	7.2%
• Equipment	5.5%
• Environmental	0.6%

Mr. Pritchett noted the CIP projects included in the following FY 2018 – 2022 General Fund Categories (see project specifics in the presentation attached and made a part of these minutes):

- **Community Development - \$44 million**
  - Denbigh Area/Warwick Boulevard Developmental Initiatives and Streetscape Improvements
  - Southeast Community Redevelopment
  - Downtown Initiatives
  - Tech Center at Oyster Point/Jefferson Lab Research
  - City Center at Oyster Point Projects (to support City Center as it becomes a lively entertainment district)
  - Maritime Economic Development Projects (Repair work at Seafood Industrial Park)

Councilwoman Cherry inquired whether the specific project costs would be noted. Mr. Pritchett replied that the cost for each project would be noted in the City Manager's Recommended FY 2018 – FY 2022 CIP booklet (provided to each member of City Council).

- **Environmental - \$1.1 million**
  - Emergency Response/Environmental Remediation
  - HVAC System Environmental Assessment (to assess air quality in public buildings)

Councilwoman Cherry stated the Southeast Care Coalition had done a study on the air quality in the Southeast Community, and wanted to know whether a filter could be placed in the vicinity of the of the Dominion Coal Terminal. She inquired whether any funding was included in the FY 2018 – 2022 CIP for such filter. Much concern about air quality, due to coal dust, had been expressed by residents of the Southeast Community. Mr. Pritchett replied that he did not believe that the HVAC System funding would be used to address the air quality issues at the Dominion Coal Terminal.

Councilwoman Cherry inquired whether the City was going to look into the matter. Mr. Everett Skipper, Director, Department of Engineering, replied that no funding was included in the CIP for specific areas in the community. Dominion Terminal Associates, owner of the Coal Terminal, was controlled and operated under a State permit. Discussion could be had with Dominion to determine what actions they planned to take regarding the coal dust, but he understood that they operated well within their State permit.

Councilwoman Cherry replied that she understood, but felt as the City looked at air quality studies, they knew there were some matters of concern regarding the coal dust emissions from the Coal Terminal. She questioned what the City could do about the air quality for that particular part of the City. She understood Mr. Skipper had indicated that the city was doing nothing because Dominion Terminal Associates was controlled by State permits.

Councilwoman Cherry questioned what was considered to be Environmental Remediation. Ms. Cipriano replied Environmental Remediation funding would be used for mold issues, asbestos issues, etc.

Councilwoman Cherry questioned the reason the funding could not be used for coal dust emissions when it could be used for mold issues. Mr. Skipper advised that it would be the responsibility of Dominion Terminal Associates to take care of the coal dust issue. The Environmental Remediation CIP funding was related to City facilities and buildings. Asbestos was located in various places in City Hall, and Environmental Remediation funding would be used when work was needed in specific locations.

- **Transit - \$134.6 million**
  - Newport News Transportation Center
    - Bus Rapid Transit – Fixed Guideway Initial Phase (10-Year Project)
    - One Accessible City – HRT Bus Stop ADA Improvement Program

Councilwoman Woodbury inquired about the amount of grant funding received for transit projects. Ms. Cipriano replied that the majority of the \$134.6 million would be received from grants. Mr. Pritchett replied that the amount of City funding for transit totaled \$550,000, over five years. The amount of City funding for the Bus Rapid Transit project totaled \$150,000. The amount of City funding for the HRT Bus Stop ADA Improvement Program totaled \$400,000. The Grant funding totaled \$134 million.

Councilwoman Cherry questioned whether the grant funding would be realized from grants that the City was applying for, and what would happen should the grant funding not be awarded. Ms. Cipriano replied yes, grant funding would be realized from grants that the City applied for. She stated the funding would be needed in FY 2019, which would provide the City with ample time to secure federal and state grants.

- **Equipment - \$11.4 million**
  - City Hall and Public Works Data Center Environmental Renovation
  - Fire Apparatus Capital Purchases
  - Fire Department Bomb Squad – Bomb Robot Replacement
  - Self-Contained Breathing Apparatus
  - Vehicle Tablet Replacement
  - Voice over IP (Phone System Upgrade)
- **Parks and Recreation, and Tourism - \$15.4 million**
  - Lee Hall Depot Interior Restoration
  - Golf Course Replacement Irrigation System

- Stoney Run Park
- Stoney Run Greenway
- Warwicktowne (City Farm) Archaeological Study
- Deer Park Ranger Station/Restroom Replacement
- Huntington Park Tennis Center Stadium Court
- Athletic Field Lighting Upgrade
  
- **Public Buildings - \$43.1 million**
  - Denbigh Community Center Phase II
  - Virgil Grissom Library New Building
  - Fire Station 11
  - North District Facility Preliminary Engineering
  - South Morrison Family Education Center Renovation
  - Hilton Fire Station Renovation
  - Rouse Tower Building Renovation
  - Newport News Sheriff's Office Kitchen Renovation
  - City Hall Fuel Tank Replacement
  - City Hall Renovations
  - Jail Annex Master Control System (MCS)
  - General District Courts Office Renovation

Councilwoman Cherry inquired whether the existing Grissom Library would be torn down. Mr. Pritchett replied that a new Grissom Library would be built and hopefully, a use would be determined for the existing building.

City Manager Bourey advised that the City was in the process of determining the location for the new library. He reminded about buildings the City had purchased that may be repurposed for the Grissom Library and other City facilities, such as a replacement for the Police Precinct.

Councilwoman Woodbury advised that she did not feel that the Central District had enough projects. She inquired about South Morrison and whether it had already been renovated. Ms. Cipriano replied yes; a quick fix was instituted to be able to utilize the building. The facility was unsatisfactory for the Department of Human Services. The renovation would create private spaces for client eligibility and counseling sessions.

Councilwoman Scott inquired about the percentage of the building that was being utilized. Ms. Cipriano replied that 100% of the building was utilized by Schools, Parks, Recreation, and Tourism, Libraries, Human Services, and several smaller agencies.

- **Schools - \$49.3 million**
  - Bus Replacements
  - Facility Renovations and Improvements (see the noted projects in the presentation attached to these minutes)

Councilman Harris filed a declaration in accord with Subdivision A.2. of Section 2.2-3112 of the Virginia Conflict of Interest Act, that for the City Council Work Session Agenda of October 25, 2016, (i) the City Manager recommended to the Newport News City Council that we discuss the proposed Capital Improvement Plan for FY 2018 – 2022 (the transaction) (CIP); (ii) the said CIP included, in part, plans to fund improvements for facilities operated by the Newport News School Board, which was a group of three or more persons, the members of which are affected by the transaction; (iii) that I am employed by the Newport News School Board; and (iv) that he was able to participate in the transaction fairly, objectively, and in the public interest (a signed written declaration was filed with the City Clerk prior to the City Council meeting at which time the transaction was considered – October 25, 2016; and is attached and made a part of these minutes).

- **Streets and Bridges - \$117.5 million**
  - Jefferson Avenue & Yorktown Road Improvements (I-64)
  - Route 105 Bridge Replacement Over the Newport News Reservoir
  - Atkinson Boulevard: Warwick Boulevard to Jefferson Avenue
  - Independence Boulevard
  - Warwick Boulevard Sidewalk Widening CMAQ – Lucas Creek Road to Atkinson Way
  - Jefferson Avenue Wide Sidewalk Project - Phases 2 & 3
  - Campbell Road Improvements
  - Canon Boulevard Intersection Improvements
  - Citywide Infrastructure – City Center LED Street Light Conversion Project
  - Briarfield Sidewalk CMAQ – Marshall Avenue to Chestnut Avenue
  - Washington Avenue Streetscape Improvements
  - Lower Jefferson Avenue Streetscape Improvements from 12<sup>th</sup> to 24<sup>th</sup> Street

Councilwoman Cherry inquired about the Harpersville Road project (from J. Clyde Morris to Saunders Road). Mr. Skipper replied that funding for Saunders Road was requested as part of the SMART SCALE program. The project would not appear in the CIP until an award of funding was received. The project was part of the City's long-range plan, although it was not highlighted in the CIP.

Councilwoman Cherry questioned when the project would be included in the CIP. City Manager Bourey replied that the project would be included in the CIP, once the funding was received.

Councilwoman Cherry inquired whether there were new transportation projects in the CIP, and inquired about the cost for the Harpersville Road project. Mr. Skipper recalled that the project cost totaled approximately \$67 million, but advised that he would get the accurate amount.

Councilwoman Cherry stated she would like to know the cost, compared to new projects that were included in the FY 2018 – 2022 CIP. She stated there continued to be talk about a grant for the Harpersville Road project, but it seemed the project continued to be shuffled around. Mr. Skipper reminded that the cost for the Harpersville Road project was very high relative to the project benefits. There were a number of other projects that had been on the books for years that had a smaller cost and resulted in higher benefits. City staff continued to analyze the traffic in the Harpersville Road area, but felt it did not justify an investment for the roadway. Staff was willing to proceed with the project if funding became available, but there were other priorities with much higher returns.

Councilwoman Cherry stated she would like to see the costs for the new projects that had materialized, to determine whether the costs totaled \$67 million. She voiced concern for disabled citizens who travelled along the Harpersville roadway in motorized wheelchairs, because they did not have a sidewalk to travel on. Mr. Skipper replied there was a project in the FY 2016 budget to install sidewalks along Harpersville Road from J. Clyde Morris Boulevard. A second phase would extend the sidewalk further.

Councilwoman Cherry indicated that she would like to see the cost of all projects in the CIP. She believed it was important for disabled citizens who travelled along the roadway in motorized wheelchairs. Mr. Skipper replied that there was a project to install a sidewalk extension along a substantial distance of the roadway. The sidewalk could not be extended beyond a certain distance due to significant property and environmental issues. Additional phases of sidewalk installation had been included in future projects.

Councilwoman Cherry stated that she would like to see where the City was in the process, because the Peninsula Corridor Study noted Bus Rapid Transit from Saunders Road to Commander Shepard Boulevard in Hampton. She voiced concern about how funding could be found for Bus Rapid Transit when it could not be found to install sidewalks. City Manager Bourey stated he would provide a status update to Councilwoman Cherry.

Councilwoman Scott inquired about the Canon Boulevard Intersection improvements and the reason it was a priority to open up the area to construct a new street and the cost. Mr. Pritchett understood at some point the improvements were for the expansion of City Center heading into that direction. Ms. Kingston stated that she thought the project would expand the turn lane off of Canon Boulevard into the existing Mariners Row Garage. City Manager Bourey replied that he would verify the exact project and report back to City Council.

Councilwoman Scott stated she was always excited to see any improvements in the North District, which citizens had been requesting for years. She questioned what the Campbell Road project improvements included. The project had been on the books for a while and had been tossed around. Mr. Skipper replied that the Campbell Road improvements were from Bland to Warwick Boulevard. It widened the roadway, but did not add new lanes. It corrected some geometry, sidewalks and underground drainage issues, which would eliminate the ditches.

Councilwoman Scott inquired about the project time period and its impact on the residents. Mr. Skipper replied, as with all construction projects, there would be some inconvenience to the residents in the area. The street would be closed in parts to thru traffic during construction, but generally, the street would remain open and residents would be able to travel to and from their homes.

**Sewer Rehabilitations - \$27.3 million**

- Sanitary Sewer Maintenance, Operation and Management Program
- Sanitary Sewer Rehabilitation Program

• **Solid Waste - \$0**

- **Stormwater Drainage - \$51.5 million** (see list of projects on page 39 of the presentation attached to these minutes)
  - Citywide Drainage Improvements
  - Citywide Pipe Lining Projects
  - Citywide Swale Projects
  - Lake Maintenance and Dredging Projects
  - Stream Restoration Projects
  - Municipal Separate Storm Sewer System Static Water Quality Monitoring Stations

Councilwoman Scott inquired whether there was anything that could help mitigate the flooding near the City Line Apartment complex and whether such issues were the responsibility of the owner. Mr. Skipper replied the location of the City Line Apartments was a regional concern. The City had been working with the City of Hampton and the region on approaches to help minimize the flooding in the area. A tidal gate was one particular project that was requested regionally to help alleviate and/or control flooding in the Newmarket Creek, which flowed in the area of the apartments. The City was very interested in the area, and continued to search for solutions with the City of Hampton to minimize flooding in the area. Similar conditions were found in the Salter's Creek area. Staff searched for grants and worked with the City of Hampton, and the region, to try to obtain funding to help alleviate flooding in both areas.

Councilwoman Scott inquired whether there was anything that the city could do to hold the owner of the apartments accountable for the flood damage. She stated the residents contacted the City Council for assistance when it flooded in the area, as they lose everything. She inquired about the reason that apartments continued to be rented, knowing that flooding could happen. Mr. Skipper replied that the apartments were supported on the federal level and the owners received a cash incentive that allowed them to remain in operation. The owners had consistently made efforts to implement projects that minimized flooding impacts, such as raising the HVAC systems, and changing the configuration of ground-floor apartments to allow residents to recover more quickly after a flooding incident. Barriers had also been installed. The apartments were constructed in the flood plains 30 or more years prior.

Councilwoman Woodbury inquired about the reason that the housing was not elevated at the time of the last flooding event.

Councilwoman Vick understood that potential renters had to sign a disclosure agreement acknowledging that the apartment complex was in a flood zone and the risk of flooding was high. Mr. Skipper replied yes, that was something that the owners implemented approximately three years previously, as part of the coordination with the Cities of Newport News and Hampton to minimize risks.

City Manager Bourey replied that the City could affect change to the City Line Apartment complex if more was under its control, but it was not under the City's control.

- **Waterworks - \$82.1 million**
  - Lee Hall Pilot Plant Automated Filter Skid
  - Lee Hall HSP3 VFD Replacement
  - Rolling Stock and Other Equipment
  - Asset Reclamation Projects
  - IT Infrastructure Upgrade
  - Lee Hall Filter Media Replacement
  - DSI – Interstate 64/Jefferson Avenue Pipeline Installation
  - 60<sup>th</sup> Street Elevated Tank/Site Improvements

Councilwoman Woodbury questioned how all the projects would be funded. City Manager Bourey replied that the projects would be funded through General Obligation Bonds, Cash Capital, the Operating Budget, and Waterworks, Solid Waste, Storm Drainage and Sanitary Sewer Funds.

Councilwoman Woodbury inquired whether a proposal had been discussed to increase the real estate tax by \$0.05 to cover the above-noted projects. City Manager Bourey replied no; there

were no projects in the CIP that would warrant a real estate property tax increase. The proposal made to increase the real estate tax rate by \$0.05 was a suggestion if City Council wanted to go beyond what was included in the CIP for Schools.

## II. Local Tourism Project

City Manager Bourey introduced Ms. Florence Kingston, Director, Department of Development, to provide the presentation.

Ms. Kingston advised that the 183-room Magnuson Hotel was originally constructed as the Omni Hotel in 1989. She stated, LTD Hospitality Group, a hotel developer/management company based in Chesapeake, Virginia, had executed a Contract to purchase the former Omni property. The closing date was scheduled for December 7, 2016. LTD Hospitality Group managed more than 2,500 rooms in 16 properties across four states. She introduced the LTD Hospitality Group team: Mr. Neel Desai, Managing Principal, Ms. Kimberly Schlick, Senior Vice President of Sales, and Ms. Elizabeth Parker, to continue the presentation.

Mr. Desai stated that LTD Hospitality Group had been developing hotels for more than 35 years. He advised LTD franchised with Marriott, Hilton, Starwood and Hyatt properties. LTD had done developments throughout the Hampton Roads region to include the Courtyard/Residence Inn off of Jefferson Avenue. LTD was excited to be present and thanked the City Council and City Manager for the opportunity.

Mr. Desai advised that he saw great potential in the Magnuson Hotel. He stated that the building structure was tremendous, but cosmetic and aesthetic work was needed. The LTD group had spent the past eight to ten months researching what the hotel could become. The present condition of the hotel was bringing the market down, from a hospitality standpoint. When talking to other brands, whether Marriott or Hilton, they looked at the hospitality industry numbers (RevPAR – Revenue per Available Room). The RevPAR in the City of Newport News was approximately \$65 - \$70 for a limited service to upscale hotel. The RevPAR dropped dramatically when adding in the Magnuson and other lower economy hotels. When big franchise owners were looking at the City of Newport News and the RevPAR numbers, the Magnuson property brought down the City's overall hospitality numbers.

Mr. Desai stated that the LTD group looked at the Magnuson Hotel and felt it was in a tremendous location, which had been a development opportunity driver in the City of Newport News. There was a true connection in the location of the Magnuson Hotel to City Center, especially Omni Way. The current entrance of the hotel was off of Diligence Boulevard, and LTD group felt the main entrance should be off of Omni Way, which would connect to City Center. The ultimate goal was to connect synergy in the entire market. LTD brought in four to five general contractors to get their suggestions on

what they could do with the facility. LTD met with developers and determined a use for the Magnuson Hotel. The LTD group believed an appealing hotel could be created that would offer additional jobs and new business. There was a dedicated effort to ensure that the design of the building brought in new business and created an energetic space. LTD planned to connect the lower-level banquet and meeting space of the Magnuson Hotel to the upper-level lobby, by adding a one-stop elevator from the lobby to the lower-level. LTD planned to demolish the existing lower-level restaurant and create a lower-level lobby that would feed into the meeting space area.

Mr. Desai stated that LTD was under due-diligence which ended on November 7, 2016, and planned to close on December 7, 2016. The timeline to begin renovation would be approximately at the end of February or March of 2017. LTD planned to shut-down the building completely while renovating. They believed it would not be a benefit to the City or anyone else to keep the building open. LTD planned to shift the current employees to other hotels in the area, which they felt was important. At the same time, certain key employees would be asked to assist with the renovation process to help LTD with the complete redesign of the hotel. The hotel would not come to life until it was finished and operating. LTD prided itself as the management arm. Not only did they develop hotels, but they had a management arm that took over the management once a hotel was operational. He recognized Ms. Schlick and Ms. Parker who were present and had been instrumental in the management of the business for approximately 8 to 10 years. LTD was a family owned company and believed they could bring great things to the Magnuson Hotel.

Councilman Harris inquired about the number of jobs that were envisioned for the new hotel. Mr. Desai replied that LTD envisioned approximately 80 to 100 new jobs.

Councilman Bateman inquired about the amount of time the hotel would be out of business for renovations. Mr. Desai replied it would take approximately 10 months to renovate the hotel.

Councilwoman Woodbury inquired about the cost to the City.

Ms. Kingston noted the estimated average annual new taxes which would be generated when the renovated upgraded hotel opened:

• Lodging Tax:	\$ 47,339
• Transient Room Tax:	\$485,154
• Food & Beverage Tax:	\$149,650
• Business License Tax:	\$ 19,538
• Real Estate Tax:	<u>\$ 91,500</u>
<b>Total:</b>	<b>\$793,181</b>

Ms. Kingston noted the portion of the net new taxes that would be returned to LTD over a 10 year period:

- 100% of Business License Taxes
- 50% of Food & Beverage Taxes
- 50% of Transient Room Taxes

Ms. Kingston noted the portion of new tax revenue that the City would retain over a 10 year period:

- 50% of Food & Beverage Taxes
- 50% of Transient Room Taxes
- 100% of Real Estate Taxes
- 100% of Lodging Taxes

Ms. Kingston advised that a portion of the Tourism Zone benefits, in the amount of \$1.5 million, would be delivered up-front to LTD from the Economic Development Authority as a Promissory Note to fill some of the funding gap and assist with renovations. The funds would be placed in an Escrow Account and disbursed in proportion to LTD's equity investment in construction/rehab loan funding. The note would be repaid from the proceeds of Tourism Zone incentive delivery as tax revenue was generated. She noted the estimated average annual Local Tourism Zone benefits and net new tax revenue over 10 years:

- Estimated Average Annual Tourism Zone Benefit:
  - \$169,226 to Repay the Promissory note
  - \$169,226 to be delivered to LTD
- Estimated Net New Annual Tax Revenues Retained by City:
  - \$454,669
  - City Retains 57% of Net New Taxes Generated from the renovations

Ms. Kingston advised that LTD understood the property's linkage to City Center and was committed to running a shuttle from the hotel to City Center, as well as changing the entrance so that it related and connected to City Center. Ms. Carol Meredith, Assistant Director, Department of Development, had worked closely with the existing ownership of the Marriott and management for coordination of a way to synergize the energy between all parties. Both Crestline and Marriott had expressed support and interest in partnership opportunities in building business for the Conference Center.

Ms. Kingston stated that a Resolution of Support would be included on the November 22, 2016 City Council Regular Meeting agenda. She stated the EDA would take action on a Tourism Zone

Performance Agreement at its November 4, 2016 Board meeting, subject to the approval of a Resolution by City Council. These two actions would provide LTD with the necessary and vital financing component needed to move forward with the purchase of the property on December 7, 2016.

Councilwoman Woodbury inquired whether the new owners of City Center were aware and in support of the project. Ms. Kingston replied yes. She stated that the Marriott had reported that there were conferences that they were not able to book because of their lack of adequate rooms. They had standards that they had to stand by when providing an alternate hotel. Bringing this hotel up to a level that could be a referral would help them secure larger conferences.

Councilwoman Vick inquired about the largest size conference room. Mr. Desai replied that the largest size conference room would be 7,000 square feet.

Councilman Harris inquired about the name of the hotel. Mr. Desai replied the hotel would open as a Holiday Inn. He stated that the Holiday Inn flag had gone through much change in the past few years to compete with Marriott, Hilton and others, and had a new contemporary look and package.

Mayor Price inquired whether the Magnuson's amphitheater meeting room would be restored and maintained. Mr. Desai replied yes.

### III. Comments/Ideas/Suggestions

Councilwoman Woodbury voiced a concern that City Council was not thoroughly discussing matters before adoption at a Council meeting. For example, City Council voted to recommend the Expansion of Medicaid in its 2017 State Legislative Package. She advised that the Democratic Governor of Minnesota had indicated that the healthcare law was no longer affordable. She voiced concern about the implications in the future when federal funding was no longer available.

Councilwoman Woodbury also recalled that Mayor Price wrote a letter of support for the permit for the construction of Dominion Virginia Power's Surry-Skiffes Creek-Wheaton Electric Transmission Project. She stated there had been a Work Session presentation, but no discussion was held about the matter. She never saw the letter, but saw the Mayor provide it to Ms. Melanie Rapp Beale, External Affairs Manager for Dominion Virginia Power.

Mayor Price indicated that he had provided a letter in support for the Skiffes Creek project after the discussion of the matter at the September 27, 2016 Work Session of City Council.

Councilwoman Woodbury indicated that she would have preferred to have offered some input in the letter before it was provided to Ms. Beale stating that City Council supported the matter. She supported the matter, but would have preferred an “underground route.” She believed discussion was needed before matters were put up for vote.

Mayor Price stated that Councilwoman Woodbury had time to voice her opposition about the matter during the presentation. There was none noted, so the letter was provided to Ms. Beale. Councilwoman Woodbury reiterated the need to discuss issues more thoroughly before stating that all members of City Council were in support. She also requested that thorough research be done regarding the expansion of Medicaid, to determine what would happen after federal funding went away and the City was faced with an unfunded mandate that had to be met.

Councilwoman Woodbury pointed out that City Manager Bourey advised that the City had entered into a contract for the Downtown project, which she did not know about. She questioned when the City entered into a contract. She was concerned that City Council was not receiving adequate information about matters in order to acquire research and offer input.

City Manager Bourey stated that the Downtown plan was discussed at the January 25, 2016 Retreat of City Council, during the five-year forecast. He stated there was also discussion in 2015, with a major newspaper article in December 2015. The conversation had been ongoing.

Councilwoman Woodbury noted that the first conversation about the Downtown plan was held at the Charrette in 2015. City Manager Bourey agreed that the Charrette was held in 2015, and the Downtown plan was an extension of the Charrette. Staff had a conversation with City Council at the Retreat about moving forward with the overall plan and extending the Charrette further. There was an article in the newspaper as well. He stated that a detailed plan would be provided at a future Work Session of City Council. He advised that the plan kept the Superblock as it was and added to it. The video shared at the State of the City event was a graphic representation to provide citizens with a sense of the plan.

Councilman Harris recalled a prior request made by Councilwoman Woodbury for a Resolution of Recognition for Dudley Driving School. He had an opportunity to speak to a representative of the business who filled him in about the history of the driving school. He asked that the members of City Council support the adoption of a Resolution of Recognition to Dudley Driving School. He would provide information by the November 22, 2016 City Council meeting.

City Attorney Owens noted revisions to items on the evening agenda:

- 1) Item E.5. Ordinance authorizing acquisition of property for the Newport News Transportation Center Project Multimodal Station;
- 2) Item E.7. Ordinance Authorizing the Inspection of Rental Dwelling Units; and
- 3) Item G.5. Resolution of Appropriation re: a numerical revision.

Councilwoman Scott inquired whether the property acquisitions for the Multi-modal station included homes that were occupied by citizens or whether it was vacant land. City Attorney Owens replied the property was vacant land.

Councilwoman Scott inquired whether discussions had been held with the property owners and whether they were in support. City Attorney Owens replied no; the Resolution authorized the City to acquire the property by negotiation or condemnation. He understood that staff had been in ongoing negotiations with the owners.

Councilwoman Scott stated that she was not aware that additional land was needed for the Multi-modal station, and was not sure whether people lived on the property.

Councilwoman Woodbury inquired whether any property owners were resistant. Mr. Everett Skipper, Director, Department of Engineering, stated that staff had been in discussions with the owners, but had not negotiated anything because they had to wait for City Council action. Staff understood that all who were involved in the process were willing to proceed.

Councilwoman Cherry shared that she had attended the Disability Awareness luncheon during the afternoon of October 25, 2016. While at the luncheon, she was approached by a member who inquired about the reason a proclamation proclaiming October 15, 2016, as White Cane Safety Day, could not be presented at the October 11, 2016 Regular Meeting of City Council. The member indicated that she was told by staff that the proclamation could not be presented at a Regular City Council meeting. Councilwoman Cherry questioned the reason that the proclamation could not be presented at the October 11 or 25, 2016 Regular Meeting of City Council. The organization received the proclamation by mail, but would have preferred having it presented at a Council meeting. Council presentations were done for other organizations. She questioned the reason that the proclamation in honor of White Cane Safety Day could not be presented at a Council meeting.

Mayor Price responded that a huge amount of requests were received and all could not be honored for presentation at a City Council meeting.

Councilwoman Cherry understood that the City received a large number of requests, but this was for a specific population that should be acknowledged and shown appreciation for being a part of the City.

Mayor Price advised that he would take ownership responsibility for the decision to not present the proclamation at a City Council meeting.

Councilwoman Cherry felt that the White Cane Safety Day proclamation should have been presented at a City Council meeting, especially for the disability community. While at the luncheon, the community praised the City of Newport News, in spite of their disappointment. She was placed in an uncomfortable situation, while in attendance at the luncheon.

Councilwoman Woodbury inquired whether the proclamation could be presented at an upcoming City Council meeting.

Councilwoman Cherry reminded about discussion at a prior City Council Work Session regarding City Council "Table Money" that had not been spent. She received a request from a non-profit organization about sponsoring a table for a fundraiser for disabled veterans. She contacted the City Clerk to determine how to use City Council "Table Money" for the event and was told that the "Table Money" had been moved to travel. She questioned who made the decision to eliminate the category of "Table Money" from the budget.

City Manager Bourey replied that the decision was made as a result of a conversation that the City Council had, during the budget process.

Councilwoman Cherry stated that she did not recall the conversation. She stated that the discussion in April 2016 noted the need for City Council to have "Table Money." City Manager Bourey replied that the conversation was for the FY 2015 – 2016 budget. He advised that the "Table Money" was folded into the City Council Travel, per a Work Session conversation.

Councilwoman Cherry stated that she did not recall the Work Session conversation about City Council folding the "Table Money" into Travel. She did not know that City Council had "Table Money" until being told about it during the Council Work Session. She did not travel, and inquired about the reason that she would agree to fold the funds into the Travel budget. City Manager Bourey advised that was the conversation.

Councilwoman Cherry indicated that she had an opportunity to sponsor a table, but did not know how to go about doing so. City Manager Bourey replied that Councilwoman Cherry could make a request to the City Clerk. He stated that money was available in the budget, although it was not specifically earmarked as “Table Money”; it was listed under City Council travel.

Councilwoman Cherry did not recall a consensus of City Council to fold the “Table Money” into City Council Travel.

Mayor Price stated that the designation of “Table Money” came about because, at one point in time, there were many requests from City Council members to sponsor tables. At that time, the City Manager believed it would be a good idea to designate \$2,000 for each Council person to use at their discretion for table sponsorships. That funding was then utilized for other means other than table sponsorships, such as for transportation. Some members of City Council were utilizing the funding and others were not. Because of that, a decision was made to eliminate the “Table Money” by putting it into City Council Travel, which allowed members of City Council to utilize the funding as they so desired.

Councilwoman Cherry understood the designation of “Table Money” came about before she was elected to City Council. She questioned whether the “Table Money” was available when the discussion took place in April 2016. Mayor Price replied yes; “Table Money” did exist in FY 2015 – 2016, but the designation of “Table Money” was eliminated from the 2016 – 2017 budget.

Councilwoman Cherry inquired about the reason that City Council did not have a discussion about the funding being merged into travel. City Manager Bourey replied that City Council did have that conversation in a Work Session.

Councilwoman Cherry disagreed and stated that she recalled a discussion about “Table Money” available at the end of the fiscal year, and where it would go. She did not recall any discussion about putting the funding into travel. She inquired about the meeting that the discussion was held, and indicated that she stood corrected if the minutes reflected that the “Table Money” would be folded into Travel; however, she asked that the City Manager provide an apology if the minutes did not reflect that the “Table Money” would be folded into Travel.

Mayor Price indicated that he did believe that the discussion was at the level of being recorded in the minutes. It was a general discussion about the CIP and the budget, and how City Council was going to proceed; the designation of “Table Money” was deleted to alleviate confusion.

Councilwoman Cherry stated she was not aware of that.

Councilwoman Woodbury inquired whether the funding could be labeled as Travel/Table funding to alleviate any confusion. City Manager Bourey replied that the budget had been adopted.

Councilwoman Scott stated it was clear that it was “Table Money” when it was designated as such.

City Manager Bourey explained that the funding was being used by members of City Council for other matters rather than sponsoring a table for an event.

City Attorney Owens stated the funding was included in the budget to support charities located in Newport News that provided services to the citizens. Mayor Price agreed, and indicated that the funding was not being used appropriately.

Councilwoman Cherry reiterated that she did not recall clearly that it was stated that City Council was going to merge “Table Money” and Travel funding together, or she would not have brought up the issue of using Table funding. She recalled there was discussion about unused “Table Money” and what to do with it, but this was the first of her hearing that the funding was merged into Travel.

Councilwoman Cherry inquired about the reason that City Council could not receive a hard copy of the material that was presented at the Work Sessions as part of the Agenda packet. She stated that she would like to receive the presentation information beforehand, which provided her with a better understanding of the subject.

City Manager Bourey replied there were two issues with providing the information: 1) The presentation material was not ready; and 2) The information could be made public in the newspaper ahead of City Council receiving it at the Work Session, which would cause him grief. The agenda went out on Thursday, which allowed time for the information to be published in the newspaper between Friday and Monday, ahead of the Work Session presentations on Tuesday.

Councilwoman Cherry voiced concern, and advised that there was research that she needed to get done ahead of the meeting. She understood that information was provided as a part of the Work Session agenda before becoming a member of City Council. City Manager Bourey replied that issue papers were provided as opposed to presentations. He pointed out that the above-noted CIP PowerPoint presentation was finalized this afternoon and was not available to go out with the agenda package. He did not want City Council to read about agenda matters in the newspaper before being presented to City Council at a Work Session. He advised that staff would not schedule a matter for vote on the same date of a Work Session presentation to allow ample time for Council to study the matter.

Councilwoman Cherry reiterated that she understood that presentation materials were provided to City Council as a part of their Work Session agenda package, prior to City Manager Bourey becoming the City Manager. She asked the City Manager, as he received guidance from City Council, to provide information as part of the Work Session agenda so that she could be better prepared. She understood that City Staff information may not be ready until the day of the meeting. She inquired whether the City Manager was stating that presentation material from outside guests was not available until an hour before the meeting as well. City Manager Bourey replied that there was virtually never a time that he received a presentation on Wednesday, ahead of the Thursday that the Agendas went out. He always received the presentations the day before or day of the Work Session.

Councilwoman Cherry inquired whether the City Manager was saying that presentations from outside presenters would not be prepared until the day of the Work Session. City Manager Bourey replied that he did not receive the presentations in advance of the Work Sessions.

Councilwoman Cherry inquired whether the City Manager had asked the presenters to have their presentations sent to him prior to the Work Sessions. City Manager Bourey replied that the presentations were asked for, but generally were not received before the day of the Work Session.

Councilwoman Cherry stated she was asking for the presentations to be received in advance of the Work Sessions. City Manager Bourey replied that he would try to get the presentations to Councilwoman Cherry if there was consensus among members of City Council to do so, but it meant that City Council could hear about a specific matter in the newspaper before the Work Session. He believed that he would receive grief behind the information being published in the newspaper.

Councilwoman Cherry stated that she had grief with the City Manager having grief that she was requesting the information. City Manager Bourey responded that he did not have grief with the fact that Councilwoman Cherry was asking for the information, but he disagreed with her request.

Councilwoman Cherry replied that she disagreed with the City Manager. She stated it was okay that they disagreed, but she was just stating her reason for the disagreement. It was a paper issue for the City Manager, but it was to be more informed and knowledgeable for her, so that she could be better prepared to ask questions and have better dialogue with presenters. That was the reason that she asked for the information. She was an information person and liked to receive the information to read, which was her request.

City Manager Bourey announced that the Economic Development Authority sponsored a table for the City of Hampton's State of the City event on November 15, 2016. He asked members of City Council to contact the City Clerk if they were interested in attending the event.

Councilwoman Woodbury replied that several members of City Council would be attending the National League of Cities Conference that was scheduled during the time of the City of Hamptons' State of the City.

Mayor Price stated he had received a funding request from the Hampton/Newport News Community Services Board (HNNCSB) to assist with their 27<sup>th</sup> Annual Thanksgiving Luncheon. He stated the luncheon was scheduled for Wednesday, November 16, 2016, 11:30 a.m., at the Crowne Plaza Hotel in Hampton. He asked whether members of City Council were in support of assisting with the event by committing to a \$500; \$1,000; or \$2,000 sponsorship level.

Councilwoman Scott inquired whether the HNNCSB had asked for assistance in the past; she did not recall receiving such a request. Ms. Mabel Washington Jenkins, City Clerk, replied that members of City Council were usually invited to attend the event, but she did not recall being asked to provide a donation.

Vice Mayor Vick stated that she would support a sponsorship level, because the HNNCSB served many citizens from the City of Newport News, and because of the reduction of mental health funding from the State. The HNNCSB took on a larger number of individuals which was not made up through Community Support Funding. She felt a \$1,000 sponsorship level was adequate.

There was consensus among City Council to support a sponsorship level of \$1,000 for the CSB luncheon.

Councilwoman Cherry inquired whether there were any other members of City Council that were in support of receiving information attached to their Work Session agenda for viewing prior to the Work Sessions.

Councilwoman Woodbury recalled receiving information in the past as a part of the Work Session agenda. She believed it would be helpful to have the information ahead of time. She had never known it to be a problem with the newspaper in the past.

Councilwoman Scott recalled that additional information was provided as part of the Work Session agenda. She understood the concern voiced by Councilwoman Cherry, who had indicated, since being a member of City Council, that she was an information person and wanted to be better prepared to ask questions prior to the presentation. She could respect her request.

Vice Mayor Vick stated she preferred to call the City Manager and staff directly if she had a question about an agenda item instead of waiting to ask questions at a meeting. She stated that members of City Council could call the City Manager or staff about questions ahead of the meeting.

Councilwoman Scott understood the desire of Councilwoman Cherry.

Councilwoman Cherry inquired whether there was an objection to receiving the information.

Mayor Price asked for a motion and vote to determine the desires of City Council regarding receiving information about agenda items in advance of a Work Session.

Councilwoman Cherry moved that City Council receive the presentation information that was available prior to the Work Session; seconded by Councilwoman Woodbury.

Councilwoman Cherry indicated that the presentations should be ready prior to the Work Session, if available. She understood that staff presentations were not always ready beforehand, but outside presenters should have their presentations ready. City Manager Bourey replied that does not always happen. He stated that people were extremely busy and were pulling paperwork together as they were coming up to the deadline.

Ms. Florence Kingston, Director, Department of Development, pointed out that many times the City did not receive Economic Development presentations until the last minute, such as the information provided for the "Local Tourism Project," presentation today. The EDA was not prepared for the information to be publically known until after a presentation to City Council, because of the due diligence in what was done. She recalled, over the past 35 years as an employee of the City, that there had been some material provided as part of the Work Session agenda, such as a memo explaining the subject. Many Economic Development projects did not get included. Some items were included, but not all, depending on the nature of the item.

City Manager Bourey stated staff provided information to City Council beforehand when they could. He advised that he would be happy to provide the information as part of the agenda if the matter was not something that City Council would be surprised to hear about in the newspaper.

Councilwoman Cherry was not only concerned about matters showing up in the newspaper; but was concerned about not being appropriately informed about matters on the agenda. She advised that was her issue. She preferred to be informed to alleviate the need to ask a huge amount of questions during a Work Session.

Mayor Price stated it was moved and seconded that City Council receive the presentation information in the Council Work Session agenda, if available, prior to the Work Session.

**DRAFT**

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Minutes of Work Session  
October 25, 2016

Vote on Roll Call:  
Ayes: Vick; Woodbury; Cherry; Harris; Scott  
Nays: Bateman; Price

THERE BEING NO FURTHER BUSINESS  
ON MOTION, COUNCIL ADJOURNED AT 4:51 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 25, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

#### ATTACHMENTS:

##### Description

Minutes of Special Meeting of October 25, 2016

**DRAFT**

**MINUTES OF SPECIAL MEETING  
OF THE NEWPORT NEWS CITY COUNCIL  
HELD IN THE 10<sup>TH</sup> FLOOR CONFERENCE ROOM  
2400 WASHINGTON AVENUE  
OCTOBER 25, 2016  
4:50 P.M.**

---

PRESENT: Tina L. Vick; Dr. Patricia P. Woodbury; Herbert H. Bateman, Jr.; Sandra N. Cherry, D. Min.; Marcellus L. Harris III; McKinley L. Price, DDS; and Sharon P. Scott-----7

ABSENT: None-----0

OTHERS PRESENT: James M. Bourey; Collins L. Owens, Jr.; Mabel Washington Jenkins; Darlene Bradberry; Robert Pealo; Cynthia Rohlf; Florence Kingston; Chris Morello; 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 Councilman Harris.

Vote on Roll Call:

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

Nays: None

(Closed Session 4:50 p.m. – 5:30 p.m.)

**DRAFT**

Page 2  
Minutes of Special Meeting  
October 25, 2016

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

Nays: None

THERE BEING NO FURTHER BUSINESS,  
ON MOTION, COUNCIL ADJOURNED AT 5:30 P.M.



Mabel Washington Jenkins, MMC  
City Clerk

McKinley L. Price, DDS  
Mayor  
Presiding Officer

A true copy, teste:

City Clerk

**DRAFT**

**CERTIFICATE OF CLOSED MEETING**

**MEETING DATE:** October 25, 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: Vick, Woodbury Bateman, Cherry, Harris, Price, Scott

NAYS: None

ABSTENTION: None

ABSENT DURING VOTE: None

ABSENT DURING MEETING: None

ATTEST:

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

## **F. Consent Agenda**

### 3. Minutes of the Regular Meeting of October 25, 2016

ACTION: • N/A

BACKGROUND: • N/A

FISCAL IMPACT: • N/A

#### ATTACHMENTS:

##### Description

Minutes of Regular Meeting of October 25, 2016

MINUTES OF REGULAR MEETING  
OF THE NEWPORT NEWS CITY COUNCIL  
HELD IN THE CITY COUNCIL CHAMBERS  
2400 WASHINGTON AVENUE  
OCTOBER 25, 2016  
7:00 P.M.

PRESENT: Tina L. Vick; Dr. Patricia P. Woodbury; Herbert H. Bateman, Jr.; Sandra N. Cherry, D. Min.; Marcellus L. Harris III; McKinley L. Price, DDS; and Sharon P. Scott-----7

ABSENT: None-----0

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 Pastor Fred Michaux, City Life 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 Vice Mayor Vick.

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

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

E. Public Hearings Continued

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 Continued

AT 15402 WARWICK BOULEVARD, NEWPORT NEWS, VIRGINIA. This ordinance authorized and directed 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. This easement request would 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 one (1) bid for this easement at its October 11, 2016 meeting. The City Manager recommended approval.

(No registered speakers)

Councilwoman Scott moved closure of the public hearing; seconded by Vice Mayor Vick.

Vote on Roll Call:

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

Nays: None

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

Vote on Roll Call:

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

Nays: None

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

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. This ordinance authorized 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,

E. Public Hearings Continued

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 Continued

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 Variances; Section 45-3204, Procedure for Review and Approval of Special Exceptions; and Article XXXIV., Change of Regulations, Section 45-3404, Procedure. This amendment would 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 would 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. The City Manager recommended approval.

(No registered speakers)

Councilwoman Scott moved closure of the public hearing; seconded by Vice Mayor Vick.

Vote on Roll Call:

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

Nays: None

Councilwoman Woodbury moved adoption of the above ordinance; seconded by Councilwoman Scott.

Vote on Roll Call:

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

Nays: None

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

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. This ordinance authorized Zoning Text Amendment No. ZT-16-384 to the City of Newport News, amending the 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. This amendment renamed the use "Amusement Arcade" to "Amusement Establishment" in order to update the terminology. It also added Amusement

E. Public Hearings Continued

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 Continued

Establishment and Skating Rink to the Oyster Point Urban Core Overlay District as permitted uses to expand the opportunities for entertainment in City Center. It further deleted 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. The City Manager recommended approval.

(No registered speakers)

Councilwoman Scott moved closure of the public hearing; seconded by Councilman Harris.

Vote on Roll Call:

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

Nays: None

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

Councilwoman Scott questioned what the City was trying to achieve by this request, and inquired whether this included some of the new initiatives that were slated for the Denbigh-Warwick (DW) Shopping Center in the North District. She further inquired how far the Oyster Point Urban Core Overlay District stretched. City Manager Bourey replied that he was not familiar with the exact boundaries, but stated this ordinance was for the entertainment district, and to help facilitate the district within City Center along the retail street. City Manager Bourey advised that the ordinance was precipitated by the applicant wanting a “break-out room,” which was also slated for the DW Shopping Center. He stated that this applied to the City Center direct property. Councilwoman Scott inquired if someone else planned a similar type amusement in a different district, whether a conditional use permit would be required. City Manager Bourey responded yes, a conditional use permit would be required for a similar type of amusement in a different district.

Vote on Roll Call:

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

Nays: None

E. Public Hearings Continued

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

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

(No registered speakers)

Councilwoman Scott moved closure of the public hearing; seconded by Councilman Harris.

Vote on Roll Call:

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

Nays: None

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

Vote on Roll Call:

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

Nays: None

E. Public Hearings Continued

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

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. This ordinance authorized the City Manager to make offers to acquire by purchase or condemnation, portions of property for the Newport News Transportation Center Project (NNTC) Multi-modal Station, to provide funds for this purpose, and to execute all documents necessary to effect the purchase. A property acquisition and permanent easement was required at 13380 Warwick Springs Drive to accommodate a retaining wall and water line relocation. Property acquisitions were 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. The total appraised value of all acquisitions was \$2,423,533. Funding for this acquisition was available through previously appropriated State and Federal funds. The City Manager recommended approval.

(No registered speakers)

Councilwoman Scott moved closure of the public hearing; seconded by Vice Mayor Vick.

Vote on Roll Call:

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

Nays: None

Councilwoman Scott moved adoption of the above ordinance, as revised; seconded by Councilman Bateman.

Councilwoman Scott shared that she had posed the question earlier whether any of the properties affected homeowners and was told that the properties did not affect homeowners. The properties were not personal residences. She shared this fact so that citizens could be comfortable with the Multi-Modal Transportation Center.

Councilman Harris inquired about Parcel 01, which mentioned a portion of Youngs Mill Apartments being affected, and the type of affect. City Manager Bourey

E. Public Hearings Continued

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 Continued

responded that a small portion of the complex would be affected, but did not include any apartment units. Mr. Everett Skipper, Director, Department of Engineering, confirmed that no apartment units would be affected.

Vote on Roll Call:

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

Nays: None

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)

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. This ordinance authorized and directed 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). This action was consistent with the City's ongoing efforts to encourage single-family residential development within the Southeast Community. The City Manager recommended that the City convey eight (8) City-owned vacant lots to the NNRHA. Four (4) of the properties would be combined to create two (2) buildable by-right lots. Upon conveyance, NNRHA would agree 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 recommended approval.

(No registered speakers)

Councilwoman Woodbury moved closure of the public hearing; seconded by Councilwoman Scott.

Vote on Roll Call:

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

Nays: None

E. Public Hearings Continued

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) Continued

Councilwoman Woodbury moved adoption of the above ordinance; seconded by Councilwoman Scott.

Councilwoman Cherry inquired whether the lots to be conveyed to the Habitat for Humanity were 2001 and 2003 Marshall Avenue. She further inquired whether the addresses for the other two buildable by-right lots were 2606 and 2608 Oak Avenue.

Mr. Eoghan Miller, Management Analyst, City Manager's Office, replied that the properties would all be buildable by-right lots, which would be conveyed to the NNRHA.

Councilman Bateman inquired whether these would all be buildable sites. Mr. Miller responded in the affirmative, the lots being discussed, as included in the ordinance, would all be buildable lots.

Vote on Roll Call:

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

Nays: None

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

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. This ordinance amended the City Code, Chapter 13, Building Regulations; by adding a new Article XII., Identification and Inspection of Rental Dwelling Units, to include the establishment of Rental Inspection Districts. City Council was briefed at its September 27, 2016 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 would establish such. The proposed project area was defined as U.S. Census Bureau Neighborhood Statistical Areas 1, 2, and 3, which made up much of Newport News south of 39<sup>th</sup> Street. The maps of this area are attached to the City Manager's memo to City Council dated October 19, 2016. As the City's housing stock continues to age, it was extremely important that the City stabilize neighborhoods and improve the condition of its housing stock. Upon approval of this Ordinance, staff would continue its ongoing efforts to communicate with rental

E. Public Hearings Continued

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

property owners, citizens, and others, to notify them about the implementation process and their requirements and responsibilities under the program. The City Manager recommended approval.

(No registered speakers)

Councilwoman Scott moved closure of the public hearing; seconded by Councilwoman Woodbury.

Vote on Roll Call:

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

Nays: None

Councilwoman Woodbury moved adoption of the above ordinance, as revised; seconded by Councilwoman Scott.

Councilwoman Scott questioned why the Rental Inspection Program was being established as a district, rather than citywide. City Manager Bourey replied that the State Statue called for the program to be implemented, i.e. selecting an area with more deteriorated housing units. Councilwoman Scott inquired, once the program was designated, how long would the Rental Inspection Program be in effect. City Manager Bourey replied that changes could always be made. It was anticipated that the program would begin in the South District, but could go to other areas, depending on the circumstances. Councilwoman Scott advised that she had received several e-mail messages from real estate agents expressing concern about the program. Councilwoman Scott personally visited some sites within the district, and was surprised by the conditions of some of the homes. She expressed support for this ordinance, and was happy to see the City implementing the program, which would protect the citizens from living and having to pay rent for such deplorable conditions.

Vice Mayor Vick agreed that the Rental Inspection Program was established to protect the citizens, but expressed some concern that housing may not be as available as a result, and whether this would prove to be cumbersome for people trying to provide affordable rental units. City Manager Bourey advised that new units were exempt. He stated that units that had already been inspected, and passed the inspection, would receive a four (4) year reprieve from additional inspections. Should a property not pass the inspection, the owner would have an opportunity to make corrections. The Program should not have a significant effect on the amount of housing in the South District. This was a protection for the citizens. There was no way to know the condition of the properties inside unless an opportunity to inspect it periodically is afforded. The program was included in the budget, and there would be no additional impact to the City, and very little impact to the public.

E. Public Hearings Continued

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

Councilwoman Scott inquired whether the program would fall under the Department of Codes Compliance. City Manager Bourey advised that Codes enforcement staff would perform the inspections.

Councilman Bateman questioned what could trigger an inspection. City Manager Bourey responded that Codes inspectors would go around periodically and inspect very systematically, to perform inspections in a very thorough and professional fashion. He reiterated, if a property passed inspection, there would be a 4-year pass from another inspection. Councilman Bateman inquired about a disgruntled tenant that felt their unit was not up to par being able to request an inspection. City Manager Bourey responded that citizens could always request an inspection. Councilman Bateman questioned what differentiated the Rental Inspection Program from the current process. He questioned why the Rental Inspection Program was better. City Manager Bourey responded that the Rental Inspection Program provided the City the right, and process, to enter into every rental unit to inspect it. Currently inspections were only made if there was a complaint. Some citizens may be unaware that they had recourse. Some may not want to report anyone because of fear of retaliation.

Councilwoman Scott advised that the situation she described included a tenant that was fearful of being evicted. Councilman Bateman indicated the message to citizens that wanted to rent in the area designated in the Rental Inspection Program, was that this was a new tool in the arsenal of the City of Newport News, to make sure that we ratchet up the performance and character of the properties for those who lived on the site. City Manager Bourey concurred, and stated that staff was convinced that this program would improve the entire neighborhood. Councilman Bateman stated that the South District seemed to be the most reasonable place to begin with the Rental Inspection Program. City Manager Bourey indicated that the inspections would be performed systematically beginning in the areas needing the most attention. Councilman Bateman advised that there were a number of other cities in the State of Virginia that were taking advantage of the Rental Inspection Program and that the program was helpful and did what was intended. City Manager Bourey stated, as word got around, people would take it upon themselves to rehabilitate units. Councilman Bateman stated that it would be helpful for the City, if able, to be proactive and meet with some of the property management companies who seemed to be afraid of the Rental Inspection Program. He did not sense that their fear was legitimate, but felt if they knew more about the Program, and if their properties were maintained, that they would have a four-year pass from being inspected again.

City Manager Bourey responded that the conversation had taken place with Property Management companies, and stated there was a certain element that did not want any regulation. He stated the program was necessary and it was important that it be implemented.

E. Public Hearings Continued

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

City Manager Bourey shared, that there was a provision that “professionally managed properties” could have a pass from being inspected, but stated some of those properties were the worse.

Councilman Bateman inquired whether the performance of the Rental Inspection Program could be tracked. City Manager Bourey responded that the program could be tracked. Councilman Bateman advised, if the program worked, Newport News could be a beacon for someone else. City Manager Bourey advised that staff would report back to City Council within a six month period.

Vote on Roll Call:

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

Nays: None

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

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 ZONE #3 AND #3-A), PURSUANT TO THE VIRGINIA ENTERPRISE ZONE GRANT ACT. This resolution authorized 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. City Council had been 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) was required to accomplish the boundary adjustment. This action was critical to the continued success of our Enterprise Zone Program by removing ineligible properties to ensure that sufficient land was available for future Enterprise Zone additions in support of the business community. The City Manager recommended approval.

(No registered speakers)

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

Vote on Roll Call:

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

Nays: None

E. Public Hearings Continued

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 Continued

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

Vote on Roll Call:

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

Nays: None

F. Consent Agenda

Councilwoman Woodbury moved adoption of the Consent Agenda, Items 1 through 5, both inclusive, as shown below; seconded by Councilwoman Scott.

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

(No registered speakers)

Vote on Roll Call:

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

Nays: None

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

(No registered speakers)

Vote on Roll Call:

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

Nays: None

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

(No registered speakers)

Vote on Roll Call:

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

Nays: None

4. Resolution in Memoriam: Arnold Ron Coates, II

A RESOLUTION IN MEMORIAM IN HONOR OF MR. ARNOLD RON COATES, II. This resolution recorded with deep and profound sadness the tragic and untimely

F. Consent Agenda Continued

4. Resolution in Memoriam: Arnold Ron Coates, II Continued

death of Mr. Arnold Ron Coates, II, on July 29, 2016. Mr. Coates was born in Bad Kzeuznach, 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 recognized and honored Mr. Arnold R. Coates, II, for all he had done to serve the City of Newport News and the United States. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

5. Resolution Confirming, Ratifying and Terminating the Declaration of a Local Emergency Made Necessary by Hurricane Matthew

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. This resolution confirmed, ratified, and terminated the Declaration of a Local Emergency issued by the Newport News Director of Emergency Management on October 8, 2016, made necessary by Hurricane Matthew. On October 8, 2016, the National Hurricane Center (NHC) predicted 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 emergencies related to the storm. In accordance with the Code of Virginia, the governing body had 45 days from the date of issuance to ratify the Declaration. The Declaration was terminated on October 10, 2016. The City Manager recommended approval.

(No registered speakers)

Vote on Roll Call:

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

Nays: None

F. Consent Agenda Continued

5. Resolution Confirming, Ratifying and Terminating the Declaration of a Local Emergency Made Necessary by Hurricane Matthew Continued

Vote on Roll Call:

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

Nays: None

G. Other City Council Actions

1. Resolution Approving and Adopting the City of Newport News, Virginia Legislative Program for the 2017 Virginia General Assembly

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. This resolution approved and adopted the City of Newport News, Virginia Legislative Program for the 2017 Virginia General Assembly. The City prepared 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 recommended approval.

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

Vote on Roll Call:

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

Nays: None

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

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. This resolution authorized the City Manager to execute any and all agreements or documents necessary to obtain grant funding from the Virginia DEQ for the Deep Creek Shoreline Restoration at Menchville Marina Project. The City had 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 required the City to submit a signed grant agreement for use of the funding. The City Manager recommended approval.

G. Other City Council Actions Continued

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 Continued

Councilwoman Woodbury moved adoption of the above resolution; seconded by Councilwoman Scott.

Vote on Roll Call:

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

Nays: None

3. Item 2 of 2: Resolution Appropriating \$324,000 from the Virginia Department of Environmental Quality (DEQ) Water Quality Improvements Fund (WQIF) and the FY 2016 Bond Authorization, Stormwater Drainage Category for the Design and Construction of the Deep Creek Shoreline Restoration at Menchville Marina Project

A RESOLUTION APPROPRIATING FUNDS FROM BONDS AUTHORIZED AND UNISSUED (\$162,000.00) AND STATE REVENUE (\$162,000.00) TO DEEP CREEK SHORELINE RESTORATION AT MENCHVILLE MARINA PROJECT (\$324,000.00). This resolution appropriated \$324,000.00 from the Virginia DEQ WQIF and the FY 2016 Bond Authorization, Stormwater Drainage Category for the design and construction of the Deep Creek Shoreline Restoration at Menchville Marina Project. The project was located at 494 Menchville Road South, along Deep Creek, adjacent to the Christopher Newport University Sailing Center and Menchville Marina. The shoreline was eroding, causing trees to be uprooted, contained concrete and wood debris previously deposited for protection, and wooden posts and debris from a degraded bulkhead. The proposed improvements would 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 would be directed to the improvements to provide pollutant reduction to Deep Creek. This project was considered critical because it provided pollutant reductions required through the Total Maximum Daily Load (TMDL) limit set by the DEQ, delegated from the Environmental Protection Agency (EPA). Due to its reduction of pollutant loading, the City was successful in obtaining a WQIF matching grant from DEQ for this project's design and construction. The City Manager recommended approval.

(No registered speakers)

Councilwoman Woodbury moved adoption of the above resolution; seconded by Councilman Harris.

Vote on Roll Call:

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

Nays: None

G. Other City Council Actions Continued

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

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. This resolution authorized 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. The City had 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 required the City to submit a signed grant agreement for use of the funding. The City Manager recommended approval.

(No registered speakers)

Councilwoman Scott moved adoption of the above resolution; seconded by Councilwoman Woodbury.

Vote on Roll Call:

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

Nays: None

5. Item 2 of 2: Resolution Appropriating \$1,848,301 from the Virginia Department of Environmental Quality Water Quality Improvements Fund (WQIF) and from Private Developer Contributions for the Richneck Area Regional Water Quality and Flood Control BMP, Phase 1 Project

A RESOLUTION APPROPRIATING FUNDS FROM LOCAL REVENUE (\$1,280,061.00) AND STATE REVENUE (\$568,240.00) TO RICHNECK AREA REGIONAL WATER QUALITY AND FLOOD CONTROL BMP, PHASE 1 PROJECT (\$1,848,301.00). This resolution appropriated \$1,848,301.00 from the Virginia Department of Environmental Quality Water Quality Improvements Fund (WQIF) and from private developer contributions for the construction of the Richneck Area Regional Water Quality and Flood Control BMP, Phase 1 Project. The project allowed 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 replaced an existing embankment with a sub-standard outfall pipe which would alleviate flooding in the existing basin. The BMP would 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

G. Other City Council Actions Continued

5. Item 2 of 2: Resolution Appropriating \$1,848,301 from the Virginia Department of Environmental Quality Water Quality Improvements Fund (WQIF) and from Private Developer Contributions for the Richneck Area Regional Water Quality and Flood Control BMP, Phase 1 Project Continued

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 recommended approval.

(No registered speakers)

Councilman Bateman moved adoption of the above resolution, as revised; seconded by Councilwoman Scott.

Councilwoman Woodbury inquired about the identity of the private developer. City Manager Bourey responded that the private developer was Huntington Pointe.

Vote on Roll Call:

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

Nays: None

H. Appropriations

None Submitted

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

Mr. Sean Devlin, 5918 Marshall Avenue, Newport News, commented about the dangerous situation on Marshall Avenue – a high traffic area, with no sidewalks for pedestrians in a residential area. He stated it was only a matter of time before someone was run over by a vehicle, walking to or from school or a store. Mr. Devlin stated had the area been in Oyster Point, there would have been ten (10) traffic studies and construction underway, regardless of cost. He stated if the area was in the Christopher Newport University (CNU) area, or on James River Drive, the problem would have been corrected. He raised the question, “why not Marshall Avenue?” The Newport News traffic engineers were made aware of the situation and had determined that Marshall Avenue was a residential area, with high traffic and speeding problems by their own studies. Citizens between Briarfield Road and Hilton Avenue had asked for assistance and traffic calming measures, with only bureaucratic regulations delaying the recognized problems of Marshall Avenue being a high traffic race track and a potential tragedy waiting to happen. Mr. Devlin posed the question, “what’s the price of life?” He had received updated information regarding the issue, satisfying concerns. He and his neighbors were monitoring the process.

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

Councilwoman Cherry thanked Mr. Devlin for his attendance and for bringing this matter to the attention of City Council. She advised that City Council had some discussion about Marshall Avenue. She was concerned about the areas that had no sidewalks, with people having to walk along the side of the road where posted speeds were not adhered.

Vice Mayor Vick advised that she had spoken with Mr. Everett Skipper, Director, Department of Engineering, and visited Heritage High School to look at the surrounding areas. She, too, was glad that Mr. Devlin was sharing the concerns about this area. She stated the sense of urgency that was missing was that when the street was constructed, neither Heritage High School, nor Riverlands, nor Windsor Apartment complexes existed. The area had grown and there was more traffic. She asked the City Manager to consider meeting with Engineering and Mr. Devlin to consider pushing the project forward as this was a safety issue for the citizens in that area. Vice Mayor Vick was concerned about the number of high school students with band practice, and after school activities walking home in a high risk area. The students were walking in the street because there were no sidewalks.

Councilwoman Woodbury questioned whether anything was being done. City Manager Bourey responded yes, but in an effort to be inclusive of people that may be affected, sometimes the process did not work as fast as one would like. He asked Mr. Everett Skipper, Director, Department of Engineering, to provide an explanation. Mr. Skipper shared the City agreed there was an issue with Marshall Avenue, and had, together with the neighborhood, designed a proposed approach, which the City Manager had approved, which would include the installation of two sets of speed humps, and would proceed during the spring of 2017. In terms of Heritage High School, Mr. Skipper advised that changes had been made related to crosswalks and signage in the area. He advised that the Department of Engineering would continue to monitor the area, and with the City Manager's permission, would schedule a specific meeting on that particular location.

Councilwoman Woodbury inquired about the ditches, and whether anything would be done about them. Mr. Skipper asked for specific locations so that the Department of Engineering could review each. He stated the City had a number of roads that had ditches running beside them, which were considered normal hazards, but had remarkably few accidents associated with them.

Councilwoman Cherry advised that ditches ran all along Marshall Avenue, and not just one specific location, as well as from Briarfield Road to Mercury Boulevard. Councilwoman Cherry reminded that there were no sidewalks on Marshall Avenue. She also pushed for sidewalks on Harpersville Road. She stated it made no sense that people had to walk in the streets. The installation of speed humps on Marshall Avenue would not stop people from being able to walk on a sidewalk. She stated that the construction of sidewalks on Marshall Avenue was another project to consider as funding was considered, whether it was revenue sharing or something else, it was critical to construct sidewalks in those areas with a presence of

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

high pedestrian traffic. Mr. Skipper stated that the Department of Engineering performed routine studies across the City. He pointed out that the City had an extensive network of roadways that did not have sidewalks, and had deep ditches. He further advised that the City was faced with challenges in terms of environmental organizations that were converting ditches to pipe systems. There was a great deal of environmental regulation that stated that ditches were favored because they provided infiltration, evaporation, and control of stormwater where pipes moved the pollutants faster to the Bay. The regulations had changed substantially and the City was much more restricted than in the past in terms of the ability to pipe. Councilwoman Cherry indicated that she was not so much concerned about the piping than the sidewalks. Council members advised that piping was required with the sidewalks. Councilwoman Cherry asked Mr. Skipper to work on finding what solutions could be brought forward for the sidewalks for Marshall Avenue, as well as Harpersville Road. Vice Mayor Vick added from Roanoke Avenue and Briarfield Road up to Briarfield Road and Jefferson Avenue, where most of the students were walking on rocks and grass, to and from school activities.

Mr. Skipper advised that Engineering would pursue those issues regularly, and were successful in securing a grant from the State, specific to what was called "Safe Routes to School" which was to help identify funding and grants to increase sidewalks, particularly in school areas.

J. New Business and Councilmember Comments

City Manager Bourey thanked everyone that was involved in the State of the City, held on Tuesday, October, 18, 2016, at the Marriott Hotel City Center. He specifically thanked Ms. Cleder Jones, Director, Department of Communications, and staff; Ms. Jerri Wilson, Management and Legislative Analyst, City Manager's Office; Dr. Telly Whitfield, Assistant to the City Manager for Special Projects, City Manager's Office; and last, but not least, Mayor Price for presenting an outstanding State of the City Address.

City Attorney Owens reminded citizens that the November 8, 2016 Regular Meeting of City Council was cancelled. The next meeting would be held on Tuesday, November 22, 2016, 7:00 p.m. in the City Council Chambers.

Vice Mayor Vick reminded, due to Hurricane Matthew, her Girls' Camp had been rescheduled to Saturday, October 29, 2016, 9:00 a.m. – 4:00 p.m., at An Achievable Dream Middle and High School (726-16<sup>th</sup> Street). Girls Camp was a camp for young girls in Newport News, ages 13 – 18, with a focus on building self-esteem, decision making, and learning essential life skills to help them be more productive in life. The event was free. For additional details, citizens were directed to contact the City Clerk's Office at (757) 926-8634.

J. New Business and Councilmember Comments Continued

Vice Mayor Vick thanked and congratulated Transitions Family Violence Services for their hard work. Transitions provided services to both Newport News and Hampton. She advised that October had been designated as Domestic Violence Awareness Month. Transitions had been in the community providing outreach and services to help educate the public on what to do when facing domestic violence situations.

Vice Mayor Vick thanked Mr. Devlin for his attendance and participation and sharing his thoughts with the City Council about the dangerous situation on Marshall Avenue.

Councilwoman Woodbury gave a “shout out” to the Honorable David Yancey, Delegate, Virginia General Assembly, who made the motion at a meeting of the Transportation Planning Organization (TPO), held on Thursday, October 20, 2016, at the Regional Building (723 Woodlake Drive, Chesapeake) to open the discussion to address the issue of the Hampton Roads Bridge Tunnel expansion.

Councilwoman Woodbury advised that she had attended the Newport News Adult Drug Treatment Program Graduation Ceremony, held on Thursday, September 16, 2016, in the Council Chambers (2400 Washington Avenue). It was inspiring to listen to the transformational stories shared in the lives of the participants, on their way to once again becoming productive citizens. The City was very fortunate to have such a wonderful program. She encouraged citizens to attend the 2017 Adult Drug Treatment Program Graduation Ceremony.

Councilwoman Woodbury also 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. Councilwoman Woodbury commended Ms. Kimberly A. Winn, Executive Director, VML, for the tremendous work she did on the Conference. There was no electric power due to Hurricane Matthew, but the VML made the adjustments to make things work. Councilwoman Woodbury shared that the Urban Section of the VML had a panel of four, which discussed the decriminalization of marijuana. She stated that a number of young lives were destroyed as a result. They got felony records, and could not get jobs, as a result of a mistake. She promised to write a report and post it on her web page. The other large topic discussed was racism. The panel consisted of a police officer from Roanoke, who discussed Roanoke’s Community Policing Program. Councilwoman Woodbury was appreciative for the opportunity to attend the VML Annual Conference and would post a report on her web page at a later date.

Councilman Bateman thanked Mr. Everett Skipper for his work and all that he did. He was a “go to” person for the City Council.

Councilman Bateman thanked Ms. Jerri Wilson, Management and Legislative Program Analyst for all of the legislative work that she did for City Council.

J. New Business and Councilmember Comments Continued

Councilman Bateman thanked Assistant City Manager Cynthia Rohlf for her hard work with the Community Maintenance Team to keep the City looking nice.

Councilwoman Cherry thanked the citizens for their attendance at the meeting. She specifically thanked Mr. Devlin for his attendance and for sharing his comments. She reiterated that the citizen's voices mattered. Members of City Council were concerned about the issues presented.

Councilwoman Cherry advised that she and Mayor Price participated in the Walk To End Alzheimer's on Saturday, October 15, 2016, at Port Warwick. She recognized the Alzheimer's Association who did a great deal of work in the community. Alzheimer's Disease affected many families. Councilwoman Cherry congratulated the Alzheimer's Association for the successful walk. The theme for the 2016 Walk to End Alzheimer's was "The End of Alzheimer's Starts With Me."

Councilwoman Cherry advised that she and Mayor Price participated in the first "Virginia Peninsula Out of the Darkness Walk," held on Saturday, October 15, 2016, at Newport News Park. There were approximately 700 participants. This walk focused on the need to raise awareness and funds to fight depression and suicide, to celebrate the lives of those who had lost the battle, and to come together as a community and show support. She expressed support and encouraged the organization to continue to do this important work focusing on suicide prevention.

Councilwoman Cherry advised that she, Councilman Harris, and Mayor Price participated in the "1000 Youth Stop Bullying March" on Sunday, October 16, 2016, 2:00 p.m., at Todd Stadium (12465 Warwick Boulevard). There were a number of young people, and wonderful talent that the youth demonstrated. She thanked Ms. Shant'a Miller-Synaker, and members of the "Parents Against Bullying" organization for hosting the event.

Councilwoman Cherry announced that the Community Fall Fest would be held on Saturday, October 29, 2016, 1:00 p.m. – 3:00 p.m., on the lawn of the James A. Fields House (617 – 27<sup>th</sup> Street). This would be a fun day for children, ages 2 – 12, and dressed in costume. Children dressed in costume would receive a prize. There would be pony rides, face painting, games, and prizes for all. Children must be accompanied by an adult. Citizens were advised to contact the City Clerk's Office for additional details, at 926-8634.

Councilwoman Cherry congratulated Chief Apostle Joseph and Pastor Naomi Snead, on the celebration of their 42<sup>nd</sup> Pastoral Anniversary at Triumph Pentecostal Church of Deliverance (1811 Wickham Avenue). A ceremony was held on Sunday, October 25, 2016 at the church.

J. New Business and Councilmember Comments Continued

Councilwoman Cherry advised that she had an opportunity to celebrate with the City's disability community at the Insight Enterprises Community and Consumer Awards Recognition Luncheon on Tuesday, October 25, 2016, at the Denbigh Community Center (15198 Warwick Boulevard). She congratulated Mr. Ralph Shelman, Executive Director, Insight Enterprises, and the disabled community, who showed up in great numbers at the luncheon. Councilwoman Cherry indicated that City Council should celebrate its disabled community. She announced that October was also Disability Awareness Month. She congratulated and thanked the disabled community who were great advocates for their particular issues.

Councilman Harris thanked the citizens for their attendance and participation and for voicing their concerns, and to those watching from the comfort of home.

Councilman Harris gave a "shout out" to the Courthouse Green Community's Neighborhood Watch. He met with the group on Friday, October 21, 2016, to listen to their concerns and questions in relation to happenings in their neighborhood. He hoped to continue the conversation and work together to help solve some of the issues experienced in the Courthouse Green community.

Councilman Harris commended Ms. Venerria L. Thomas, Director, Department of Human Services, on an amazing Resource Parents Appreciation Recognition Dinner, held on Thursday, October 13, 2016, at the Mariners' Museum (100 Museum Drive). It was well attended and was great to see all of the parents that took care of children in the community as foster parents.

Councilman Harris reiterated the remarks made by Councilwoman Cherry, about the "1000 Youth Stop Bullying March" on Sunday, October 16, 2016, 2:00 p.m., at Todd Stadium (12465 Warwick Boulevard). It was great to see all of the youth sharing their wonderful gifts of talent about something that was occurring in the community and to stand up and help bring awareness to bullying.

Councilman Harris thanked Mayor Price for reminding him to wear his pink tie in honor of Breast Cancer Awareness Month (October). He stated that he had been affected by breast cancer, having lost his Mother to the disease. He was happy to help bring awareness to Breast Cancer.

Mayor Price also thanked Ms. Venerria L. Thomas, Director, Department of Human Services, who chaired the Anti Bullying Committee, which had grown. They had partnered with the U. S. Conference of Mayors, the BULLY Project, and the Parents Against Bullying.

J. New Business and Councilmember Comments Continued

Mayor Price referenced the “1000 Youth Stop Bullying March,” the Alzheimer’s Walk, and the “Virginia Peninsula Out of the Darkness Walk.” It was good to see the number of people affected by the issues and it was great to bring awareness to them. He clarified that the “1000 Youth Stop Bullying March” was held at Dr. Todd Stadium (He pointed out that the stadium was named after Dr. John B. Todd, who was a Dentist).

Mayor Price thanked everyone that was involved in the State of the City, held on Tuesday, October, 18, 2016, at the Marriott Hotel City Center. He specifically thanked Ms. Cleder Jones, Director, Department of Communications, and staff; Ms. Jerri Wilson, Management and Legislative Analyst, City Manager’s Office; and Dr. Telly Whitfield, Assistant to the City Manager for Special Projects, City Manager’s Office. Citizens were not aware of the amount of hard work that went into that Address, stating that we were victims of our own success. He expressed appreciation to the staff.

Mayor Price announced that October was Breast Cancer Awareness Month.

Mayor Price reminded that the November 8, 2016 Regular Meeting of City Council was cancelled. The next meeting would be held on Tuesday, November 22, 2016, 7:00 p.m. in the City Council Chambers.

Mayor Price stated that Halloween was Monday, October 31, and residents were reminded that trick-or-treating activities were for children 12 years of age and younger. While the City Code did not specify a start time for trick-or-treating, traditionally it began at dusk. All trick-or-treating activities must end by 8:00 p.m. He urged everyone to be safe, have fun, and follow the rules.

Councilwoman Scott thanked all of the citizens for their attendance and participation at the North District Town Hall Meeting on Monday, October 24, 2016, at the Denbigh Community Center (15198 Warwick Boulevard). There was no guest speaker, but the meeting was very interactive. Captain Elizabeth “Jill” Daszkowski, Commander, North Precinct, Newport Police Department (NNPD), attended to show her support. Captain Daszkowski shared a great deal of valuable information with the attendees. Councilwoman Scott commended the members of the NNPD for the number of grants being pursued for Community Policing. She gave kudos to the NNPD on their hard work to make an impact on potential criminal activities, and to address present criminal activities occurring throughout the City.

Councilwoman Scott advised, because Gwynn Circle was closed, there was extra traffic on Tabbs Lane. Citizens had informed her that their travel had been impacted as a result. Councilwoman Scott inquired whether Traffic Engineers could assist by adjusting the timing of the traffic lights. She reminded Mr. Skipper that a number of elderly citizens lived in that area. Mr. Everett Skipper, Director, Department of Engineering, advised that Engineering staff would look into the matter.

J. New Business and Councilmember Comments Continued

Councilwoman Scott encouraged citizens to attend the Veterans Day Ceremony on Friday, November 11, 2016, 9:00 a.m., at the American Legion Post 368 (368 American Legion Drive). She advised that the event was always a nice event. She was always honored to be in the presence of those honoring Veterans and thanking them for their service.

Councilwoman Scott reminded everyone to exercise their right to vote for the candidate of their choice on Election Day, Tuesday, November 8, 2016.

In support of Breast Cancer Awareness Month (October), Councilwoman Scott advised of her winter pink hat. She knew of many families impacted by breast cancer. She indicated it was always good to bring awareness to issues that needed to be addressed in our society.

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 8:02 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 Authorizing the City Manager to Execute the Statement of Agreement by and between the City and the Commonwealth of Virginia, Department of Health (Peninsula Health District)

**ACTION:** A REQUEST TO APPROVE A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE STATEMENT OF AGREEMENT BY AND BETWEEN THE CITY AND THE COMMONWEALTH OF VIRGINIA, DEPARTMENT OF HEALTH (PUBLIC HEALTH SERVICES PROVIDED BY THE PENINSULA HEALTH DISTRICT TO THE CITY).

**BACKGROUND:**

- The City enters into an agreement annually with the Virginia Department of Health (VDH) for the provision of public health services.
- The Statement of Agreement begins July 1, 2016 and covers Fiscal Year 2017.

**FISCAL IMPACT:**

- For FY 2017, VDH will provide \$2,862,585 in state funds to support public health services.
- The FY 2017 local share for the City of Newport News is \$2,028,215, which is included in the FY 2017 General Fund Operating Budget.
- The City Manager recommends approval.

#### **ATTACHMENTS:**

##### **Description**

CM Memo re Statement of Agreement(Health Dept)

FY 2017 Health Services Agreement Authorization

FY 2017 Health Services Agreement by Locality

sdm15012 Authorizing re Statement of Agreement

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** FY 2017 Agreement for Public Health Services

The City of Newport News and the Virginia Department of Health annually enter into an agreement that delineates the specific services that will be provided to the City for public health. The annual agreement outlines the responsibilities of each party and includes the amount the City will pay in return for the services rendered.

Public health services are provided by the Peninsula Health District. The total approved FY 2017 Peninsula Health District Operating Budget is \$7,579,481. It is estimated that \$815,615 fee for service revenue will be generated, reducing the net budget to \$6,763,866. Of this amount, the State share is \$3,921,349. The participating localities in the Peninsula Health District are Newport News, Williamsburg, Poquoson, James City County, and York County. They are apportioned respective amounts of the net budget on a percentage basis. The FY 2017 Local Share for the City of Newport News is \$2,028,517.

The funds to support this agreement are included as part of the FY 2017 General Fund Operating Budget. I recommend your approval of this annual agreement with the Virginia Department of Health.

  
James M. Bourey

JMB:ljc

Attachment

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF HEALTH**

**STATEMENT OF AGREEMENT WITH the City Council of Newport News**

Under this agreement, which is created in satisfaction of the requirements of § 32.1-31 of the *Code of Virginia* (1950), as amended, the Virginia Department of Health, over the course of one fiscal year, will pay an amount not to exceed \$2,862,585, from the state general fund to support the cooperative budget in accordance with appropriations by the General Assembly, and in like time frame, the City Council of Newport News will provide by appropriation and in equal quarterly payments a sum of \$2,028,215 local matching funds and \$0 one-hundred percent local funds for a total of \$2,028,215 local funds. These joint funds will be distributed in timely installments, as services are rendered in the operation of the Peninsula Health Department, which shall perform public health services to the Commonwealth as indicated in Attachment A(1.), and will perform services required by local ordinances as indicated in Attachment A(2.). Payments from the local government are due on the third Monday of each fiscal quarter.

The term of this agreement begins July 1, 2016. This agreement will be automatically extended on a state fiscal year to year renewal basis under the terms and conditions of the original agreement unless written notice of termination is provided by either party. Such written notice shall be given at least 60 days prior to the beginning of the fiscal year in which the termination is to be effective. Any increase or decrease in funding allocation shall be made by an amendment to this agreement.

The parties agree that:

1. Under this agreement, as set forth in paragraphs A, B, C, and D below, the Commonwealth of Virginia and the Virginia Department of Health shall be responsible for providing liability insurance coverage and will provide legal defense for state employees of the local health department for acts or occurrences arising from performance of activities conducted pursuant to state statutes and regulations.
  - A. The responsibility of the Commonwealth and the Virginia Department of Health to provide liability insurance coverage shall be limited to and governed by the Self-Insured General Liability Plan for the Commonwealth of Virginia, established under § 2.2-1837 of the Code of Virginia. Such insurance coverage shall extend to the services specified in Attachments A(1.) and A(2.), unless the locality has opted to provide coverage for the employee under the Public Officials Liability Self-Insurance Plan, established under § 2.2-1839 of the Code or under a policy procured by the locality.
  - B. The Commonwealth and the Virginia Department of Health will be responsible for providing legal defense for those acts or occurrences arising from the performance of those services listed in Attachment A(1.), conducted in the performance of this contract, as provided for under the Code of Virginia and as provided for under the terms and conditions of the Self-Insured General Liability Plan for the Commonwealth of Virginia.

- C. Services listed in Attachment A(2.), any services performed pursuant to a local ordinance, and any services authorized solely by Title 15.2 of the Code of Virginia, when performed by a state employee, are herewith expressly exempted from any requirements of legal defense or representation by the Attorney General or the Commonwealth. For purposes of assuring the eligibility of a state employee performing such services for liability coverage under the Self-Insured General Liability Plan of the Commonwealth of Virginia, the Attorney General has approved, pursuant to § 2.2-507 of the Code of Virginia and the Self-Insured General Liability Plan of the Commonwealth of Virginia, the legal representation of said employee by the city or county attorney, and the **City Council of Newport News** hereby expressly agrees to provide the legal defense or representation at its sole expense in such cases by its local attorney.
  - D. In no event shall the Commonwealth or the Virginia Department of Health be responsible for providing legal defense or insurance coverage for local government employees.
2. Title to equipment purchased with funds appropriated by the local government and transferred to the state, either as match for state dollars or as a purchase under appropriated funds expressly allocated to support the activities of the local health department, will be retained by the Commonwealth and will be entered into the Virginia Fixed Asset Accounting and Control System. Local appropriations for equipment to be locally owned and controlled should not be remitted to the Commonwealth, and the local government's procurement procedures shall apply in the purchase. The locality assumes the responsibility to maintain the equipment and all records thereon.
  3. Amendments to or modifications of this contract must be agreed to in writing and signed by both parties.

\_\_\_\_\_  
 Marissa J. Levine, MD MPH, FAAFP  
 State Health Commissioner  
 Virginia Department of Health

\_\_\_\_\_  
 Local authorizing officer signature

James M. Bourey  
 Authorizing officer printed name

City Manager  
 Authorizing officer title

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Date

Approved as to form by the Office of the Attorney General on August 29, 2011.

Attachments: Local Government Agreement, Attachment A(1.)  
 Local Government Agreement, Attachment A(2.)





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

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 STATEMENT OF AGREEMENT BY AND BETWEEN THE CITY OF NEWPORT NEWS, VIRGINIA, AND THE COMMONWEALTH OF VIRGINIA, DEPARTMENT OF HEALTH (PUBLIC HEALTH SERVICES PROVIDED TO THE CITY).

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

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Statement of Agreement by and between the City of Newport News, Virginia and the Commonwealth of Virginia, Department of Health (Public Health Services Provided to the City).
2. That a copy of the said Statement of Agreement is attached hereto and made a part hereof.
3. That this resolution shall be in effect on and after the date of its adoption, November 22, 2016.

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF HEALTH**

**STATEMENT OF AGREEMENT WITH the City Council of Newport News**

Under this agreement, which is created in satisfaction of the requirements of § 32.1-31 of the *Code of Virginia* (1950), as amended, the Virginia Department of Health, over the course of one fiscal year, will pay an amount not to exceed \$2,862,585, from the state general fund to support the cooperative budget in accordance with appropriations by the General Assembly, and in like time frame, the **City Council of Newport News** will provide by appropriation and in equal quarterly payments a sum of \$2,028,215 local matching funds and \$0 one-hundred percent local funds for a total of \$2,028,215 local funds. These joint funds will be distributed in timely installments, as services are rendered in the operation of the Peninsula Health Department, which shall perform public health services to the Commonwealth as indicated in Attachment A(1.), and will perform services required by local ordinances as indicated in Attachment A(2.). Payments from the local government are due on the third Monday of each fiscal quarter.

The term of this agreement begins July 1, 2016. This agreement will be automatically extended on a state fiscal year to year renewal basis under the terms and conditions of the original agreement unless written notice of termination is provided by either party. Such written notice shall be given at least 60 days prior to the beginning of the fiscal year in which the termination is to be effective. Any increase or decrease in funding allocation shall be made by an amendment to this agreement.

The parties agree that:

1. Under this agreement, as set forth in paragraphs A, B, C, and D below, the Commonwealth of Virginia and the Virginia Department of Health shall be responsible for providing liability insurance coverage and will provide legal defense for state employees of the local health department for acts or occurrences arising from performance of activities conducted pursuant to state statutes and regulations.
  - A. The responsibility of the Commonwealth and the Virginia Department of Health to provide liability insurance coverage shall be limited to and governed by the Self-Insured General Liability Plan for the Commonwealth of Virginia, established under § 2.2-1837 of the Code of Virginia. Such insurance coverage shall extend to the services specified in Attachments A(1.) and A(2.), unless the locality has opted to provide coverage for the employee under the Public Officials Liability Self-Insurance Plan, established under § 2.2-1839 of the Code or under a policy procured by the locality.
  - B. The Commonwealth and the Virginia Department of Health will be responsible for providing legal defense for those acts or occurrences arising from the performance of those services listed in Attachment A(1.), conducted in the performance of this contract, as provided for under the Code of Virginia and as provided for under the terms and conditions of the Self-Insured General Liability Plan for the Commonwealth of Virginia.

- C. Services listed in Attachment A(2.), any services performed pursuant to a local ordinance, and any services authorized solely by Title 15.2 of the Code of Virginia, when performed by a state employee, are herewith expressly exempted from any requirements of legal defense or representation by the Attorney General or the Commonwealth. For purposes of assuring the eligibility of a state employee performing such services for liability coverage under the Self-Insured General Liability Plan of the Commonwealth of Virginia, the Attorney General has approved, pursuant to § 2.2-507 of the Code of Virginia and the Self-Insured General Liability Plan of the Commonwealth of Virginia, the legal representation of said employee by the city or county attorney, and the City Council of Newport News hereby expressly agrees to provide the legal defense or representation at its sole expense in such cases by its local attorney.
- D. In no event shall the Commonwealth or the Virginia Department of Health be responsible for providing legal defense or insurance coverage for local government employees.
2. Title to equipment purchased with funds appropriated by the local government and transferred to the state, either as match for state dollars or as a purchase under appropriated funds expressly allocated to support the activities of the local health department, will be retained by the Commonwealth and will be entered into the Virginia Fixed Asset Accounting and Control System. Local appropriations for equipment to be locally owned and controlled should not be remitted to the Commonwealth, and the local government's procurement procedures shall apply in the purchase. The locality assumes the responsibility to maintain the equipment and all records thereon.
3. Amendments to or modifications of this contract must be agreed to in writing and signed by both parties.

\_\_\_\_\_  
 Marissa J. Levine, MD MPH, FAAFP  
 State Health Commissioner  
 Virginia Department of Health

\_\_\_\_\_  
 Local authorizing officer signature

Date: \_\_\_\_\_

James M. Bourey  
 Authorizing officer printed name

ATTEST:

City Manager  
 Authorizing officer title

APPROVED AS TO FORM:

\_\_\_\_\_  
 City Clerk

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 City Attorney

Approved as to form by the Office of the Attorney General on August 29, 2011.

Attachments: Local Government Agreement, Attachment A(1.)  
 Local Government Agreement, Attachment A(2.)

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH  
COMMUNITY HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE **ASSURED** BY LOCAL HEALTH DEPARTMENTS  
INCOME LEVEL A IS DEFINED BY THE BOARD OF HEALTH TO BE MEDICALLY INDIGENT (32.1-11)

For Each Service Provided, Check Block for Highest Income Level Served			
COLLABORATIVE COMMUNITY HEALTH IMPROVEMENT PROCESS	Income A only	Defined by Federal Regulations	All (specify income level if not ALL)
Assure that ongoing collaborative community health assessment and strategic health improvement planning processes are established. To include public health, health care systems and community partners. As provided for in §32.1-122.03 Code Link-32.1-122.03; State Health Plan Link <u>Virginia Plan for Well-Being 2016-2020</u>			X
COMMUNICABLE DISEASE SERVICES	Income A only	Defined by Federal Regulations	All (specify income level if not ALL)
Immunization of patients against certain diseases, including Childhood Immunizations As provided for in 32.1-46 Code Link-32.1-46			X
Immunization of patients against certain diseases, including Childhood Immunizations As provided for in 32.1-46 Code Link-32.1-46			X
Sexually transmitted disease screening, diagnosis, treatment, and surveillance 32.1-57, Districts may provide counseling Code Link-32.1-57			X
Surveillance and investigation of disease 32.1-35 and 32.1-39 Code Links-32.1-35, 32.1-39, 32.1-43			X
HIV/AIDS surveillance, investigation, and sero prevalence survey 32.1-36, 32.1-36.1, 32.1-39 Code Links-32.1-36, 32.1-36.1, 32.1-39			X
Tuberculosis control screening, diagnosis, treatment, and surveillance 32.1-49, 32.1-50.1, and 32.1-54 Code Links-32.1-49, 32.1-50, 32.1-54			X
FAMILY PLANING SERVICES	Income A only	Defined by Federal Regulations	All
Clinic services including drugs and Contraceptive supplies Family Planning Population Research Act of 1970, Title X Code Link-32.1-77, 32.1-325		X	
Pregnancy testing and counseling Family Planning Population Research Act of 1970, Title X Code Link-32.1-77, 32.1-325		X	

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH  
COMMUNITY HEALTH SERVICES

BASIC PUBLIC HEALTH SERVICES TO BE ASSURED BY LOCAL HEALTH DEPARTMENTS  
INCOME LEVEL A IS DEFINED BY THE BOARD OF HEALTH TO BE MEDICALLY INDIGENT (32.1-11)

CHILD HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Children Specialty Services; diagnosis, treatment, follow-up, and parent teaching 32.1-77, 32.1-89 and 32.1-90 Code Links- <u>32.1-77</u> , <u>32.1-89</u> , <u>32.1-90</u>			X
Screening for genetic traits and inborn errors of metabolism, and provision of dietary supplements Code Links- <u>32.1-65</u> , <u>32.1-69</u>			X
Well child care up to age ____ (enter year) Board of Health Code Link- <u>32.1-77</u>	X		
WIC : Federal grant requirement Public Law 108-265 as amended, Child Nutrition Act of 1966; Child Nutrition and WIC Reauthorization Act 2009 Code Link- <u>32.1-351.2</u>		X	
EPSDT: DMAS MOA Social Security Act section 1905(r) (5) Code Link- <u>32.1-11</u>			X
Blood lead level testing Code Link- <u>32.1-46.1</u> , <u>32.1-46.2</u>			X
Outreach, Patient and Community Health Education Code Link- <u>32.1-11</u> , <u>32.1-11.3</u> ,			X
Community Education Code Link- <u>32.1-11</u> , <u>32.1-23</u>			X
Pre-school Physicals for school entry Code Link- <u>22.1-270</u>			X
Disabled disability Waiver Screenings DMAS MOA Code Link- <u>32.1-330</u>			X
Services for Children with Special health care needs Title V, Social Security Act Code Link- <u>32.1-77</u>			X
Child restraints in motor vehicles Code Link- <u>46.2-1095</u> , <u>46.2-1097</u>			X
Babycare: DMAS MOA			X
MATERNAL HEALTH SERVICES	Income A only	Defined by Federal Regulations	All
Prenatal and post partum care for low risk and intermediate risk women , Title V, Social Security Act Code Link- <u>32.1-77</u>		X	
Babycare Services: DMAS MOA		X	
WIC: Federal grant requirement Public Law 108-265 as amended, Child Nutrition Act of 1966; Child Nutrition and WIC Reauthorization Act 2009 Code Link- <u>32.1-351.2</u>		X	

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH  
COMMUNITY HEALTH SERVICES

ENVIRONMENTAL HEALTH SERVICES  
BASIC PUBLIC HEALTH SERVICES TO BE ASSURED BY LOCAL HEALTH DEPARTMENTS

<p>The following services performed in accordance with the provisions of the Code of Virginia, the regulation of the Board of Health and/or VDH agreements with other state or federal agencies.</p>	
<p><b>Ice cream/frozen desserts:</b> Under the agency's Memorandum of Agreement (MOA) with the Virginia Department of Agriculture and Consumer Services (VDACS), the local health department is responsible for initiating the issuance, suspension, reinstatement and revocation of permits for all frozen desserts plants which are an integral part of any premises, including Grade "A" milk plants, hotels, restaurants, and mobile units where frozen desserts are frozen or partially frozen or dispensed for retail sale.</p>	X
<p><b>Investigation of communicable diseases:</b> Pursuant to §§ 32.1-35 and 32.1-39 of the Code of Virginia, the local health director and local staff are responsible for investigating any outbreak or unusual occurrence of a preventable disease that the Board of Health requires to be reported. Code Links-<u>32.1-35, 32.1-39</u></p>	X
<p><b>Marinas:</b> Pursuant to §32.1-246 of the Code of Virginia, local health department staff are responsible for permitting marinas and other places where boats are moored and is responsible for inspecting them to ensure that their sanitary fixtures and sewage disposal facilities are in compliance with the Marina Regulations (12VAC5-570-10 et seq.) Code Link-<u>32.1-246</u></p>	X
<p><b>Migrant labor camps:</b> Pursuant to §§ 32.1-203-32.1-211 of the Code of Virginia, local health departments are responsible for issuing, denying, suspending and revoking permits to operate migrant labor camps. Local health departments also must inspect migrant labor camps and ensure that the construction, operation and maintenance of such camps are in compliance with the Rules and Regulations Governing Migrant Labor Camps (12VAC5-501-10 et seq.). Code Links-<u>32.1-203, 32.1-211</u></p>	X
<p><b>Milk:</b> Pursuant to §§ 3.2-5130, 3.2-5206, 3.2-5208 of the Code of Virginia and the agency's MOA with VDACS, the local health department is responsible for issuing, denying, suspending and revoking permits for Grade "A" milk processing plants which offer milk and or milk products for sale in Virginia. Local health department are also responsible for the inspection of Grade "A" milk plants for compliance with the Regulations Governing Grade "A" Milk (2VAC5-490-10). Code Links-<u>3.2-5130, 3.2-5206, 3.2-5208</u></p>	X
<p><b>Alternative discharging sewage systems:</b> Pursuant to § 32.1-164(A) of the Code of Virginia, local health department are responsible for issuing, denying and revoking construction and operation permits for alternative discharging systems of less than 1000 gallons per day serving single family dwellings. Local health departments are also required to conduct regular inspections of alternative discharging systems in order to ensure that their construction and operation are in compliance with the Alternative Discharging Regulations (12VAC5-640-10 et seq.). Code Link-<u>32.1-164</u></p>	X
<p><b>Onsite sewage systems:</b> Pursuant to §32.1-163 et seq. of the Code of Virginia, local health department staff is responsible for assuring that site evaluations and designs of onsite sewage systems are performed in accordance with applicable state regulations and may perform such evaluations and designs as required. Local health department staff is also responsible for issuing, denying and revoking construction and operation permits for conventional and alternative onsite sewage systems. Local health department staff are responsible for assuring that onsite sewage systems are inspected at time of construction for compliance with the Sewage Handling and Disposal Regulations (12VAC5-610-20 et seq.;"SHDR") and the Alternative Onsite Sewage System Regulations (12VAC5-613-10 et seq.;"AOSS Regulations); local health department staff may perform such inspections as required. Local health department staff is also responsible for assuring the performance, operation, and maintenance of onsite sewage systems are in compliance with the SHDR and AOSS Regulations. Code Link-<u>32.1-163</u></p>	X
<p><b>Rabies:</b> Pursuant to §3.2-6500 et seq. of the Code of Virginia, the local health department is responsible for investigating complaints and reports of suspected rabid animals exposing a person, companion animal, or livestock to rabies. Code Link- <u>3.2-6500</u></p>	X

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH  
COMMUNITY HEALTH SERVICES

ENVIRONMENTAL HEALTH SERVICES  
BASIC PUBLIC HEALTH SERVICES TO BE ASSURED BY LOCAL HEALTH DEPARTMENTS

<p><b>Restaurants/eating establishments:</b> Pursuant to §35.1-14 of the Code of Virginia, local health departments are responsible for issuing, denying, renewing, revoking and suspending permits to operate food establishments. In addition, local health departments are required to conduct at least one annual inspection of each food establishment to ensure compliance with the requirements of the Food Regulations (12VAC5-421-10 et seq.). These regulations include requirements and standards for the safe preparation, handling, protection, and preservation of food; the sanitary maintenance and use of equipment and physical facilities; the safe and sanitary supply of water and disposal of waste and employee hygiene standards. Code Link-35.1-14</p>	<p>X</p>
<p><b>Sanitary surveys:</b> The local health department is responsible for assuring that surveys are conducted of properties which include soil evaluations and identification of potential sources of contamination; local health department staff may perform such inspections as required. Local health department staff is also responsible for assuring the performance, operation, and maintenance of onsite sewage systems are in compliance with the SHDR and AOSS Regulations. The surveys are conducted in order to determine site suitability for onsite sewage systems, alternative discharging systems and wells. Code Link-32.1-11</p>	<p>X</p>
<p><b>Single home sewage discharge</b> Code Link-32.1-164</p>	
<p><b>Hotels/Motels:</b> In accordance with §35.1.13 of the Code of Virginia, local health department staff is responsible for issuing, denying, revoking and suspending permits to operate hotels. The local health department is responsible for conducting inspections of hotels to ensure compliance with the Hotel Regulations (12VAC5-431-10 et seq.). These regulations include requirements and standards for physical plant sanitation; safe and sanitary housekeeping and maintenance practices; safe and sanitary water supply and sewage disposal and vector and pest control. Code Link-35.1-13</p>	<p>X</p>
<p><b>Water supply sanitation-Inspection of Water Supplies</b> Code Link- 15.2-2144</p>	
<p><b>Wells:</b> Pursuant to §32.1-176.2, local health departments are responsible for issuing, denying and revoking construction permits and inspection statements for private wells. Local health departments are also responsible for inspecting private wells to ensure that their construction and location are in compliance with the Private Well Regulations. (12VAC5-630-10 et seq.) Code Link-32.1-176.2</p>	<p>X</p>
<p><b>Homes for adults:</b> The local health department, at the request of the Department of Social Services (DSS) will inspect DSS-permitted homes for adults to evaluate their food safety operations, wastewater disposal and general environmental health conditions. (22VAC40-80-160(B)(3))</p>	<p>X</p>
<p><b>Juvenile Justice Institutions:</b> Pursuant to §35.1-23 of the Code of Virginia and the agency's memorandum of understanding with the Department of Corrections, local health departments are responsible for conducting at least one annual unannounced inspection of juvenile justice institutions in order to evaluate their kitchen facilities, general sanitation and environmental health conditions. Code Link-35.1-23</p>	<p>X</p>
<p><b>Jail inspections:</b> Pursuant to § 53.1-68 of the Code of Virginia and the agency's memorandum of understanding with the Department of Corrections, local health departments are responsible for conducting at least one annual unannounced inspection of correction facilities in order to evaluate their kitchen facilities, general sanitation and environmental health conditions. Code Link-53.1-68</p>	<p>X</p>
<p><b>Daycare centers:</b> At the request of DSS will inspect DSS-permitted daycare centers to evaluate their food safety operations, wastewater disposal and general environmental health conditions. (22VAC40-80-160(B)(3))</p>	<p>X</p>
<p><b>Radon</b> Pursuant to §32.1-229 local health department may assist VDH Central Office with Radon testing and analysis. Code Link-32.1-229.</p>	<p>X</p>
<p><b>Summer camps/ Campgrounds:</b> Pursuant to 35.1-16 and 35.1-17 of the Code of Virginia, local health departments are responsible for issuing, denying, revoking and suspending permits to operate summer camps and campgrounds. The local health department is responsible for conducting inspections of summer camps and campgrounds not less than annually to ensure that their construction, operation and maintenance are in compliance with the Regulations for Summer Camps (12VAC5-440-10 et seq.) and the Rules and Regulations for Campgrounds (12VAC5-450-10 et seq.). Code Links-35.1-16, 35.1-17</p>	<p>X</p>

VIRGINIA DEPARTMENT OF HEALTH  
COMMUNITY HEALTH SERVICES

OTHER PUBLIC HEALTH SERVICES  
BASIC PUBLIC HEALTH SERVICES TO BE ASSURED BY LOCAL HEALTH DEPARTMENTS

The following services performed in accordance with the provisions of the Code of Virginia, the regulations of the Board of Health and/or the policies and procedures of the State Department of Health	
Medicaid Nursing Home Screening DMAS MOA Code Link- 32.1-330	X
Comprehensive Services Act 2.2-5201-2.2-5211 Code Link- 2.2-5201, 2.2-5211	X
Vital Records (Death Certificates) Code Link- 32.1-254, 32.1-255, 32.1-272	X
Early Intervention Services Community Policy and Management Teams (CPMT) Interagency Coordinating Council (Infants/Toddlers) Code Link- 2.2-5305, 2.2-5306	X
Immunizations for maternity and post-partum patients Code Link-32.1-11, 32.1-325, 54.1-3408.	X
AIDS Drug Assistance Program (ADAP) Code Link-32.1-11,32.1-330	X
Emergency Preparedness and Response Code Link-32.1-42, 32.1-43, 32.1-229,	X
HIV Counseling, Testing and Referral Code Link-32.1-37.2	X

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH  
COMMUNITY HEALTH SERVICES

OPTIONAL PUBLIC HEALTH SERVICES

For Each Service Provided, Check Block for Highest Income Level Served			
	Income A only	Defined by Federal Regulations	All
<b>COMMUNICABLE DISEASE SERVICES</b>			
Foreign Travel Immunizations			
Other:			
<b>CHILD HEALTH SERVICES</b>			
School health services			
Sick child care			
Other:			
<b>MATERNAL HEALTH SERVICES</b>			
Funds for deliveries			
Funds for special tests and drugs			
Diagnosis, treatment, and referral for gynecological problems			
Other:			
<b>FAMILY PLANNING SERVICES</b>			
Nutrition Education			
Preventive Health Services			
Pre-Conception Health Care			
Other:			

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(1.)

VIRGINIA DEPARTMENT OF HEALTH  
COMMUNITY HEALTH SERVICES

OPTIONAL PUBLIC HEALTH SERVICES

For Each Service Provided, Check Block for Highest Income Level Served			
<b>GENERAL MEDICAL SERVICES</b>	<b>Income A only</b>	<b>Defined by Federal Regulations</b>	<b>All</b>
Activities of Daily Living			
Community Education			X
General Clinic Services (100% Locally Funded)			
Outreach			
Occupational health services			
Personal care			
Pharmacy services-Alternate Drug Delivery Site			X(up to G income)
Hypertension screening, referral, and counseling			X
Respite care services			
Other:			
<b>SPECIALTY CLINIC SERVICES (List)</b>	<b>Income A only</b>	<b>Defined by Federal Regulations</b>	<b>All</b>
<b>DENTAL HEALTH SERVICES</b>	<b>Income A only</b>	<b>Defined by Federal Regulations</b>	<b>All</b>
Preventive Clinic Services - Children			
Preventive Clinic Services - Adults			
Restorative Clinic Services			
Community Education			X
Other: : Acute/Emergent Clinical Services – Adult with 100% Locality Funding			X(up to C income)

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(2.)

VIRGINIA DEPARTMENT OF HEALTH  
COMMUNITY HEALTH SERVICES

PUBLIC HEALTH SERVICES PROVIDED  
UNDER LOCAL ORDINANCE

Neither the <i>Code of Virginia</i> nor Regulations of the Board of Health requires the following services to be provided by the local health department	Place an X in this column if service is provided for locality	Local ordinance code cite	Provide a brief description of local ordinance requirements
Accident Prevention			
Air Pollution			
Bird Control			
Employee Physicals			
General Environmental	X	Nuisance Chapter 20	
Housing - BOCA & local building codes			
Insect control	X	Nuisance Chapter 20	
Noise			
Plumbing			
Radiological Health			
Rodent Control	X	Nuisance Chapter 20	Consultation by Code of Virginia
Solid Waste	X	Nuisance Chapter 20	
Swimming facilities	X	Local Pools Chapter 39	Tourists establishments by state regulation and local ordinance
Weeds			
Smoking Ordinances	X		Statewide for restaurants
Other environmental services (identify)			
Body Art – tattoo and piercing	X	Chapter 20	
Food Handlers	X	Chapter 17	Training and certificate of completion
Administration of Septic Pump-out Program (per CBLAB)	X	Mutual Agreement	

LOCAL GOVERNMENT AGREEMENT, ATTACHMENT A(2.)

VIRGINIA DEPARTMENT OF HEALTH  
COMMUNITY HEALTH SERVICES

PUBLIC HEALTH SERVICES PROVIDED UNDER  
LOCAL ORDINANCES OR CONTRACT WITH LOCAL GOVERNMENTS

OPTIONAL PUBLIC HEALTH SERVICES

For Each Service Provided, Check Block for Highest Income Level Served			
	Income A only	Defined by Federal Regulations	All
Employee physicals			
Primary care for inmates in local jails or correctional institutions			
Other medical services (List)			
Other (please list)			

## F. Consent Agenda

### 5. Resolution Accepting a Donation of Emergency Response Equipment from Huntington Ingalls Incorporated (HII)

**ACTION:** A REQUEST TO APPROVE A RESOLUTION ACCEPTING A DONATION OF EMERGENCY RESPONSE EQUIPMENT FROM HUNTINGTON INGALLS INCORPORATED (HII) FOR THE NEWPORT NEWS FIRE DEPARTMENT (NNFD).

**BACKGROUND:**

- HII, through its Newport News Shipbuilding division, has offered to donate emergency response equipment in the amount of \$113,103 to NNFD to enhance its capabilities to respond to hazardous chemical incidents and other emergencies.
- NNFD and the Shipyard's Fire Department work closely during emergency operations.
- This donation will improve the ability for both fire departments to respond and utilize lifesaving detection equipment for citizen's safety.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

#### ATTACHMENTS:

##### Description

CM Memo re Donation of Emergency Response Equip

sdm15007 Accepting Donations of Emergency Response Equipment from HII

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

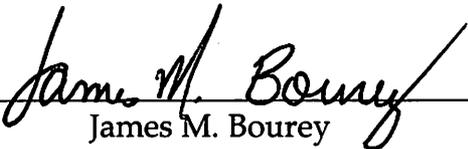
November 22, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Emergency Response Equipment Donation from Huntington Ingalls Inc.

Huntington Ingalls Incorporated (HII), through its Newport News Shipbuilding Division, has offered to donate emergency response equipment, in the amount of \$113,103 to the City of Newport News for the purpose of enhancing the Fire Department's capability to respond to hazardous chemical incidents and other emergencies. The Newport News Shipyard Fire Department and the City of Newport News Fire Department work very closely during emergency operations. This donation will improve the ability of both fire departments to respond to emergencies and utilize lifesaving detection equipment to keep citizens safe.

In recognition of this important public safety partnership, HII, agreed to donate the following equipment to the City for use by the Fire Department: (2) John Deere Gator TX with Weidman Bros Ternyda Canopy and Kimtec MTD - 103 Medline Transport Deluxe Bed Insert; (1) Ford F150XL pickup truck; (1) Custom designed trailer with generator; (200) BRK smoke detectors with lithium battery; and (9) Fujitsu Q775 i7, 4G, 256GB Tablets with additional 2 - year standard warranty, 5 year accidental damage protection with key board dock and desktop dock/charging station.

I recommend approval of the Resolution to accept this generous donation of emergency response and detection equipment.

  
James M. Bourey

JMB:RBA:wmp

cc: Alan K. Archer, Assistant City Manager  
R.B. Alley, III, Chief, Newport News Fire Department (NNFD)  
Lisa J. Cipriano, Director Budget & Evaluation

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

**A RESOLUTION TO ACCEPT THE DONATION OF EMERGENCY RESPONSE EQUIPMENT FROM HUNTINGTON INGALLS INCORPORATED.**

WHEREAS, Huntington Ingalls Incorporated, through its Newport News Shipbuilding division, has offered to donate emergency response equipment to the City to enhance the Newport News Fire Department's ability to respond to hazardous chemical incidents and other emergencies; and

WHEREAS, this equipment would be used by the Newport News Fire Department to respond to hazardous chemical incidents and other emergencies in the community; and

WHEREAS, the City Manager recommends to City Council that this donation be accepted.

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

1. That it hereby accepts the donation of the following equipment from Huntington Ingalls Incorporated, having a total estimated value of at least \$113,103.00:

- 2 John Deer Gator TX with Weidman Bros Ternyda Canopy and Kimtec MTD - 103 Medline Transport Deluxe Bed Insert
- 1 Ford F150XL pickup truck
- 1 Custom designed trailer with generator
- 200 BRK smoke detectors with lithium battery
- 9 Fujitsu Q775 i7, 4G, 256 GB Tablets with additional 2-year standard warranty, 5 year accidental damage protection, keyboard dock and desktop dock/charging station.

2. That it hereby extends its sincere appreciation to the Huntington Ingalls Incorporated for this donation.

3. That the City Manager, or his designee, is authorized and directed to accept this donation, to take all actions necessary to effectuate the donation, and to sign, subject to the approval by the City Attorney as to form, all documents necessary to effectuate the donation.

4. That a copy of this Resolution be spread upon the records of this body and that a copy be delivered to Huntington Ingalls Incorporated.

5. That this resolution shall be in effect on and after the date of its adoption, November 22, 2016.

## G. Other City Council Actions

1. Ordinance Amending Ordinance No. 7141-15 and Granting a Twenty-four (24) Month Extension of Conditional Use Permit No. CU-15-342 to Able Archer LLC, for the Renovation and Improvements of a Congregate Assisted Living Facility Located at 741 Thimble Shoals Boulevard on a Site Zoned C4 Oyster Point Business District (Governor's Inn)

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AMENDING ORDINANCE NO. 7141-15 AND GRANT A TWENTY-FOUR (24) MONTH EXTENSION OF CONDITIONAL USE PERMIT NO. CU-15-342 TO ABLE ARCHER, LLC., FOR THE RENOVATION AND IMPROVEMENTS OF A CONGREGATE ASSISTED LIVING FACILITY LOCATED AT 741 THIMBLE SHOALS BOULEVARD ON A SITE ZONED C4 OYSTER POINT BUSINESS DISTRICT (GOVERNOR'S INN).

**BACKGROUND:**

- Conditional Use Permit No. CU-15-342 was approved by the City Council on January 27, 2015.
- The Zoning Ordinance prescribes a time limit within which construction or occupancy of approved conditional use permits must commence, but permits the Council to grant an extension for good cause shown.
- The applicant purchased the property approximately eight (8) months ago and has been working through the design and construction program for the property.
- The construction is anticipated to take from twelve (12) to eighteen (18) months to complete.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

### ATTACHMENTS:

Description

CM Memo re CU-15-342 Extension Request

Extension Request

rag1133 Amending Ordinance No. 7141-15 to Grant a 24 Month Extension

# CITY OF NEWPORT NEWS

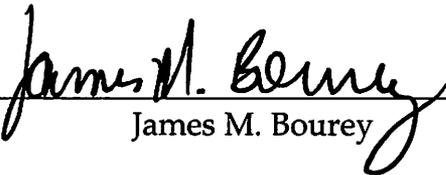
## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Conditional Use Permit No. CU-15-342, New Owner Extension Request

On January 27, 2015 City Council approved a conditional use permit request for the operation of a congregate assisted living facility on a 2.53 acre property located at 741 Thimble Shoals Boulevard. The parcel is zoned C4 Oyster Point Business. The property owner at the time of approval was Southern Bank and Trust Company. On March 1, 2016 the property was sold to new owner, Able Archer, LLC.

A conditional use permit will be deemed abandoned and revoked in the event that construction or occupancy does not occur within 24 months from the date the permit was approved. To date, neither construction nor occupancy has occurred and the conditional use permit will expire on January 27, 2017 unless an extension is granted. The new owner is requesting a 24 month extension for this permit in order to allow time for the finalization and approval of their renovation plans. Section 45-2708 of the Zoning Ordinance allows City Council to extend the approval of a conditional use permit for an additional 24 months for good cause shown. I recommend City Council grant this request.

  
James M. Bourey

JMB:dfw

RECEIVED  
CITY OF NEWPORT NEWS  
2016 SEP 26 AM 9:48  
PLANNING DEPARTMENT

September 23, 2016

**VIA OVERNIGHT COURIER**

Ms. Shelia McAllister  
Director of Planning  
City of Newport News Planning Department  
2400 Washington Avenue  
Newport News, VA 23607

**Governor's Inn  
Conditional Use Permit – CU-15-342  
Ordinance No. 7141-15  
741 Thimble Shoals Blvd.  
Newport News, VA 23606**

Dear Sheila,

At its formal session on January 27, 2015, the Newport News City Council approved the referenced conditional use permit for the renovations and improvements of senior living/retirement community (Governor's Inn).

On March 1, 2016, Able Archer LLC DBA Governor's Inn purchased the property. After contracting a new architect (Greg Brezinski) and a new site engineer (Donald Davis), we began formalizing a new submittal to the city for upgrading and renovating the property. We are presently waiting on final approvals from the city to begin construction of the new façade which should take anywhere from 12-18 months to complete.

As a result of these changes, we are requesting the city to extend the conditional use permit for an additional twenty-four (24) months.

Please do not hesitate to call or email me should you have any questions regarding this request. Thank you in advance for your assistance with this matter.

Sincerely,



Daniel Rosinski  
President

Able Archer LLC  
757-595-2211  
ablearcherllc@gmail.com

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

AN ORDINANCE TO AMEND ORDINANCE NO. 7141-15 AND THEREBY GRANT A TWENTY-FOUR MONTH EXTENSION OF CONDITIONAL USE PERMIT CU-15-342 FOR THE CONSTRUCTION OF A CONGREGATE ASSISTED LIVING FACILITY ON A SITE ZONED C4 OYSTER POINT BUSINESS DISTRICT.

WHEREAS, Conditional Use Permit CU-15-342 was approved by the Council of the City of Newport News, Virginia (the Council) pursuant to Ordinance No. 7141-15 adopted January 27, 2015, for the construction of a congregate assisted living facility on a site zoned C4 Oyster Point Business District; and

WHEREAS, City Code Sec. 45-2708 prescribes time limits within which construction or occupancy of approved conditional use permits must be commenced, but also permits the Council to extend such time limits for good cause shown; and

WHEREAS, Paragraph (d)1. of Ordinance No. 7141-15 originally stated that "If the construction of the improvements or occupancy authorized by this conditional use permit has not commenced within twenty-four months of January 27, 2015", CU-15-342 shall be deemed to have been abandoned and shall be revoked; and

WHEREAS, the applicant has properly requested an additional twenty-four month time limit extension within which to commence construction or to occupy the site as authorized by CU-15-342, the Council agrees that good cause exists to warrant an extension, and the Council therefore wishes to approve the twenty-four month extension.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia, that it desires to, and hereby does, extend the time limit for commencement of the construction, use and occupancy authorized by Conditional Use Permit CU-15-342, approved by Ordinance No. 7141-15, for an additional period of twenty-four months pursuant to City Code Sec. 45-2708. All other provisions of Ordinance No. 7141-15 shall remain in full force and effect.

## G. Other City Council Actions

### 2. Receipt of Bids for Granting a 15-foot Wide Easement over City-Owned Property Located at 100 Yorktown Road

**ACTION:** A REQUEST TO CITY COUNCIL TO RECEIVE AND OPEN BIDS FOR AUTHORIZING A 15-FOOT EASEMENT ACROSS CITY-OWNED PROPERTY LOCATED AT 100 YORKTOWN ROAD. *(After the receipt and opening of the bids, City Council is requested to refer the bids to the City Manager for review and the presentation of a recommendation at Council's December 13, 2016 regular meeting).*

**BACKGROUND:**

- The location of this property is 100 Yorktown Road and is located in Lee Hall, Newport News, Virginia.
- The easement is needed for the installation and operation of a proposed power line.
- A Notice of Public Hearing has been advertised in the *Daily Press* for the required four consecutive weeks.
- Another Notice of Public Hearing has been advertised for City Council's December 13, 2016 meeting for consideration of the Ordinance which will grant the easement to the successful bidder.

**FISCAL IMPACT:** • N/A

#### ATTACHMENTS:

##### Description

CM Memo re Receipt of Bids-100 Yorktown Rd

sdm14735 Authorizing re Deed of Easement (100 Yorktown Rd)

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Deed of Easement at 100 Yorktown Road, in Lee Hall

Virginia Dominion Power is requesting "to obtain a new 15' wide easement across watershed property" located at 100 Yorktown Road, in Lee Hall, Newport News, Virginia. The easement is needed for the installation and operation of a proposed power line. Virginia Dominion Power is upgrading their facilities associated with the adjacent railroad crossing and they have found it necessary to install a new power pole and guy wire on City-owned property.

A Notice of Public Hearing has been published in the *Daily Press* for the required four consecutive weeks. Bids will be received for this project at City Council's November 22<sup>nd</sup> meeting.

A request will be made of City Council at its December 13<sup>th</sup> meeting to consider adopting the ordinance authorizing me to execute and grant a Deed of Easement to Dominion Virginia Power.

  
James M. Bourey

JMB:WW:sjth

cc: Scott Dewhirst, Interim Director, Waterworks Department

**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 \_\_\_\_\_, DATED THE 13<sup>TH</sup> DAY OF DECEMBER, 2016, FOR AN EASEMENT ACROSS CITY-OWNED PROPERTY LOCATED AT 100 YORKTOWN ROAD, 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 \_\_\_\_\_, dated the 13<sup>th</sup> day of December, 2016, for an easement across City-owned property located at 100 Yorktown Road, 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 #018.0001-11  
100 Yorktown Road

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 13<sup>th</sup> day of December, 2016, between the **CITY OF NEWPORT NEWS**, a municipal corporation of the Commonwealth of Virginia, hereinafter called "GRANTOR" and \_\_\_\_\_, 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 by sixty (60) feet in length, 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. 22-16-0125 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

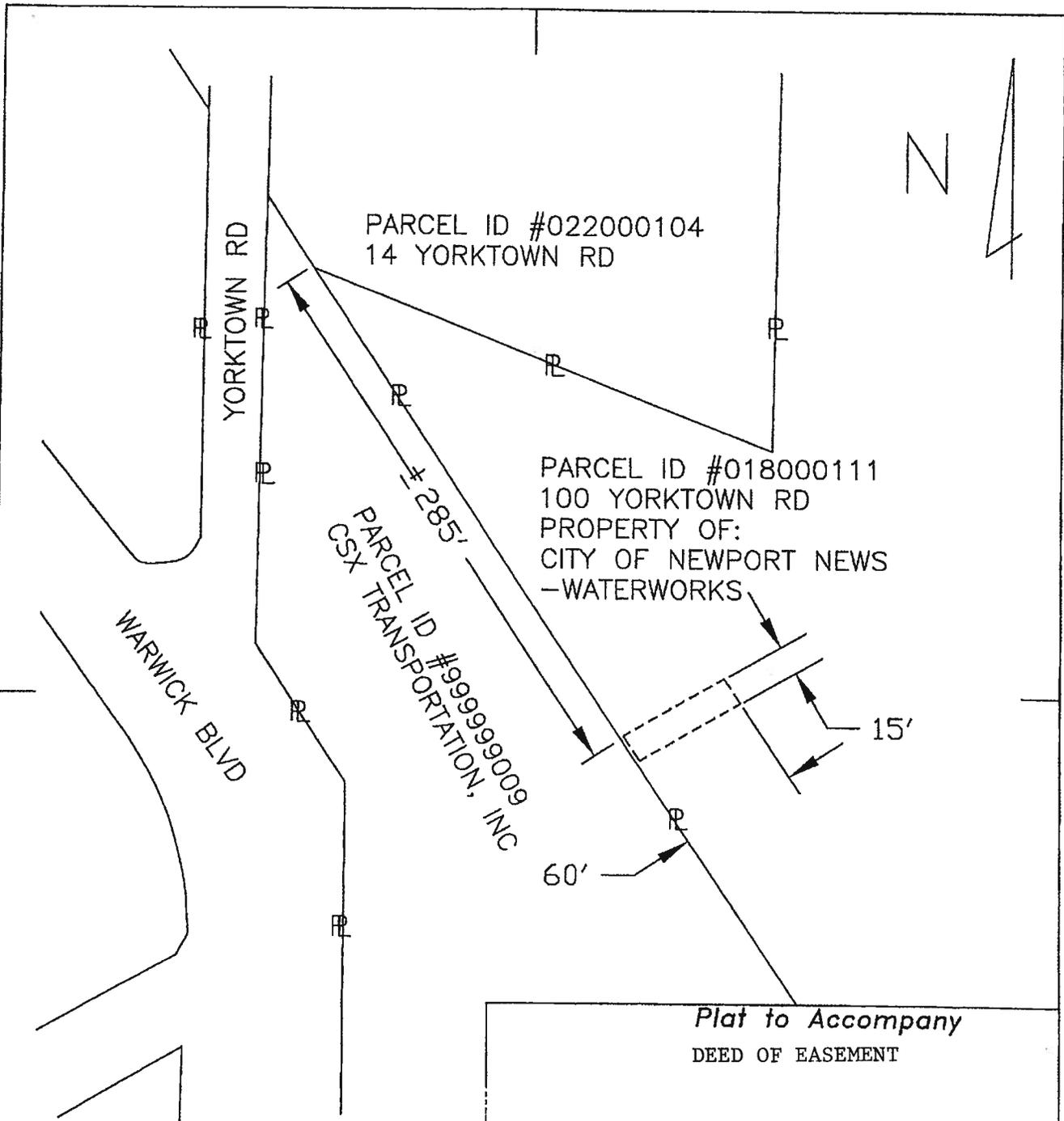
COMMONWEALTH OF VIRGINIA  
City of Newport News, to wit:

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.: \_\_\_\_\_

sdm14736



**Legend**

- Location of Boundary Lines of Easement  
15' in Width.
- RL--- Indicates Property Line is Easement  
Boundary

Plat to Accompany DEED OF EASEMENT		
District PENINSULA		
District-Township-Borough LEE HALL	County-City NEWPORT NEWSVA	State
Office PENINSULA	Plat Number 22-16-0125	
Estimate Number 10055998	Grid Number M2233	
Date August 24, 2016	By Packard/Rountree	

## G. Other City Council Actions

### 3. Receipt of Bids for Granting a 15-foot Wide Easement over City-Owned Property Located at 4500 Roanoke Avenue

**ACTION:** A REQUEST TO CITY COUNCIL TO RECEIVE AND OPEN BIDS FOR AUTHORIZING A 15-FOOT EASEMENT ACROSS CITY-OWNED PROPERTY LOCATED AT 4500 ROANOKE AVENUE. *(After the receipt and opening of the bids, City Council is requested to refer the bids to the City Manager for review and the presentation of a recommendation at Council's December 13, 2016 regular meeting).*

**BACKGROUND:**

- A request has been received to grant a 15-foot-wide utility easement over City-owned property at 4500 Roanoke Avenue.
- The easement request accommodates improvements as part of a larger project to provide an additional circuit to serve Copeland Industrial Park.
- A Notice Public Hearing was properly advertised in the *Daily Press* for the required four consecutive weeks.
- Another Notice of Public Hearing has been advertised for City Council's December 13, 2016 meeting for consideration of the Ordinance which will grant the easement to the successful bidder.

**FISCAL IMPACT:** • N/A

#### ATTACHMENTS:

##### Description

CM Memo re Receipt of Bids-4500 Roanoke Ave

Attachment

rag1135 Authorizing re Deed of Easement (4500 Roanoke Avenue)

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Receipt of Bids for Utility Easement at 4500 Roanoke Avenue

A request has been received to grant a 15-foot-wide utility easement over City-owned property located at 4500 Roanoke Avenue. City Council is being asked to receive and open bids for the utility easement, as shown on the attached Plat Number 22-16-0093.

The proposed utility easement will facilitate installing a new circuit exiting the Copeland Park Substation, which will relieve the load on the existing circuits in the surrounding area as well as enable underground facilities to be extended from the substation to the overhead line located along Chestnut Avenue.

All appropriate City departments have reviewed and approved this request and the required Public Notice was properly advertised.

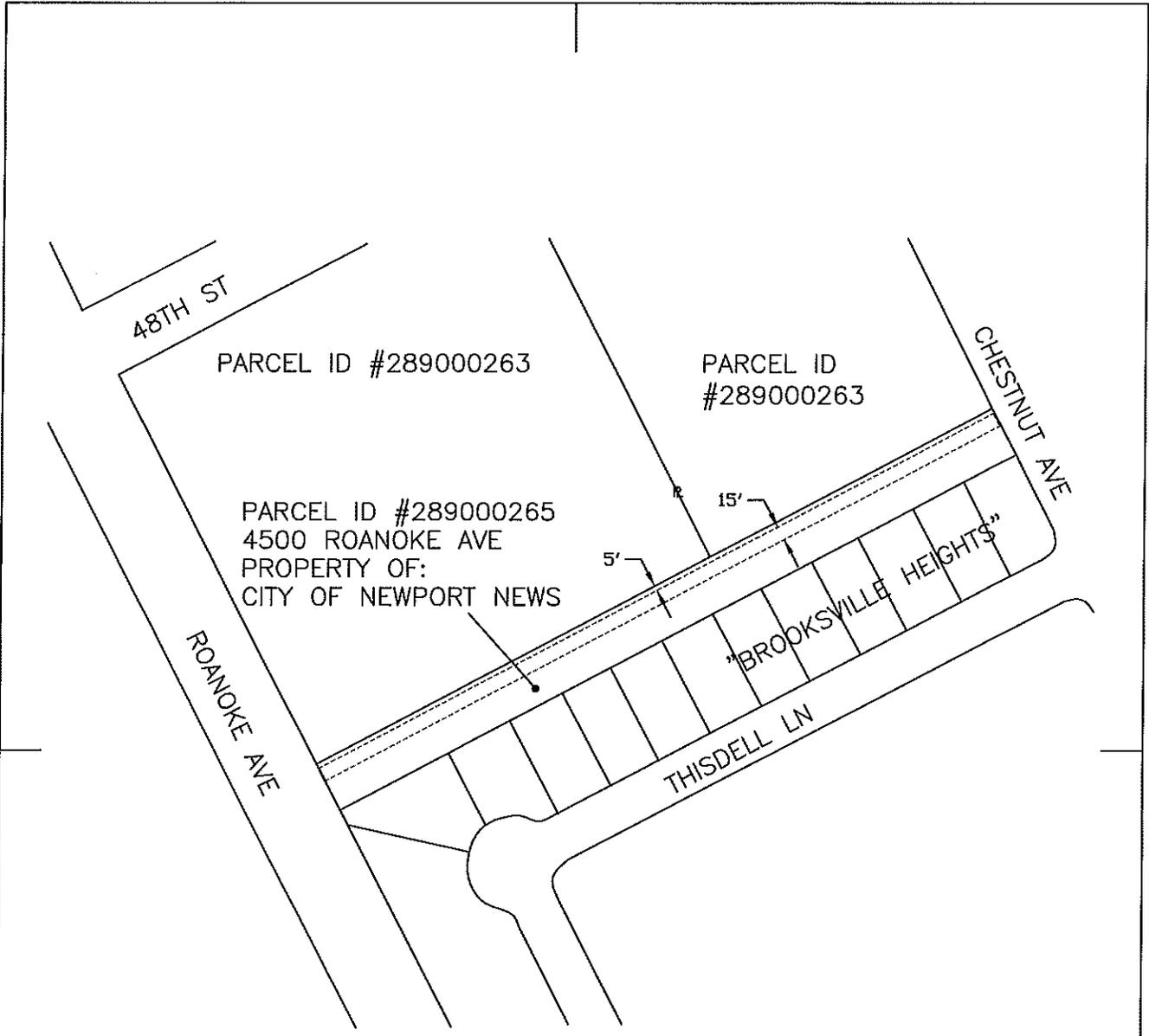
I recommend that City Council receive and open bids for the above described utility easement with follow-up action referred to my office. Formal action, to authorize the referenced easement be granted to the successful bidder, will be placed on Council's December 13, 2016 meeting agenda.

  
James M. Bourey

JMB:tcf

Attachment

cc: Florence G. Kingston, Director, Department of Development



**Legend**

- Location of Boundary Lines of Right-of-Way FIFTEEN (15') FEET IN WIDTH
- ==== Indicates Property Line is Right-of-Way Boundary

<i>Plat to Accompany Right-of-Way Agreement</i>		
VIRGINIA ELECTRIC AND POWER COMPANY doing business as <b>Dominion Virginia Power</b> UG		
District PENINSULA		
District-Township-Borough COPELAND	County-City NEWPORT NEWSVA	State
Office EASTERN REGION	Plat Number 22-16-0093	
Estimate Number 7667039	Grid Number N0224	
Date September 12, 2016	By Rountree/Packard	

**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 \_\_\_\_\_, DATED THE 13<sup>TH</sup> DAY OF DECEMBER, 2016, FOR AN EASEMENT ACROSS CITY-OWNED PROPERTY LOCATED AT 4500 ROANOKE AVENUE, 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 \_\_\_\_\_, dated the 13<sup>th</sup> day of December, 2016, for an easement across City-owned property located at 4500 Roanoke Avenue, 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 #289.0002-65  
4500 Roanoke Avenue

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 13<sup>th</sup> day of December, 2016, between the **CITY OF NEWPORT NEWS**, a municipal corporation of the Commonwealth of Virginia, hereinafter called "GRANTOR" and \_\_\_\_\_, 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. 22-16-0093 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

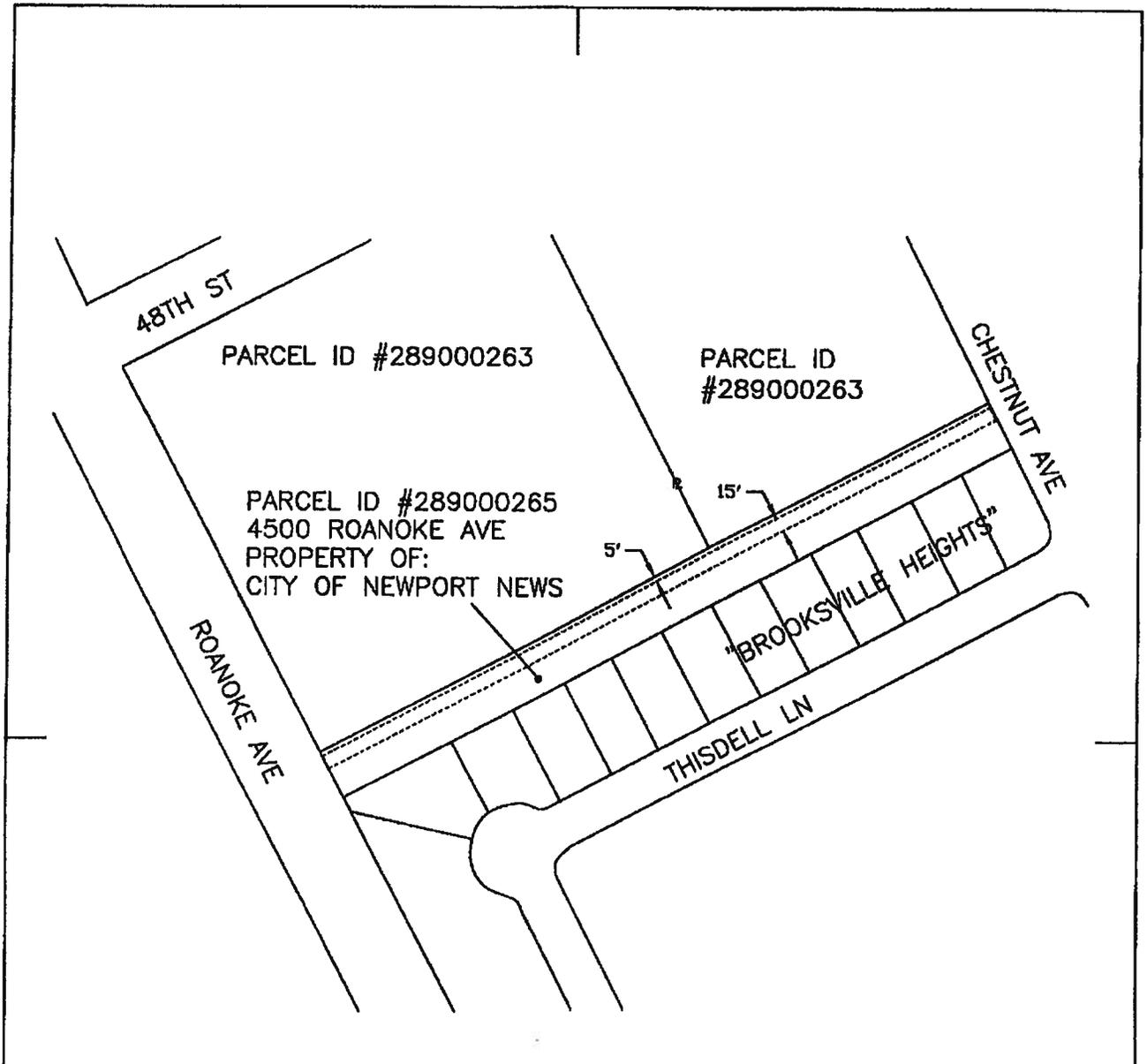
COMMONWEALTH OF VIRGINIA  
City of Newport News, to wit:

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.: \_\_\_\_\_

rag1140



**Legend**  
 ----- Location of Boundary Lines of Easement  
 FIFTEEN (15') FEET IN WIDTH  
 == Indicates Property Line is Easement Boundary

<i>Plat to Accompany Deed of Easement</i>		
District PENINSULA		
District-Township-Borough COPELAND	County-City NEWPORT NEWSVA	State
Office EASTERN REGION	Plat Number 22-16-0093	
Estimate Number 7667039	Grid Number N0224	
Date September 12, 2016	By Rountree/Packard	

## G. Other City Council Actions

### 4. Resolution Supporting a Major Hotel Renovation Project by L.T.D Hospitality Group, LLC., on Property Located at 1000 Omni Boulevard

**ACTION:** A REQUEST TO APPROVE A RESOLUTION OF SUPPORT FOR A MAJOR HOTEL RENOVATION PROJECT BY L.T.D. HOSPITALITY GROUP, LLC TO INCLUDE AT LEASE \$14 MILLION IN CAPITAL INVESTMENT AND THE CREATION OF AT LEAST 85 NEW FULL-TIME EQUIVALENT POSITIONS AT 1000 OMNI BOULEVARD (THE "PROJECT").

**BACKGROUND:**

- The project will create additional quality lodging and conference space that will contribute to, support and grow the City's local tourism economy.
- The Economic Development Authority of the City of Newport News, Virginia (EDA) intends to offer an incentive through the Tourism Zone Program, thereby providing support for the project.
- The Resolution outlines the details and components of the City's and EDA's participation.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

#### ATTACHMENTS:

##### Description

CM Memo re Support for Hotel Renovation-LTD Hospitality  
sdm14792 Reso ofSupport for a Major Hotel Renovation Project

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council

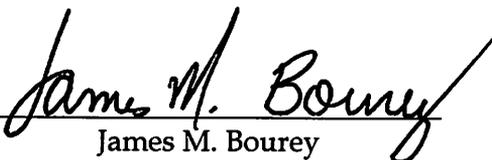
**FROM:** City Manager

**SUBJECT:** Resolution Supporting a Major Hotel Renovation Project by L.T.D. Hospitality Group, LLC

At your October 25, 2016 Work Session, City Council received a detailed presentation on an important project by L.T.D. Hospitality Group, LLC associated with significant improvements to the hotel property located at 1000 Omni Boulevard. This project will include at least \$14 million in capital investment and the creation of at least 85 new full-time equivalent positions. I request City Council approval of a resolution outlining City Council support of this project.

The tourism industry is a vital component of growth and development in the City and this major hotel renovation project will create additional quality lodging and conference space that will contribute to, support and grow the local tourism economy. Understanding the importance of the project and its significant public benefit, the Economic Development Authority of the City of Newport News, Virginia (EDA) intends to offer an incentive through the Tourism Zone Program, which will provide support for the planned improvements.

I recommend that City Council approve the resolution, prepared and provided to you by the City Attorney's Office, outlining the details and components of the City's and EDA's participation and affirming City Council support of this important tourism project by L.T.D. Hospitality Group, LLC.

  
James M. Bourey

JMB:dep

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

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

A RESOLUTION OF SUPPORT FOR A MAJOR HOTEL RENOVATION PROJECT BY L.T.D. HOSPITALITY GROUP, LLC TO INCLUDE AT LEAST \$14 MILLION IN CAPITAL INVESTMENT AND THE CREATION OF AT LEAST 85 NEW FULL-TIME EQUIVALENT POSITIONS AT 1000 OMNI BOULEVARD (THE "PROJECT")

WHEREAS, L.T.D. Hospitality Group, LLC ("LTD"), a Virginia limited liability company, headquartered in Chesapeake, Virginia, has entered into a purchase and sale contract to purchase the hotel and conference center property located at 1000 Omni Boulevard (the "Property") and intends to close on the Property by December 7, 2016; and

WHEREAS, upon purchase of the Property, LTD plans to make a capital investment of at least \$14 million to renovate the Property and to create at least 85 new full-time equivalent positions; and

WHEREAS, the Council of the City of Newport News, Virginia ("City Council"), adopted Ordinance 6842-12 on February 14, 2012 by authority of Virginia Code §58.1-3851 establishing the City of Newport News City-wide Tourism Development Plan as its official Tourism Plan; and

WHEREAS, City Council adopted Ordinance 6843-12 on February 14, 2012, establishing tourism zones, including the "Patrick Henry Tourism Zone", by authority of Virginia Code §58.1-3851; the provision creating the Patrick Henry Tourism Zone is contained in §40.2-22 of the Code of the City of Newport News, Virginia; and

WHEREAS, City Council acknowledges the purpose of the Patrick Henry Tourism Zone is to provide economic incentives and regulatory flexibility for eligible business entities which will advance the long term development goals of the City-wide Tourism Development Plan, the Retail Development Strategy and the Framework for the Future 2030, the City's Comprehensive Plan; and

WHEREAS, City Council understands that growth in the tourism industry can aid in the revitalization, development, and redevelopment of the City of Newport News' ("City") targeted commercial corridors, and strengthen the City's tax base, as well as contribute to the tax base of the Commonwealth providing significant public benefit; and

WHEREAS, City Council wholly supports the Project and recognizes that there is a demonstrated need for additional quality lodging and conference space in the City that contribute to, support and grow the local tourism economy; and

WHEREAS, City Council recognizes that the Project will result in numerous important benefits to the City, such as generating increased tourism-related tax revenues and a significant number of jobs for the citizens of Newport News; and

WHEREAS, Council has evaluated the above described Project, and determined that it is in the best interests of the citizens of the City for the City to support the Project through the utilization of the Tourism Zone Program; and

WHEREAS, the Economic Development Authority of the City of Newport News, Virginia (“EDA”), in consideration of the capital investment to be made, the new full-time equivalent positions to be created and maintained and the value the Project has to the City’s tourism economy, and in accomplishing the City’s strategic priorities, intends to offer certain incentives through the Tourism Zone Program in support of the Project; and

WHEREAS, it is the Council’s expectation that the EDA will negotiate comprehensively and in good faith the terms and conditions of any agreements with LTD to detail the responsibilities of each respective party, and that the EDA will advise Council of the material terms and conditions prior to EDA authorization and execution of a Local Tourism Zone Incentive Program Performance Agreement; and

WHEREAS, Council acknowledges that a portion of the future new tax revenues generated by the Project will be appropriated annually to the EDA through the City’s operating budget to fund grants by the EDA over multiple years, consistent with such Local Tourism Zone Incentive Program Performance Agreement.

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

1. That it hereby supports the major hotel renovation project by LTD which includes at least \$14 million in capital investment and the creation of at least 85 new full-time equivalent positions at the Property.

2. That it directs the City Manager to proceed and to undertake the necessary steps/actions to accomplish the City’s participation in the Project, which includes appropriating the necessary funding for grant payments to the EDA under the Local Tourism Zone Incentive Program Performance Agreement and including such funding in the City Manager recommended budget provided to City Council for the appropriate fiscal years.

3. That based on the reasons stated in this Resolution, the totality of which clearly demonstrates that the City’s participation in the Project is in the best interests of the citizens of the City, Council hereby requests that the EDA serve in the role outlined herein with respect to the Project, and directs the City Manager to ensure the implementation of the City’s participation in the Project as set forth herein, including scheduling, as appropriate, all necessary City Council actions to accomplish the City’s participation in the Project in a timely fashion.

4. That this Resolution shall be in effect on and after the date of its adoption, November 22, 2016.

## G. Other City Council Actions

### 5. Resolution Accepting A Conveyance of Property Located at 624 Dresden Drive from the Newport News Redevelopment and Housing Authority (NNRHA)

**ACTION:** A REQUEST TO APPROVE A RESOLUTION ACCEPTING A CONVEYANCE OF PROPERTY LOCATED AT 624 DRESDEN DRIVE FROM THE NEWPORT NEWS REDEVELOPMENT & HOUSING AUTHORITY (NNRHA).

**BACKGROUND:**

- The City has received a request by the Newport News Redevelopment and Housing Authority (NNRHA) to transfer NNRHA-owned property to the City.
- The property, located at 624 Dresden Drive, was acquired by NNRHA in December 2015, and the City has since demolished the structure on the property.
- City acquisition of the property will allow potential for future development on the parcel in keeping with the character of the neighborhood.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

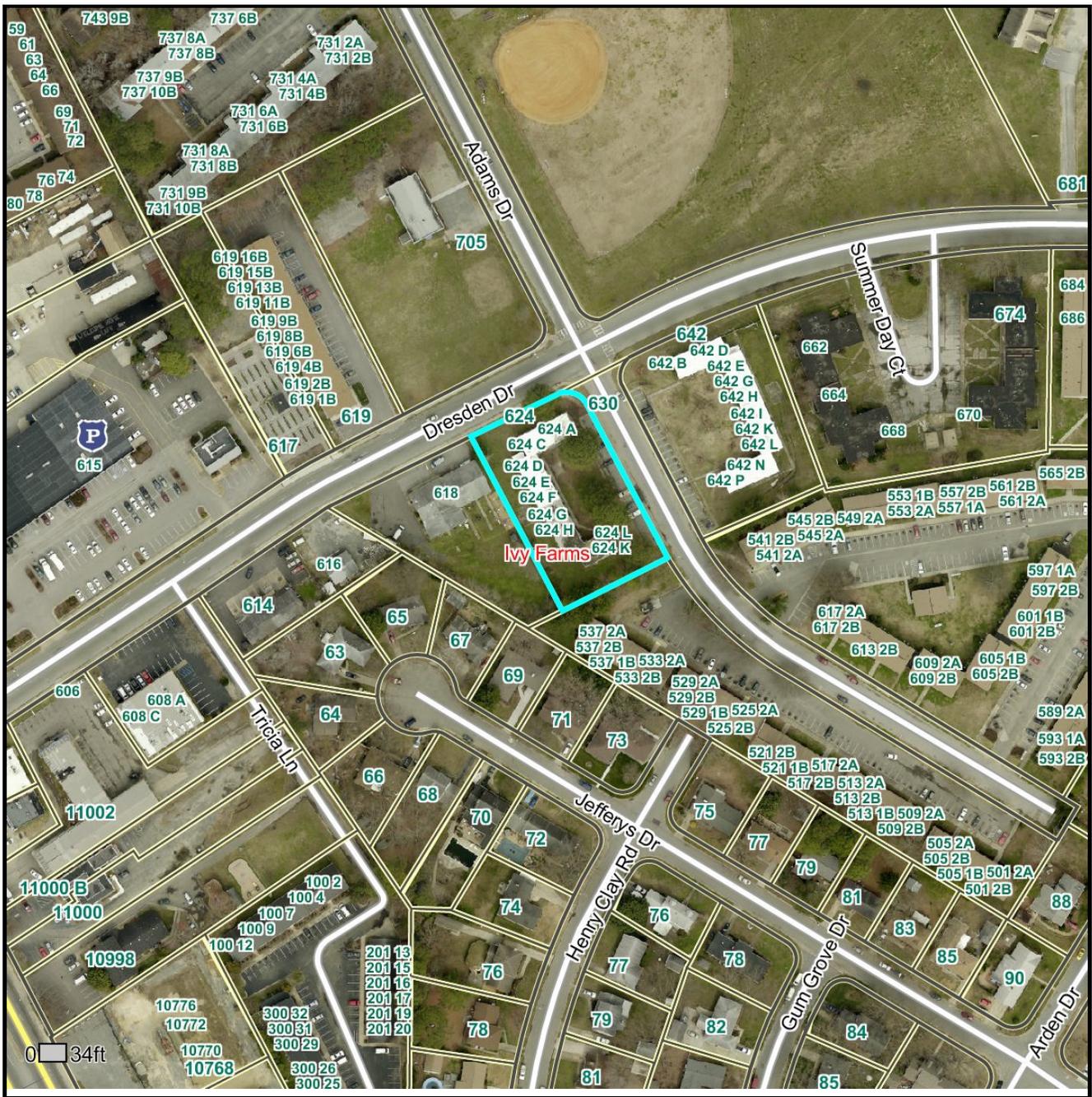
#### ATTACHMENTS:

Description

Attachment

sdm14790 Reso Accepting a Conveyance of Property from NNRHA (624 Dresden Dr)

CM Memo re Conveyance of Property-624 Dresden Dr.



**Legend**

Regional Major Roads	Hospitals	Parcels	Other	Airport Runways
Interstates	Police Stations	Road Center Lines	Residential Roads	Parks
Primary Roads	Fire Stations	Interstates	Railroads	
Other	Libraries	Primary Roads	Streams	
Schools	Museums	Vehicular Trails	Water Bodies	
	Right of Way	Ramps/Service Roads		

(cont)

**City of Newport News**



Any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination.

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, ACCEPTING A CONVEYANCE OF PROPERTY LOCATED AT 624 DRESDEN DRIVE FROM THE NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY.**

WHEREAS, the Newport News Redevelopment and Housing Authority desires to convey to the City of Newport News a parcel of land located at 624 Dresden Drive; and

WHEREAS, the City Council sincerely appreciates the offer and desires to accept the conveyance of the property located at 624 Dresden Drive.

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

1. That it hereby accepts the conveyance of the parcel located at 624 Dresden Drive.
2. That it hereby extends its sincere appreciation to the Newport News Redevelopment and Housing Authority.
3. That the City Attorney is authorized to approve as to form a Deed for this purpose, a draft of which is attached hereto and made a part hereof, and to record same with the records of the Clerk of the Circuit Court.
4. That in acknowledgment of the City Council's gratitude, a copy of this resolution be spread upon the records of this body and that a copy be delivered to the Newport News Redevelopment and Housing Authority.
5. That this resolution shall be in effect on and after the date of its adoption, November 22, 2016.

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

Consideration: \$0

Tax Map #241.0007-50  
624 Dresden Drive

Title Insurance: Unknown

**THIS DEED**, made this 22<sup>nd</sup> day of November, 2016, by and between **NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY**, a political subdivision of the Commonwealth of Virginia, which is exempt from grantor's taxes by § 58.1-811.C.4 of the Code of Virginia of 1950, as amended, Grantor, and the **CITY OF NEWPORT NEWS, VIRGINIA**, a municipal corporation, which is exempt from recording taxes and fees by § 58.1-811.A.3., of the Code of Virginia of 1950, as amended, Grantee, whose address is 2400 Washington Avenue, Newport News, Virginia 23607.

**WITNESSETH:**

That for and in consideration of the sum of \$10.00 cash in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged by the Grantor, the said Grantor does hereby grant, bargain, sell and convey, with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE, unto the said City of Newport News, Virginia, the following described property, to wit:

ALL THAT certain lot, piece, or parcel of land situate, lying and being in the City of Newport News, Virginia, known and designated as Lot Lettered "F", as shown on that certain plan entitled, "IVY FARMS, SECTION 7, NEWPORT NEWS, VIRGINIA," dated December 11, 1961, made by Foster and Miller, Certified Surveyors, Richmond, Virginia, which plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Newport News, Virginia in Plat Book 6, page 10.

Together with all and singular the buildings and improvements thereon, the rights and privileges, tenements, hereditaments, easements and appurtenances unto the said land belonging or in anywise appertaining.

Subject to restrictions, covenants, conditions and easements of record contained in duly recorded deeds, plats and other instruments constituting actual or constructive notice in the chain of title to the property hereby conveyed, which have not expired or have not otherwise become ineffective.

IT BEING the same property which was conveyed to Grantor by deed from Dresden Group, LLC, a Virginia limited liability company, dated October 22, 2015, which deed is duly recorded in Clerk's Office of the Circuit Court of the City of Newport News, Virginia as Instrument No. 150018507.

**TO HAVE AND TO HOLD** to said land unto the CITY OF NEWPORT NEWS, VIRGINIA, its successors and assigns, in fee simple, forever.

[Signature Page Follows]

WITNESS the following signature and seal:

NEWPORT NEWS REDEVELOPMENT AND HOUSING AUTHORITY

By \_\_\_\_\_(SEAL)  
Its: \_\_\_\_\_

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 \_\_\_\_\_, 20\_\_, do hereby certify that Newport News Redevelopment and Housing Authority, by \_\_\_\_\_, its \_\_\_\_\_, whose name is signed to the foregoing Deed, has acknowledged the same before me in my City/County and Commonwealth aforesaid.

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

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

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Collins L. Owens, Jr.  
City Attorney

ACCEPTED BY THE CITY OF NEWPORT NEWS  
by Resolution No. \_\_\_\_\_ passed by the Newport News  
City Council on November 22, 2016, a copy of which is  
attached hereto and made a part hereof as Exhibit A.

sdm14791

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council

**FROM:** City Manager

**SUBJECT:** Conveyance of NNRHA-Owned Property - 624 Dresden Drive

The City has received a request from the Newport News Redevelopment and Housing Authority (NNRHA) to transfer a NNRHA-owned property located at 624 Dresden Drive to the City. NNRHA acquired the property in December of 2015 and the City has since demolished the structure. City acquisition of the property will allow potential for future development on the parcel in keeping with the character of the neighborhood. The property at 624 Dresden Drive is shown (pre-demolition) on the attached aerial.

I recommend that City Council approve the Resolution, prepared and provided to you by the City Attorney's Office, authorizing the conveyance of the parcel from NNRHA to the City and authorizing me to execute any documents necessary to effectuate the transaction.

  
James M. Bourey

JMB:tcf

Attachment

cc: Karen Wilds, Executive Director, NNRHA

## **G. Other City Council Actions**

### **6. Resolution Approving a Support Agreement for the Benefit of the Economic Development Authority of the City of Newport News, Virginia (EDA) to Support the Financing of Property Acquisitions Along the Upper Warwick Boulevard Corridor**

**ACTION:** A REQUEST TO APPROVE A RESOLUTION APPROVING A SUPPORT AGREEMENT FOR THE BENEFIT OF THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NEWPORT NEWS, VIRGINIA (EDA) TO SUPPORT THE FINANCING OF PROPERTY ACQUISITIONS ALONG THE UPPER WARWICK BOULEVARD CORRIDOR.

**BACKGROUND:**

- It is now advantageous for the EDA to arrange financing of the acquisition of over 20 acres of developed commercial real estate with frontage on Upper Warwick Boulevard at very favorable prices to allow the City to guide future development or redevelopment in an important area of the City.
- The EDA can secure long-term, fixed-rate financing that will save the City significant interest expense over the fifteen-year loan term.
- The proposed financing structure has been reviewed by the City's financial advisor, PFM, and confirmed to be competitive and advantageous to the City.
- A Support Agreement between the City and EDA is needed to support the acquisition financing.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

#### **ATTACHMENTS:**

##### **Description**

CM Memo re Support Agrmnt for Upper Warwick Properties  
sdm15008 Approving a Support Agreement between City and EDA

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council

**FROM:** City Manager

**SUBJECT:** Support Agreement for the Benefit of the Economic Development Authority of the City of Newport News, Virginia (EDA)

The acquisition of 13785, 13795, 13795B, 13781 and 13783B Warwick Boulevard and 360 Tabbs Lane was completed on August 26, 2016, for a purchase price of \$4.8 million, 60% of the current City-assessed value. This property contains in excess of 75,000 square feet of leasable space situated on approximately 10.95 acres of land, and has been leased by the IDA since 1995 and subsequently sub-leased to Ferguson Enterprises since the late 1990s.

The adjacent Sherwood Shopping Center, located at 13771 Warwick Boulevard, was acquired on October 31, 2016, for a purchase price of \$3 million, 53% of the current City-assessed value. This site includes 118,500 square feet of improved space on approximately 9.42 acres of land.

Ownership of these two sites together, gives the City and EDA the rare opportunity to control over 20 acres of developed commercial real estate with frontage on Upper Warwick Boulevard and guide future development or redevelopment in this important area of the City.

After a competitive request for financing proposal process, TowneBank was selected by the EDA to provide the project financing. The bank will provide two separate loans of \$4.9 million and \$3.1 million to finance the acquisition and financing costs, each bearing a taxable fixed interest rate of 3.14%, payable over a term of fifteen (15) years and containing flexible terms of prepayment (the "Loans"). The bank will make the Loans secured by a first lien assignment of the rents and leases for each of the properties. As a further condition of making the Loans, the bank has required that the City execute and deliver a Support Agreement providing

The Honorable City Council

Page 2

Support Agreement for the Benefit of the Economic Development

Authority of the City of Newport News, Virginia (EDA)

November 16, 2016

for the payment by the City, subject to annual appropriation, of debt service payments on the Loans to the extent lease revenues from the properties are insufficient to pay such debt service. It is important to note the payment obligations of the City under this Support Agreement shall be subject to annual appropriation by Council and shall not be a debt or other binding legal obligation of the City. The proposed financing structure has been reviewed by the City's financial advisor, PFM, and confirmed to be competitive and advantageous to the City.

I believe these acquisitions represent a transformational opportunity to positively impact the Upper Warwick Boulevard Corridor for years to come. I recommend that Council approve the Resolution and Support Agreement, provided to you by the City Attorney's Office, to support the EDA's acquisition financing plan, which the EDA Board approved at its November 4, 2016 meeting, subject to Council's approval of the Support Agreement.

  
James M. Bourey

JMB:zml

cc: Wendy C. Drucker, Chair, EDA

Lisa J. Cipriano, Director, Department of Budget & Evaluation

Florence G. Kingston, Director, Department of Development

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, APPROVING A SUPPORT AGREEMENT FOR THE BENEFIT OF THE ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NEWPORT NEWS, VIRGINIA.**

WHEREAS, the Economic Development Authority of the City of Newport News, Virginia (the Authority), is undertaking the purchase of six parcels of real property located at 13785 Warwick Boulevard, 360 Tabbs Lane, 13795 Warwick Boulevard, 13795B Warwick Boulevard, 13781 Warwick Boulevard, and 13783B Warwick Boulevard containing three buildings and with a total approximate acreage of 10.95 acres and an additional parcel located at 13771 Warwick Boulevard containing a strip shopping center and consisting of 9.42 acres (collectively, the Properties);

WHEREAS, the Authority has advised that Properties generate annual lease revenues of approximately \$900,000;

WHEREAS, the Authority, pursuant to the powers and purposes granted to it under Chapter 726 of the 1972 Acts of Assembly, as amended (the Act), has purchased the Properties due to their strategic location in the City of Newport News, Virginia (the City), which will provide future economic development opportunities benefitting the City;

WHEREAS, the Authority has approved a plan of finance with respect to the acquisition of the Properties totaling \$8,000,000;

WHEREAS, TowneBank (the Lender) has agreed, pursuant to a Financing Agreement dated as of November 1, 2016 (the Financing Agreement) between the Lender and the Authority, to finance the acquisition of the Properties and financing costs by making a loan (the Loan) to the Authority totaling \$8,000,000 bearing interest at the rate of 3.14% per annum, payable over a term of fifteen (15) years and containing flexible terms of prepayment, such Loan to be evidenced by two notes of the Authority (the Notes), one in the principal amount of \$3,100,000 and one in the principal amount of \$4,900,000;

WHEREAS, the Lender, as a condition to making the Loan has required that the City execute and deliver a Support Agreement (the Support Agreement) providing for the payment by the City, subject to annual appropriation, of debt service payments on the Loan to the extent lease revenues from the Properties are insufficient to pay such debt service;

WHEREAS, a draft of the Support Agreement has been presented at this meeting and the City Manager recommends the Council's approval of the Support Agreement and the Council's authorization of its execution on substantially the terms contained in the attached draft; and

WHEREAS, the Council hereby determines that a valid public purpose will be served by the undertakings set forth in the Support Agreement.

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

1. That it hereby authorizes and directs the City Manager to execute on behalf of the City a Support Agreement which substantially conforms with the terms of the draft Support Agreement presented at this meeting, a copy of which is attached hereto, with any changes to such agreement which the City Manager agrees to make first being subject to the review and approval as to form by the City Attorney before execution thereof.

2. That the payment obligations of the City under the Support Agreement shall be subject to annual appropriation by the Council for such purpose and shall not constitute a debt or other binding legal obligation of the City for the payment of money.

3. That an executed original of the Support Agreement shall be kept on file in the City's Department of Development.

4. That this resolution shall be in effect on and after the date of its adoption, November 22, 2016.

## SUPPORT AGREEMENT

THIS SUPPORT AGREEMENT (this Support Agreement), made and entered into as of the 22<sup>nd</sup> day of November, 2016, between the CITY OF NEWPORT NEWS, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the City) and the ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF NEWPORT NEWS, VIRGINIA, a political subdivision of the Commonwealth of Virginia (the Authority).

### W I T N E S S E T H :

WHEREAS, the Authority is undertaking the purchase of six parcels of real property located at 13785 Warwick Boulevard, 360 Tabbs Lane, 13795 Warwick Boulevard, 13795B Warwick Boulevard, 13781 Warwick Boulevard, and 13783B Warwick Boulevard (collectively, containing three buildings and with a total approximate acreage of 10.95 acres and an additional parcel located at 13771 Warwick Boulevard containing a strip shopping center and consisting of 9.42 acres (collectively, the Properties);

WHEREAS, the parties hereto have determined that the Properties generate annual lease revenues of approximately \$900,000;

WHEREAS, the Authority, pursuant to the powers and purposes granted to it under Chapter 726 of the 1972 Acts of Assembly, as amended (the Act), has purchased the Properties due to their strategic location in the City which will provide future economic development opportunities benefitting the City;

WHEREAS, the Authority has approved a plan of finance with respect to the acquisition of the Properties totaling \$8,000,000;

WHEREAS, TowneBank (the Lender) has agreed, pursuant to a Financing Agreement dated as of November 1, 2016 (the Financing Agreement) between the Lender and the Authority, to finance the acquisition of the Properties and financing costs by making a loan (the Loan) to the Authority totaling \$8,000,000 bearing interest at the rate of 3.14% per annum, payable over a term of fifteen (15) years and containing flexible terms of prepayment, such Loan to be evidenced by two notes of the Authority (the Notes), one in the principal amount of \$3,100,000 and one in the principal amount of \$4,900,000;

WHEREAS, the Lender, as a condition to making the Loan has required that the City execute and deliver this Support Agreement providing for the payment by the City, subject to annual appropriation, of debt service payments on the Loan to the extent lease revenues from the Properties are insufficient to pay such debt service;

WHEREAS, the parties hereto hereby determine that a valid public purpose will be served by the undertakings set forth in this Support Agreement;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto covenant and agree as follows:

ARTICLE I.  
DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1. Definitions. In addition to the words defined in the preambles of this Support Agreement, the following words as used in this Support Agreement shall have the following meanings unless a different meaning clearly appears from the context:

"Authority Resolution" means the Resolution No. 16-8 of the Authority adopted on November 4, 2016, approving this Support Agreement.

"Council" shall mean the Council of the City.

"Financing Agreement" means the Financing Agreement, dated as of November 1, 2016, between the Authority and the Lender, together with all duly authorized amendments thereto.

"Fiscal Year" means each twelve month period beginning on each July 1 and ending on each June 30.

"Pay" or "to pay" means any expenditure of money by the City in any Fiscal Year in connection with this Support Agreement which is subject to appropriation by the Council and solely for the Fiscal Year in which such appropriation is made, constitutes a current expense of the City within such Fiscal Year, and is subject to any prohibitions, restrictions or regulations imposed by applicable law.

"Resolution" means Resolution No. \_\_\_\_\_ enacted by the Council on November 22, 2016, and approving this Support Agreement.

Section 1.2. Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Support Agreement:

(a) Words importing the singular number shall include the plural number and vice versa;

(b) Words importing the masculine gender shall include the feminine and neuter genders and vice versa;

(c) Unless otherwise indicated, all references herein to particular Articles or Sections are references to Articles or Sections of this Support Agreement; and

(d) The headings herein are solely for convenience of reference and shall not constitute a part of this Support Agreement nor shall they affect its meaning, construction or effect.

ARTICLE II.  
REPRESENTATIONS

Section 2.1. Representations of the City. The City makes the following representations in connection with its undertakings pursuant to this Support Agreement:

(a) The City (i) is a political subdivision of the Commonwealth of Virginia, (ii) has the power to enter into this Support Agreement and the transactions contemplated hereby and to perform its obligations hereunder, and (iii) by proper action has duly authorized the execution and delivery of, and performance of its obligations under, this Support Agreement;

(b) The execution and delivery of and compliance by the City with the terms and conditions of this Support Agreement will not conflict with, or constitute or result in a default under or violation of, any existing law, rule or regulation applicable to the City, and no event has occurred and is continuing that with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation;

(c) The City has delivered to the Authority the following documents, each dated or certified as of the date of delivery of this Support Agreement: (i) a certified copy of the Resolution; and (ii) an opinion of the City Attorney, subject to customary exceptions and qualifications, substantially to the effect that this Support Agreement has been duly authorized, executed and delivered by the City and is enforceable against the City in accordance with its terms;

(d) No further approval, consent or withholding of objection on the part of any regulatory body or any official is required as a condition precedent to the execution or delivery of, or performance by the City with, the terms and conditions of this Support Agreement;

(e) No litigation, inquiry or investigation of any kind in or by any judicial or administrative court or agency is pending or, to the City's knowledge, threatened against it with respect to (i) the creation and existence of the City, (ii) its authority to execute and deliver this Support Agreement, (iii) the validity or enforceability of this Support Agreement, (iv) the title of any officer of the City executing this Support Agreement, or (v) any authority or proceedings related to the execution and delivery of this Support Agreement on behalf of the City, and no such authority or proceeding has been repealed, revoked, rescinded or amended, and each is in full force and effect on the date hereof; and

(f) When duly executed and delivered on behalf of the City, and assuming its due authorization, execution and delivery by the Authority, this Support Agreement, shall constitute a valid and binding obligation of the City enforceable against the City in accordance with its terms.

Section 2.2 Representations of the Authority. The Authority makes the following representations in connection with its undertakings pursuant to this Support Agreement:

- (a) The Authority is duly established, organized and operating under the Act;
- (b) Under the provisions of the Act, the Authority is duly authorized to enter into, execute and deliver this Support Agreement, to undertake the obligations contemplated by this Support Agreement and the Financing Agreement and to carry out its obligations hereunder and thereunder;
- (c) By the duly adopted Authority Resolution, the Authority has duly authorized the execution, delivery and performance of the Financing Agreement, the Notes, this Support Agreement and all related documents;
- (d) The Authority's execution and delivery of and performance under the Financing Agreement, the Notes, this Support Agreement and all related documents will not conflict with, or constitute a breach of or default under, or require any consent pursuant to, any law or regulation presently applicable to the Authority (except for such consents and approvals as have heretofore been obtained), the bylaws of the Authority, any order of any court, regulatory body or arbitral tribunal or any agreement or instrument to which the Authority is a party or by which it is bound;
- (e) There are no judicial, regulatory or arbitral proceedings pending or, to the knowledge of the Authority, threatened against the Authority which, if decided adversely to the Authority, would have a material adverse effect on any of the transactions or undertakings of the Authority in connection with this Support Agreement, the Financing Agreement, the Notes or any related documents;
- (f) When duly executed and delivered on behalf of the Authority, and assuming the due authorization, execution and delivery by the other parties thereto, each of the Financing Agreement, the Notes and this Support Agreement, shall constitute a valid and binding obligation of the Authority enforceable against the Authority in accordance with their terms;
- (g) The Authority will cause the proceeds of the Loan to be applied solely to the purposes identified in the preambles to this Support Agreement and in the Financing Agreement;
- (h) The Authority will use the Properties in accordance with the Act;
- (i) The Financing Agreement and this Support Agreement do not contain any misrepresentation or untrue statement of material fact or omit to state a material fact necessary in order to make any such representation or statement contained therein not misleading;
- (j) The Authority has delivered to the City the following documents, each dated or certified as of the date of delivery of this Support Agreement: (i) a certified copy of the Authority Resolution; (ii) an opinion of counsel to the Authority, subject to customary exceptions and qualifications, substantially to the effect that the Financing Agreement, the Notes and this Support Agreement have been duly authorized, executed and delivered by the Authority

and are enforceable against the Authority in accordance with their respective terms; and (iii) a true copy of the Financing Agreement;

(k) No litigation of any kind or any proceeding before any court at law or in equity or before any governmental agency is now pending or, to the Authority's knowledge, threatened with respect to (i) the organization or existence of the Authority, (ii) its authority to execute and deliver the Financing Agreement, the Notes, this Support Agreement or any related document, (iii) the validity or enforceability of the Financing Agreement, the Notes, this Support Agreement or any related document or the transactions contemplated thereby or hereby, (iv) the titles of the officers who executed or will execute the Financing Agreement, the Notes, this Support Agreement or any related document, (v) any authority or proceedings relating to the execution and delivery of the Financing Agreement, the Notes, this Support Agreement or any related document by the Authority, (vi) the ability of the Authority to lease the Properties, or (vii) any matter which would have a material adverse effect on the Authority's assets, condition (financial or otherwise), operations or prospects;

(l) The Authority is not in default in the payment of the principal of or interest on any of its obligations for borrowed money and is not in default under any instrument under and subject to which any obligations for borrowed money have been incurred. No event or condition has happened or existed, or is happening or existing, under the provisions of any such instrument, including but not limited to this Support Agreement, which constitutes, or which, with the lapse of time or the giving of notice, or both, would constitute or result in an event of default thereunder; and

(m) The Authority is not in violation of the Act.

### ARTICLE III. OBLIGATIONS OF PARTIES

#### Section 3.1 Undertakings of the Authority.

(a) The Authority shall deliver to the City annually no later than March 1 the Authority's proposed operating budget for the Properties for the next succeeding Fiscal Year in form and detail reasonably acceptable to the City Manager and the City's Director of Budget and Evaluation, such proposed operating budget to include the Authority's expected expenses and liabilities, including contingent payments, and the Authority's expected sources of revenue, including lease revenues and non-operating revenues. The Authority also shall deliver to the City annually no later than March 1 a statement of the amounts payable under the Loan in the next succeeding Fiscal Year, which also constitutes a Fiscal Year of the City.

(b) The Authority shall provide the City Manager periodic reports on the status of the use and occupancy of the Properties in such detail to accommodate the City Manager in the exercise of his reporting duties under Section 3.2(b) of this Support Agreement.

(c) The Authority shall maintain, or cause to be maintained, the Properties in good condition subject to ordinary wear and tear and shall insure the Properties, or cause the Properties to be insured, in such amounts and with such coverages as are customary for facilities similar to the Properties.

(d) In order to assist in the payment of the Loan in each Fiscal Year, which also constitutes a Fiscal Year of the Authority, if the Authority is unable to make such payment, in whole or in part, the Authority shall notify the City, in writing, such notice to be addressed to the City at its address set forth in Section 4.9 of this Support Agreement and to include (i) a statement of the Authority's inability to make all or a portion of such Loan payment, (ii) the total amount of such deficiency and (iii) a statement of the reasons for such inability to make payment in full, evidenced by appropriate documentation. The Authority shall provide such notice to the City as soon as it determines that it will be unable to pay its obligation under the Loan in whole or in part. The Authority shall allow the City to inspect its financial records with respect to the Properties.

### Section 3.2 Undertakings of the City.

(a) The City Manager shall include in his recommended annual operating budget during the term of the Loan the City's support for the Authority's payment of amounts owed under the Loan for the next succeeding Fiscal Year of the City based upon his review of the budget information provided by the Authority under Section 3.1(a) of this Support Agreement. During each Fiscal Year of the City, within fifteen (15) days of receipt of the Authority's written notice pursuant to Section 3.1(d) of this Support Agreement, the City Manager shall request in writing that the Council appropriate funds in order for the City to pay the Authority's Loan payment obligation if such required funding has not already been appropriated, which appropriation the Council shall have no legal obligation to make. The City shall, and does hereby agree to pay promptly to the Authority, subject to annual appropriation, the Authority's Loan payment obligations then due.

(b) The City Manager shall provide the Council periodic reports on the status of the use and occupancy of the Properties based upon information provided by the Authority.

(c) The City hereby consents to the pledge to the Lender of the Authority's rights to receive payments under this Support Agreement and agrees upon request of the Lender to pay amounts appropriated by the Council directly to the Lender.

(d) The payment obligations of the City hereunder shall not constitute a debt of the City under any Virginia Constitutional or statutory provision. The payments under this Support Agreement constitute a moral obligation of the City not a legal obligation of the City and are subject to the legislative discretion of the Council to annually appropriate funds for such purpose.

## ARTICLE IV. MISCELLANEOUS

Section 4.1 Term of Agreement. The term for this Support Agreement shall commence on the date of delivery of the Financing Agreement and shall terminate on the date of payment in full of the Loan.

Section 4.2 Lender as Third Party Beneficiary. By its making of the Loan, the Lender shall become a third party beneficiary of this Support Agreement and shall be entitled to enforce

all of the obligations and rights of the parties hereto to the same extent as if the Lender were one of the contracting parties.

Section 4.3 Defaults. (a) If any party to this Support Agreement fails to comply with any covenant or obligation set forth herein, the other party to this Support Agreement may proceed to protect and enforce its rights by an action for specific performance, subject to the limitations set forth in Section 3.2.

(b) Notwithstanding anything herein to the contrary, any failure of the City to comply with any of its obligations in this Support Agreement (i) shall not be deemed to constitute an event of default under the Loan or the Financing Agreement and (ii) shall not give rise to any right or remedy other than that described in Section 4.3(a) above.

Section 4.4 No Liability. Notwithstanding anything herein to the contrary, the Authority acknowledges that the City has not incurred nor will incur any liability arising out of the ownership of the Properties by the Authority or any other party.

Section 4.5 Amendments. This Support Agreement may be amended by the parties hereto so long as such amendment is consented to by the Lender, which consent may not be unreasonably withheld.

Section 4.6 Successors. This Support Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors or assigns.

Section 4.7 Severability. If any provision of this Support Agreement shall be held to be illegal or invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision hereof and this Support Agreement shall be construed and enforced as if such illegal provision had not been contained in it.

Section 4.8 Counterparts. This Support Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

Section 4.9 Notices. Unless otherwise provided in this Support Agreement, all notices, approvals, consents, requests and other communications under this Support Agreement shall be in writing and shall be deemed to be given when delivered in person, or when sent by overnight delivery or courier service, or when mailed by registered or certified mail, postage prepaid, addressed (a) if to the Authority, at 2400 Washington Avenue, 3<sup>rd</sup> Floor, Newport News, Virginia 23607, Attention: Chair, (b) if to the City, at 2400 Washington Avenue, Newport News, Virginia 23607 Attention: City Manager, with a copy to the Director of Budget and Evaluation and the City Attorney or (c) if to the Lender, at 6001 Harbor View Boulevard, Suffolk, Virginia 23435, Attention: President. The Authority, the City and the Lender may, by notice given under this Support Agreement, designate any additional or different addresses or persons to which subsequent demands, notices, approvals, consents, requests and other communications shall be sent.

Section 4.10 This Support Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the parties have caused this Support Agreement to be entered into as of the date first above written.

CITY OF NEWPORT NEWS, VIRGINIA  
2400 Washington Avenue, 10th Floor  
Newport News, Virginia 23607

\_\_\_\_\_  
James M. Bourey, City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ECONOMIC DEVELOPMENT AUTHORITY OF  
THE CITY OF NEWPORT NEWS, VIRGINIA  
2400 Washington Avenue, 3<sup>rd</sup> Floor  
Newport News, Virginia 23607

By: \_\_\_\_\_  
Wendy C. Drucker, Chair

APPROVED AS TO FORM:

\_\_\_\_\_  
Raymond H. Suttle, Jr.  
Counsel to the Authority

sdm15009

## **G. Other City Council Actions**

7. Ordinance Authorizing a Boundary Amendment to the Defense Production Zone to Include an Additional Area Owned by Huntington Ingalls Incorporated (HII) and Located at 4102 Huntington Avenue

**ACTION:** A REQUEST TO ADOPT AN ORDINANCE AUTHORIZING A BOUNDARY AMENDMENT TO THE DEFENSE PRODUCTION ZONE TO INCLUDE AN ADDITIONAL AREA OWNED BY HUNTINGTON INGALLS INCORPORATED (HII) AND LOCATED AT 4102 HUNTINGTON AVENUE.

**BACKGROUND:**

- City Council has been previously briefed on the need for the adjustment of the boundaries of the Defense Production Zone.
- Council's approval of the Ordinance is the only action needed to accomplish the boundary adjustment.
- This action is necessary to support defense production-related projects in the City and further the development of the associated tax base and employment opportunities.
- The City Manager recommends approval.

**FISCAL IMPACT:** • N/A

### **ATTACHMENTS:**

#### **Description**

CM Memo re Defense Production Zone Boundary

CM Memo re Defense Production Zone-11.10.16

Defense Production Zone Map

sdm14789 Authorizinga Boundary Amendment to the Defense Production Zone

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

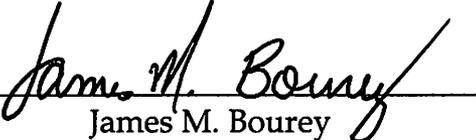
November 16, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Defense Production Zone Boundary Amendment

I am requesting City Council approval of an ordinance authorizing a boundary amendment to the Defense Production Zone, as detailed in my memorandum to you dated November 10, 2016, a copy of which is attached for your convenience.

The boundary amendment is being made to include an additional area, owned by Huntington Ingalls Incorporated (HII), which is required for HII to accommodate improvements and an addition to its foundry facility located at 4102 Huntington Avenue. The foundry improvements and addition are part of the advanced shipbuilding project which will receive assistance through the Defense Production Zone, and for which City Council passed a Resolution of Support in May 2016. The proposed addition is the area located between 43<sup>rd</sup> Street and 42<sup>nd</sup> Street and Warwick Boulevard and Huntington Avenue.

I recommend City Council approve the ordinance, prepared and provided to you by the City Attorney's Office, authorizing a boundary amendment to the Defense Production Zone.

  
James M. Bourey

Attachment

JMB:dep

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

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 10, 2016

**TO:** The Honorable City Council  
**FROM:** City Manager  
**SUBJECT:** Defense Production Zone Boundary Amendment

In January 2016, City Council authorized the creation of a Defense Production Zone in the City of Newport News to encourage the further development of its defense production tax base and to enhance public revenues and the creation of employment opportunities in the City. Subsequently, in May 2016, City Council passed a Resolution outlining support of an advanced shipbuilding project by Huntington Ingalls Incorporated (HII) which will utilize incentives offered through the Defense Production Zone, and includes improvements to the foundry, which is located at 4102 Huntington Avenue.

As HII has continued designing and developing the scope for the foundry improvement project, it has learned that the foundry improvements and associated addition will also require the land of an adjacent HII-owned parcel to promote manufacturing efficiencies and minimal disruption to existing foundry operations. Because the foundry improvement project will receive assistance through the Defense Production Zone, it is necessary to amend the Defense Production Zone boundary to include the additional area to be used for the improvements and addition. The attached map shows the proposed addition to the Defense Production Zone.

It is my intention to schedule the approval of the ordinance authorizing a boundary amendment to the Defense Production Zone for your November 22, 2016 City Council meeting.

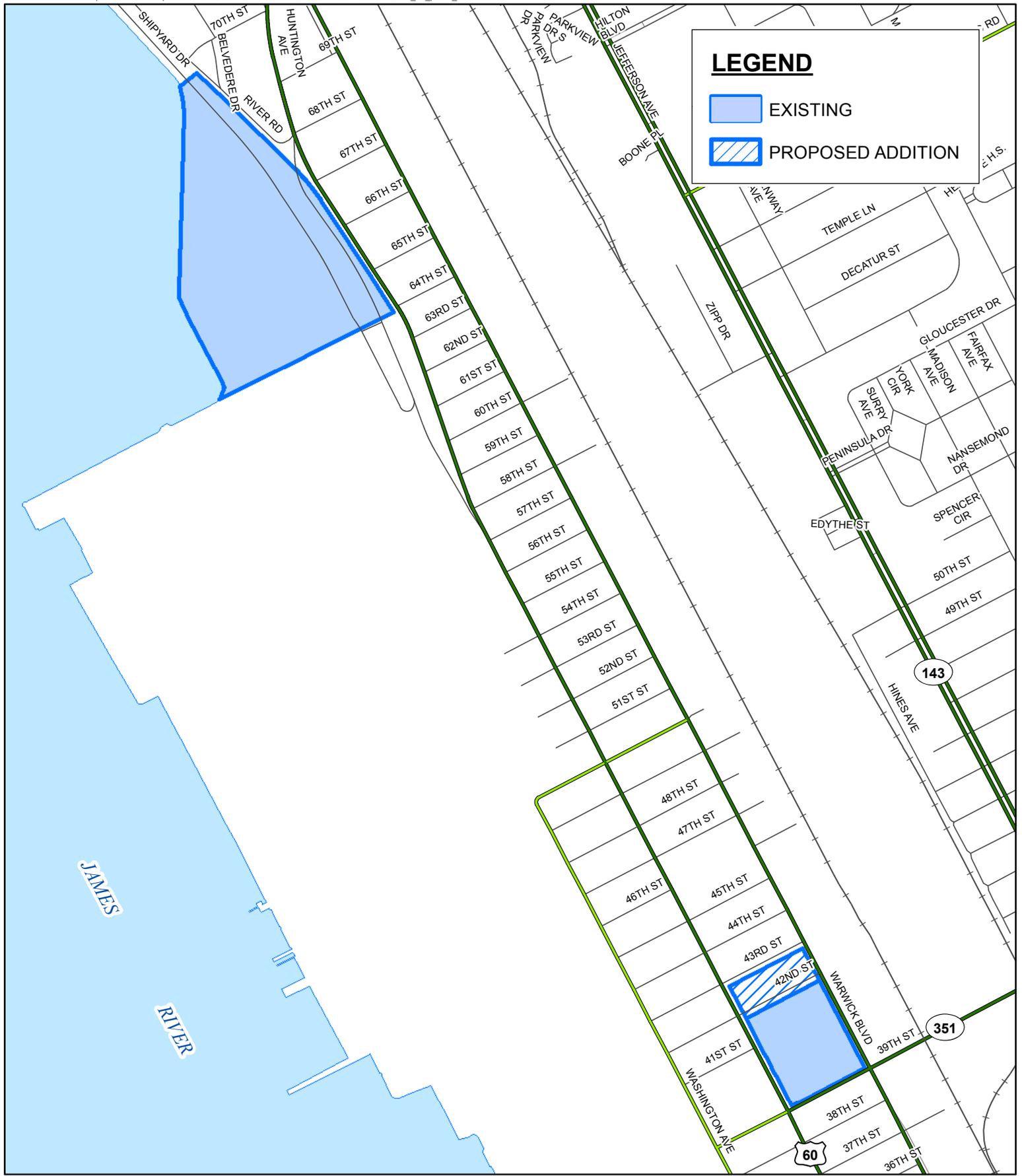
  
James M. Bourey

JMB:dep

Attachment

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

G:\JIM BOUREY\Correspondence\2016\11 November\Memo to HCC re Defense Production Zone Boundary Amendment 11 10 16.docx



CITY OF NEWPORT NEWS, VIRGINIA

# DEFENSE PRODUCTION ZONE



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

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA AUTHORIZING A BOUNDARY AMENDMENT TO THE DEFENSE PRODUCTION ZONE.

WHEREAS, by Ordinance No. 7249-16, City Council authorized the creation of a defense production zone within the City to encourage further development of its defense production tax base and to enhance public revenues and the creation of employment opportunities; and

WHEREAS, pursuant to section 40.2-33 of the city code, the Defense Production Zone Map establishing the boundaries of said defense production zone is kept on file in the Office of the Department of Development; and

WHEREAS, an amendment to the boundaries of the defense production zone is necessary to support defense production related projects in the City; and

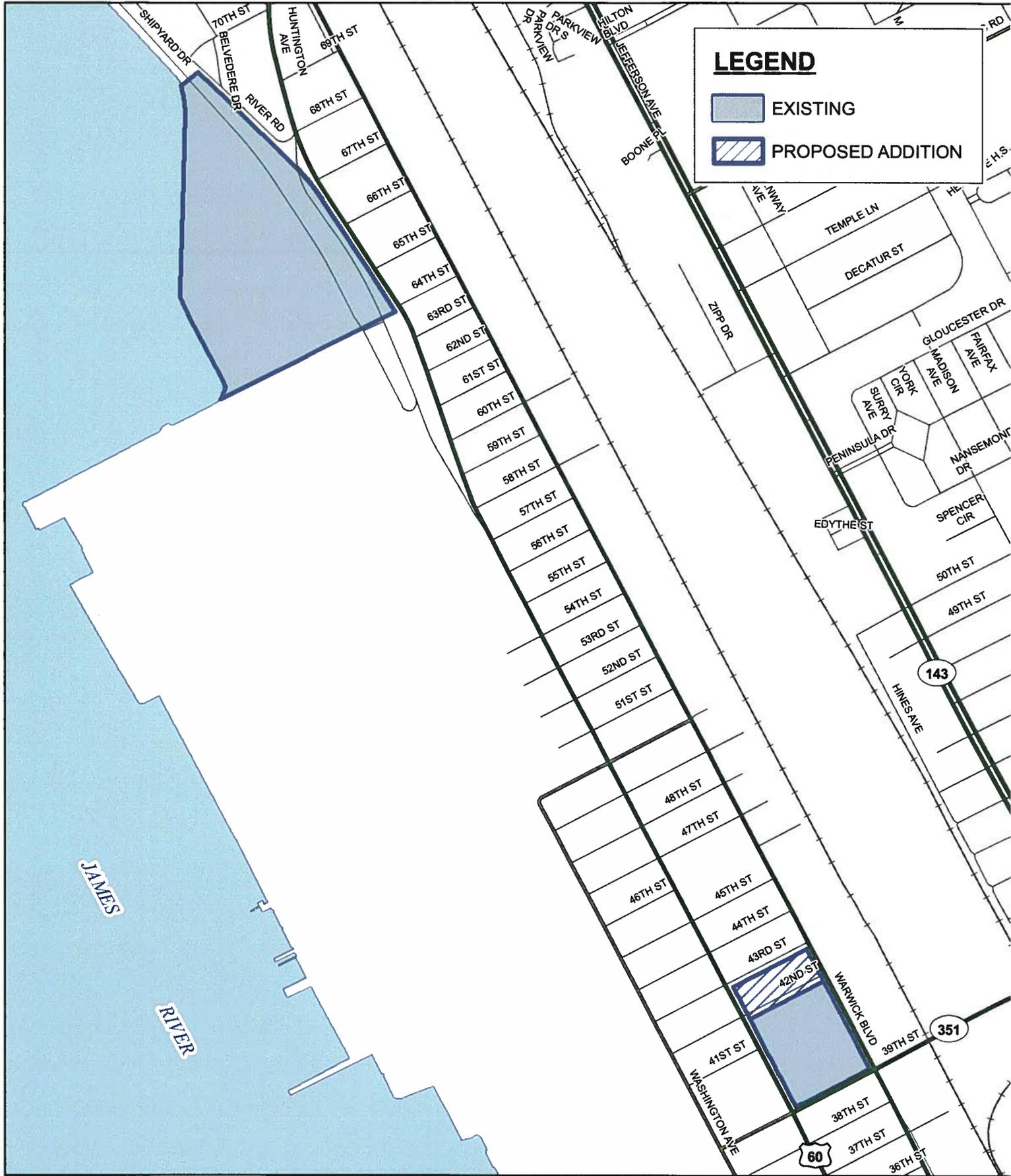
WHEREAS, the attached exhibit shows the proposed amended boundaries of the defense production zone; and

WHEREAS, the City Manager recommends, and City Council agrees, that the proposed boundary amendments be adopted to further encourage the development of defense production related businesses in the City.

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

1. That it hereby authorizes and adopts the boundary amendments to the Defense Production Zone shown on the attached exhibit, and directs that a Defense Production Zone Map incorporating the boundary amendments be kept on file in the office of the Department of Development, as set forth in section 40.2-33 of the city code.

2. That this ordinance shall be in effect on and after the date of its adoption, November 22, 2016.



CITY OF NEWPORT NEWS, VIRGINIA

# DEFENSE PRODUCTION ZONE



## H. Appropriations

ACTION:

A REQUEST FOR A MOTION OF CITY COUNCIL TO APPROVE AS A BLOCK THE FOLLOWING APPROPRIATIONS.

1. Newport News Police Department (NNPD) - Asset Forfeiture Account - \$200,000
2. Waterworks Department - Waterworks Capital Improvements Plan (CIP): Water Crossings Project - \$400,000

## H. Appropriations

### 1. Newport News Police Department (NNPD) – Asset Forfeiture Account – \$200,000

**ACTION:** A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$200,000 FROM THE NEWPORT NEWS POLICE DEPARTMENT ASSET FORFEITURE ACCOUNT.

**BACKGROUND:**

- Asset Forfeiture funds are funds that are transferred to the Police Department as a result of officers participating in state and federal criminal cases where the defendant's assets are seized.
- The department will utilize the funds to purchases needed software and equipment.

**FISCAL IMPACT:**

- The current balance in unappropriated asset forfeiture funds is \$640,183.
- This appropriation will reduce the asset forfeiture account by \$200,000.
- The City Manager recommends approval.

#### **ATTACHMENTS:**

##### **Description**

CM Memo re NNPD Asset Forfeiture Appropriation  
sdm15018 Appropriation re Asset Forfeiture - Police Dept

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

**TO:** The Honorable City Council

**FROM:** City Manager

**SUBJECT:** Asset Forfeiture Appropriation - Police Department

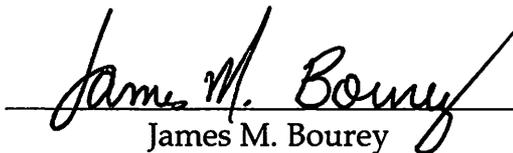
The Police Department is requesting a \$200,000 appropriation from their asset forfeiture funds to use for equipment and software purchases.

Asset forfeiture funds are funds that are transferred to the Police Department as a result of officers participating in state and federal criminal cases where the defendant's assets are seized. The current asset forfeiture balance in unappropriated funds is \$640,183.

Items to be purchased include software that will be used by officers to make criminal history queries on the mobile data terminals in their vehicles, weights for enforcement of overweight trucks, vehicles for the Organized Crime Division and Forensics Unit, and a new polygraph machine. In addition, the funds will allow the purchase of eight body cameras. The Police Department has now equipped those officers who are in operational positions who need to wear cameras on a regular basis for their assignment with cameras. The cameras that are being purchased are replacement cameras. The life expectancy of a camera is only three years. Of the 330 cameras purchased to date, 142 were purchased in 2013; they are now reaching the end of their life cycle.

No local grant match is required.

Approval of this resolution is recommended.

  
James M. Bourey

JMB:LBT:slr

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

A RESOLUTION APPROPRIATING FUNDS FROM USE OF FUND BALANCE TO TRAINING.

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

That it hereby appropriates funds from Use of Fund Balance to Training, as follows:

Appropriation From:

Use of Fund Balance	
2601-000-23-0000-452000-00000-0000-	
23X17-23X17	\$ 200,000.00

Appropriation To:

Training	
2601-000-23-0000-555040-00000-0000-	
23X17-23X17	\$ 200,000.00

## H. Appropriations

### 2. Waterworks Department – Waterworks Capital Improvements Plan (CIP): Water Crossings Project – \$400,000

ACTION: A REQUEST TO APPROVE A RESOLUTION APPROPRIATING \$400,000 FROM THE WATERWORKS DEPARTMENT CAPITAL IMPROVEMENTS PLAN (CIP) FOR CONSTRUCTION COSTS ASSOCIATED WITH THE MODERNIZATION OF PIPELINE AND STRUCTURAL REPAIRS AT THE WATER CROSSINGS PROJECT.

BACKGROUND:

- City Council previously appropriated funds in the amount of \$1,528,621, for this project in November, 2015.
- As repairs progressed, additional deterioration has been identified at three locations.
- The locations included in this project are the Diascund Creek Crossing, the Lee Hall Reservoir Crossing, and the Hampton River Crossing.
- Construction details for this project are included in the attached City Manager's memo.
- This project is included in the Waterworks Department Capital Improvements Plan (CIP), previously approved by City Council.
- City Manager recommends approval.

FISCAL IMPACT: • N/A

#### ATTACHMENTS:

##### Description

CM Memo re Pipeline & Structural Repairs at Water Crossings  
sdm15013 Appropriation re Pipeline & Structural Repairs

# CITY OF NEWPORT NEWS

## OFFICE OF THE CITY MANAGER

November 16, 2016

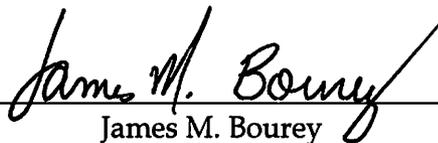
**TO:** The Honorable City Manager  
**FROM:** City Manager  
**SUBJECT:** Pipeline and Structural Repairs at Water Crossing Project

In a previous request, City Council appropriated funds in the amount of \$1,528,621, to include a 20% contingency, for construction costs associated with the Pipeline and Structural Repairs at Water Crossings project. As this repair work progressed, additional deterioration was identified at all three locations within the project, and Waterworks would like to request that City Council appropriate additional funds in the amount of \$400,000 for the following:

- 1) At the Diascund Creek Crossing, significant damage to six of the eight support piles was discovered which rendered the existing structural support design no longer valid. In the interest of time, the City directed the Contractor to prepare a new pipe support design based on installing timber piles. Additionally, during the course of rehabilitation work, additional necessary repairs were identified in the 36" pipeline that needs to be made.
- 2) At the Lee Hall Reservoir Crossing, an interior inspection of the aerial pipeline revealed several areas of significant mortar lining failure, which has prompted a major rehabilitation of pipeline.
- 3) At the Hampton River Crossing, an inspection of the piles and bent caps that support a water pipeline revealed damage which requires repairs previously unforeseen has been identified. In addition, further remediation is required to, previously unknown.

Previous Construction Appropriation	\$ 1,273,851 (without contingency)
<b><u>Newly Requested Appropriation</u></b>	<b><u>\$400,000</u></b>
Total Construction	<b><u>\$ 1,673,851</u></b>

I recommend approval.

  
James M. Bourey

JMB:WW:wmp

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

**A RESOLUTION APPROPRIATING FUNDS FROM BOND PROCEEDS GENERAL OBLIGATION BONDS TO CONSTRUCTION.**

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

That it hereby appropriates funds from Bond Proceeds General Obligation Bonds to Construction, as follows:

Appropriation From:

Bond Proceeds General Obligation Bonds

6001-600-41-0000-400100-000000-  
0000-00000

\$ 400,000.00

Appropriation To:

Construction

6001-600-41-4173-579708-417340-  
0000-00000

\$ 400,000.00

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

J. New Business and Councilmember Comments

City Manager  
City Attorney  
City Clerk

Woodbury  
Bateman  
Cherry  
Coleman  
Price  
Scott  
Vick

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."**