

Director of Media and Community
Relations

SUFFOLK CITY COUNCIL
MEETING OF NOVEMBER 4, 2015



WORK SESSION

Begins at 4:00 p.m.

REGULAR SESSION

Begins at 7:00 p.m.

**SUFFOLK CITY COUNCIL
WORK SESSION
November 4, 2015
4:00 p.m.
City Council Chamber**

1. 2016 Legislative Agenda
2. Capital Improvement Project Update
- 3.* Appointments
- 4.* Economic Development Investment Program Proposals
- 5.* General Report for City Council

* Proposed Items for Closed Session

AGENDA: November 4, 2015, Work Session

ITEM: 2016 Legislative Agenda

The City's Legislative Consultant will brief City Council on items to be included in the proposed 2016 City of Suffolk Legislative Agenda package.

AGENDA: November 4, 2015, Work Session

ITEM: Capital Improvement Projects Update

The Director of Public Works will provide City Council with a briefing concerning recently completed, ongoing and future Capital Improvement Projects.

SUFFOLK CITY COUNCIL AGENDA
November 4, 2015
7:00 p.m.
City Council Chamber

1. **Call to Order**
2. **Nonsectarian Invocation**
3. **Approval of the Minutes**
4. **Special Presentations**
5. **Removal of Items from the Consent Agenda and Adoption of the Agenda**
6. **Agenda Speakers**
7. **Consent Agenda** – An ordinance to accept and appropriate additional funds from the United States Department of Transportation Federal Aviation Administration in support of the Airport Runway and Obstruction Removal Project at the Suffolk Executive Airport
8. **Consent Agenda** – An ordinance to accept and appropriate additional funds from the Virginia Department of Aviation in support of the Airport Runway and Obstruction Removal Project at the Suffolk Executive Airport
9. **Consent Agenda** – An ordinance to accept and appropriate funds that were collected from a surrendered performance surety for the Hillpoint Meadows Subdivision Project
10. **Consent Agenda** – An ordinance to authorize the transfer of funds from the Parks and Recreation Capital Maintenance account to the Canoe/Kayak Launch Construction Project for the construction of the kayak launch at Constant's Wharf Park and Marina
11. **Consent Agenda** – An ordinance to accept and appropriate funds from the Virginia Department of Environmental Quality for the City of Suffolk Litter Prevention and Recycling Program
12. **Consent Agenda** – A resolution authorizing participation in the Virginia Department of Transportation Revenue Sharing Program for Fiscal Year 2017
13. **Public Hearings**
14. **Ordinances**
15. **Resolutions**

16. **Staff Report** – Zoning Regulations Pertaining to Gardens
17. **Motion** – A motion to schedule a Work Session for November 18, 2015, at 4:00 p.m., unless cancelled
18. **Non-Agenda Speakers**
19. **New Business**
20. **Announcements and Comments**
21. **Adjournment**

Regular Meeting of the Suffolk City Council was held in the City Council Chamber, 442 West Washington Street, on Wednesday, October 21, 2015, at 7:00 p.m.

PRESENT

Council Members -

Linda T. Johnson, Mayor, presiding

Leroy Bennett, Vice Mayor

Michael D. Duman

Roger W. Fawcett

Donald Z. Goldberg

Timothy J. Johnson

Curtis R. Milteer, Sr.

Lue R. Ward, Jr.

Patrick G. Roberts, City Manager

Helivi L. Holland, City Attorney

Erika S. Dawley, City Clerk

ABSENT

None

CALL TO ORDER/INVOCATION/PLEDGE OF ALLEGIANCE

Mayor Johnson called the meeting to order. Council Member Milteer offered the Invocation and the Pledge of Allegiance to the Flag.

FREEDOM OF INFORMATION ACT CERTIFICATION

City Clerk Dawley presented a resolution certifying the Closed Meeting of October 21, 2015, pursuant to Section 2.2-3712 of the Code of Virginia (1950), as amended.

Council Member Fawcett, on a motion seconded by Council Member Duman, moved to approve the resolution, as presented, by the following vote:

AYES:	Mayor L. Johnson, Vice Mayor Bennett, and Council Members Duman, Fawcett, Goldberg, T. Johnson, Milteer and Ward	8
NAYS:	None	0

A RESOLUTION OF CERTIFICATION OF THE CLOSED MEETING OF OCTOBER 21, 2015, PURSUANT TO SECTION 2.2-3712 OF THE CODE OF VIRGINIA (1950), AS AMENDED

APPROVAL OF THE MINUTES

Council Member Milteer, on a motion seconded by Council Member Fawcett, moved to approve the minutes from the October 7, 2015, Work Session and Regular Meeting, as presented, by the following vote:

AYES:	Mayor L. Johnson, Vice Mayor Bennett, and Council Members Duman, Fawcett, Goldberg, T. Johnson, Milteer and Ward	8
NAYS:	None	0

SPECIAL PRESENTATIONS

There were no items under this portion of the agenda.

REMOVAL OF ITEMS FROM THE CONSENT AGENDA AND ADOPTION OF THE AGENDA

Mayor Johnson asked if any members of City Council wished to remove any items from the Consent Agenda for separate action.

Hearing no requests for removal of the item, Mayor Johnson advised that a motion was in order at this time to adopt the agenda as presented.

Council Member Duman, on a motion seconded by Council Member Fawcett, moved to adopt the agenda as presented, by the following vote:

AYES:	Mayor L. Johnson, Vice Mayor Bennett, and Council Members Duman, Fawcett, Goldberg, T. Johnson, Milteer and Ward	8
NAYS:	None	0

AGENDA SPEAKERS

There were no speakers under this portion of the agenda.

CONSENT AGENDA

City Clerk Dawley presented the following Consent Agenda items:

Consent Agenda Item #7 - An ordinance to accept and appropriate a State Criminal Alien Assistance Program grant award from the United States Department of Justice

Consent Agenda Item #8 – An ordinance to accept and appropriate funds from the Virginia Department of Criminal Justice Services for the Suffolk Victim/Witness Assistance Program

Consent Agenda Item #9 – An ordinance to accept and appropriate grant funds from the Virginia Department of Agriculture and Consumer Services for the Virginia Cooperative Extension 2015 Plastic Pesticide Container Recycling Program

Consent Agenda Item #10 – An ordinance to accept and appropriate funds from the Commonwealth of Virginia Department of Aviation for the Suffolk Executive Airport

Consent Agenda Item #11 – An ordinance to accept and appropriate funds from the Commonwealth of Virginia Technology Trust Fund

Consent Agenda Item #12 – An ordinance to accept and appropriate funds from the United States Department of Agriculture for the Summer Food Service Program

Council Member Fawcett called for an explanation on Consent Agenda Items #7 through #9 and #12 - an ordinance to accept and appropriate a State Criminal Alien Assistance Program grant award from the United States Department of Justice; an ordinance to accept and appropriate funds from the Virginia Department of Criminal Justice Services for the Suffolk Victim/Witness Assistance Program; an ordinance to accept and appropriate grant funds from the Virginia Department of Agriculture and Consumer Services for the Virginia Cooperative Extension 2015 Plastic Pesticide Container Recycling Program; and an ordinance to accept and appropriate funds from the United States Department of Agriculture for the Summer Food Service Program, respectively.

Referring to Consent Agenda Items #7 through #9 and #12, City Manager Roberts offered a summation of the background information as printed in the official agenda. Referring to Consent Agenda Item #12, Parks and Recreation Director Lakita Watson gave supplemental information.

Council Member Fawcett, on a motion seconded by Vice Mayor Bennett, moved to approve the Consent Agenda, as presented, by the following vote:

AYES:	Mayor L. Johnson, Vice Mayor Bennett, and Council Members Duman, Fawcett, Goldberg, T. Johnson, Milteer and Ward	8
NAYS:	None	0

PUBLIC HEARINGS

Public Hearing – An ordinance to grant a Conditional Use Permit to establish an accessory dwelling unit, on property located at 117 Rockland Terrace, Zoning Map 27F, Parcel 200; C12-15

Utilizing a PowerPoint presentation, Acting Planning and Community Development Director Robert Goumas offered a review of the background information as printed in the official agenda.

Hearing no speakers, the public hearing was closed.

Referring to the presentation, Council Member Duman asked if the applicant was seeking to change only the interior of the existing detached garage. Acting Planning and Community Development Director Goumas replied in the affirmative.

Council Member Duman moved to approve the ordinance, with conditions, as presented.

Vice Mayor Bennett inquired if anyone came to the Planning Commission meeting to speak on the proposed ordinance. Acting Planning and Community Development Director Goumas replied there were no speakers on this matter at the Planning Commission meeting.

Vice Mayor Bennett acknowledged that the applicant was in attendance and wished to call her forward. Mayor Johnson sought clarification from City Attorney Holland on the legality of this request as the public hearing was closed. City Attorney Holland advised that it was permissible for City Council to have the applicant come forward solely for the purpose of asking questions, even though the public hearing was closed. It was the consensus of the City Council to have the applicant come forward for questions.

Vice Mayor Bennett opined about any objections from the adjacent property owners as it related to the proposed ordinance. Joy Dorr, no address given, applicant, stated that no adjacent property owners have expressed any objections.

Vice Mayor Bennett called for clarification about the number of people living in the proposed accessory dwelling. Ms. Dorr said that two family members – one college student and one member of the military – would be living in the dwelling occasionally.

Council Member Duman, on a motion seconded by Council Member Goldberg, moved to approve the ordinance, with conditions, as presented, by the following vote:

AYES:	Mayor L. Johnson, Vice Mayor Bennett, and Council Members Duman, Fawcett, Goldberg, T. Johnson, Milteer and Ward	8
NAYS:	None	0

AN ORDINANCE TO GRANT A CONDITIONAL USE PERMIT TO ESTABLISH AN ACCESSORY DWELLING UNIT ON PROPERTY LOCATED 117 ROCKLAND TERRACE, ZONING MAP 27F, PARCEL 200; C12-15

ORDINANCES

There were no items under this portion of the agenda.

RESOLUTIONS

There were no items under this portion of the agenda.

STAFF REPORTS

There were no items under this portion of the agenda.

MOTIONS

Motion – A motion to schedule a City Council Retreat for November 5 – 6, 2015

Council Member Goldberg, on a motion seconded by Council Member Milteer, moved to schedule a City Council Retreat for November 5-6, 2015, by the following vote:

AYES:	Mayor L. Johnson, Vice Mayor Bennett, and Council Members Duman, Fawcett, Goldberg, T. Johnson, Milteer and Ward	8
NAYS:	None	0

Motion – A motion to schedule a Work Session for November 4, 2015, at 4:00 p.m., unless cancelled

Council Member Fawcett, on motion seconded by Council Member Johnson, moved to schedule a Work Session for November 4, 2015, at 4:00 p.m. unless cancelled, by the following vote:

AYES:	Mayor L. Johnson, Vice Mayor Bennett, and Council Members Duman, Fawcett, Goldberg, T. Johnson, Milteer and Ward	8
NAYS:	None	0

NON-AGENDA SPEAKERS

Chet Hart, 2109 Meade Parkway, representing the Western Tidewater Free Clinic, reported on the clinic’s services and accomplishments.

The following individuals opined about their concerns related to a reported zoning violation at Assessment and Training Solutions Consulting Corporation involving medical training exercises:

Shalin Gala, 5649 Shenandoah Avenue, Norfolk, Virginia, representing the People for the Ethical Treatment of Animals.

Laura Cascada, 3619 Columbia Street, Portsmouth, Virginia, representing self.

Maura McKeon, 705 Redgate Avenue, Apartment #17, Norfolk, Virginia, representing self.

Ashley Mattews-Layman, 7714 Gloucester Avenue, Norfolk, Virginia, representing self.

Chris Shapard, 705 Redgate Avenue, Apartment #17, Norfolk, Virginia, representing self.

Michael Windsor, 500 Granby Street, Norfolk, Virginia, representing self.

Keith Burgeson, 441 Pennsylvanis Avenue, Norfolk, Virginia, representing self.

Mitch Goldsmith, 1415 Leigh Street, Apartment #A2, Norfolk, Virginia, representing self.

NEW BUSINESS

City Clerk Dawley presented the following nomination for City Council’s consideration: Joice Whitehorn - Senior Services of Southeastern Virginia (SEVAMP) Board of Directors.

Council Member Fawcett, on a motion seconded by Council Member Duman, moved to appoint the above referenced individual to the aforementioned body, by the following vote:

AYES:	Mayor L. Johnson, Vice Mayor Bennett, and Council Members Duman, Fawcett, Goldberg, T. Johnson, Milteer and Ward	8
NAYS:	None	0

ANNOUNCEMENTS AND COMMENTS

Utilizing PowerPoint and video presentations, Media and Community Relations Manager Tim Kelley reported on the following: the election of Mayor Johnson as the Chair of the Hampton Roads Transportation Planning Organization; the 240th birthday celebration of the United States Navy; the Oath of Office Ceremony for City Manager Roberts; the Suffolk Seaboard Coastline Trail Grand Dedication; the Suffolk Police Department Badge Pinning Ceremony; the Suffolk Police Department Recruitment Open House; the appointment of Solomon Ashby as the City Attorney, City of Portsmouth; Voter Registrar Susan Saunders' completion of the Crawlin' Crab Half Marathon; the Downtown Block Party and ribbon cuttings for Beauty-N-We, The Chop Shop, Leila Alexander Portraits, and Oasis Café Lounge; the Children's Fair at the Pavilion; the Drive In Movie at the Park; the hours for trick or treat; the City's roadway maintenance webpage; and the end of Daylights Savings Time.

Mayor Johnson requested information about the reported zoning violation at Assessment and Training Solutions Consulting Corporation involving medical training exercises. City Manager Roberts stated that a zoning violation has been reported to the City, and the matter is under investigation. He added that once the investigation has been completed, a report could be provided to City Council.

Council Member Goldberg announced he attended Driver Days.

Council Member Goldberg encouraged residents to attend the Suffolk Youth Athletic Association's grand opening of their new Soccer Center Building and the Downtown Block Party.

Council Member Ward advised he attended the following: the 240th birthday celebration of the United States Navy; the Suffolk Seaboard Coastline Trail Grand Dedication; a community forum hosted by the Nansemond Suffolk Branch of the NAACP; a luncheon hosted by the Norfolk Branch of the NAACP; and the ACCESS College Foundation Annual Luncheon.

Council Member Ward congratulated Mayor Johnson on her election as the Chair of the Hampton Roads Transportation Planning Organization.

Council Member Duman thanked Mr. Hart for the update on the Western Tidewater Free Clinic.

Council Member Duman reported he attended the following: the 240th birthday celebration of the United States Navy; Shrimp Feast; the Suffolk Seaboard Coastline Trail Grand Dedication; a community forum hosted by the Nansemond Suffolk Branch of the NAACP; Driver Days; and a meeting of the Nansemond River Preservation Alliance.

Council Member Duman announced the upcoming Chuckatuck Founders Day.

Council Member Fawcett thanked Mr. Hart for the update on the Western Tidewater Free Clinic.

Council Member Fawcett reported he attended the following: Shrimp Feast; Peanut Fest; the 240th birthday celebration of the United States Navy; Driver Days; and a meeting of the Nansemond River Preservation Alliance.

Council Member Fawcett opined about a profile on City Manager Roberts in *The Virginian Pilot*.

Council Member Fawcett congratulated Voter Registrar Saunders on her completion of the Crawlin' Crab Half Marathon.

Council Member Fawcett encouraged residents to check their smoke and carbon monoxide detectors.

Council Member Fawcett congratulated Mayor Johnson on her election as the Chair of the Hampton Roads Transportation Planning Organization.

Council Member Fawcett opined about the reported zoning violation at Assessment and Training Solutions Consulting Corporation involving medical training exercises.

Council Member Milteer thanked Mr. Hart for the update on the Western Tidewater Free Clinic.

Council Member Milteer encouraged residents to attend the Oath of Office Ceremony for City Manager Roberts.

Council Member Johnson thanked Mr. Hart for the update on the Western Tidewater Free Clinic.

Council Member Johnson opined about the reported zoning violation at Assessment and Training Solutions Consulting Corporation involving medical training exercises.

Council Member Johnson thanked Police Officer Ben Johnson for a presentation at a Lions Club meeting.

Vice Mayor Bennett congratulated Mayor Johnson on her election as the Chair of the Hampton Roads Transportation Planning Organization.

Vice Mayor Bennett acknowledged the participants in the Suffolk Police Department Badge Pinning Ceremony.

Vice Mayor Bennett advised he attended Driver Days.

Vice Mayor Bennett encouraged residents to attend the Habitat for Humanity Lake Kennedy Residential Infill Initiative.

Vice Mayor Bennett reported he attended a civic league meeting in the Lake Kennedy area and residents expressed concerns for additional lighting.

Vice Mayor Bennett opined about the reported zoning violation at Assessment and Training Solutions Consulting Corporation involving medical training exercises.

Mayor Johnson opined about Driver Days and Peanut Fest.

Mayor Johnson reported she attended the Suffolk Seaboard Coastline Trail Grand Dedication.

Mayor Johnson thanked Mr. Hart for the update on the Western Tidewater Free Clinic.

Mayor Johnson asked to schedule a presentation from Opportunity, Inc. at a future work session.

Mayor Johnson encouraged residents to attend the Habitat for Humanity Lake Kennedy Residential Infill Initiative and Chuckatuck Founders Day.

Mayor Johnson thanked staff for the quarterly budget report.

Mayor Johnson opined about the reported zoning violation at Assessment and Training Solutions Consulting Corporation involving medical training exercises.

Vice Mayor Bennett, on a motion seconded by Council Member Fawcett, moved to adjourn, by the following vote:

AYES:	Mayor L. Johnson, Vice Mayor Bennett, and Council Members Duman, Fawcett, Goldberg, T. Johnson, Milteer and Ward	8
NAYS:	None	0

There being no further business to come before City Council, the regular meeting was adjourned at 8:04 p.m.

Teste: _____
Erika S. Dawley, MMC, City Clerk

Approved: _____
Linda T. Johnson, Mayor

Work Session of the Suffolk City Council was held in was held in the City Council Chamber, 442 West Washington Street, on Wednesday, October 21, 2015, 4:30 p.m.

PRESENT

Council Members -

Linda T. Johnson, Mayor, presiding

Leroy Bennett, Vice Mayor

Michael D. Duman

Roger W. Fawcett

Donald Z. Goldberg

Timothy J. Johnson

Curtis R. Milteer, Sr.

Lue R. Ward, Jr.

Patrick G. Roberts, City Manager

Helivi L. Holland, City Attorney

Erika S. Dawley, City Clerk

ABSENT

None

PROPOSED GROUND WATER WITHDRAWAL REDUCTION INCENTIVE PROGRAM

Utilizing a PowerPoint presentation, Public Utilities Director Albert Moor supplied an overview of the above referenced item.

Referring to the presentation, Council Member Goldberg asked if Cogentrix was still in operation. Public Utilities Director Moor stated he did not know if the company is in operation, but they still hold a groundwater permit.

SUFFOLK EXECUTIVE AIRPORT QUARTERLY REPORT

Utilizing a PowerPoint presentation, Economic Development Director Kevin Hughes gave a report on the above referenced item.

CLOSED MEETING

City Clerk Dawley presented the Closed Meeting motion for City Council’s consideration:

1. Pursuant to Virginia Code Sections 2.2-3711(A)(7) and (A)(1), the consultation with legal counsel employed by a public body regarding specific legal matters requiring the legal advice of such counsel, and the discussion, consideration, or interviews of prospective candidates for appointment and the assignment, appointment, and performance of specific public officers or appointees of the City, specifically the appointments as shown on the attached list for vacancies or term expirations for Fine Arts Commission, Historic Landmarks Commission, Human Services Advisory Board, Library Advisory Board, Local Board of Building Code Appeals, Parks and Recreation Advisory Commission, Planning Council, Sister Cities Commission, Southeastern Virginia Areawide Model Program, Suffolk Clean Community Commission, Suffolk Clean Community Commission Keep Suffolk Beautiful Executive Board, Western Tidewater Community Services Board and Wetlands Board.

2. Pursuant to Virginia Code Section 2.2-3711(A)(3), the discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, specifically Tax Map and Parcels 20*6 and 6*11.

Council Member Fawcett, on a motion seconded by Council Member Goldberg, moved that City Council convene in a closed meeting for the above referenced purposes, by the following roll call vote:

AYES:	Mayor L. Johnson, Vice Mayor Bennett, and Council Members Duman, Fawcett, Goldberg, T. Johnson, Ward, and Milteer	8
NAYS:	None	0

City Council convened in Closed Meeting at 5:04 p.m. The Closed Meeting concluded at 6:15 p.m.

Teste: _____
Erika S. Dawley, MMC, City Clerk

Approved: _____
Linda T. Johnson, Mayor

Special Presentations

Removal of Items from the Consent Agenda and Adoption of the Agenda

Agenda Speakers

AGENDA: November 4, 2015, Regular Session

ITEM: Consent Agenda – An ordinance to accept and appropriate additional funds from the United States Department of Transportation Federal Aviation Administration in support of the Airport Runway and Obstruction Removal Project at the Suffolk Executive Airport

The City has received additional federal grant funding in the amount of \$157,500 for the Airport Runway and Obstruction Removal Project at the Suffolk Executive Airport. (Previous federal grant funding in FY 2015-16 was adopted in the Operating and Capital budget for a total of \$360,000). The project currently has remaining federal funds of \$360,000. The additional federal funds of \$157,500 need to be accepted and appropriated. The project will provide for the removal of trees adjacent to and off of both ends of the Runway 4-22 to comply with the Federal Aviation Administration.

Adoption of the attached ordinance is necessary to accept and appropriate these funds to the Capital Projects Fund for Fiscal Year 2015-16.

BUDGET IMPACT:

Adoption of the ordinance will increase the planned revenues and expenditures of the Capital Projects Fund budget by \$157,500. The additional required local matching funds of \$3,500 for this project are provided for in the FY 2015-16 Capital Projects Fund budget.

RECOMMENDATION:

Adopt the attached ordinance

ATTACHMENTS:

Ordinance
Grant Award Letter

ORDINANCE NUMBER _____

AN ORDINANCE TO ACCEPT AND APPROPRIATE ADDITIONAL FUNDS FROM THE UNITED STATES DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION IN SUPPORT OF THE AIRPORT RUNWAY AND OBSTRUCTION REMOVAL PROJECT AT THE SUFFOLK EXECUTIVE AIRPORT

WHEREAS, the City has received additional grant funds in the amount of \$157,500 from the United States Department of Transportation Federal Aviation Administration in support of the Airport Runway and Obstruction Removal Project at the Suffolk Executive Airport; and,

WHEREAS, there is \$360,000 in previously adopted federal funds for this project and only the balance of \$157,500 needs to be accepted and appropriated; and,

WHEREAS, \$157,500 in funding from the United States Department of Transportation Federal Aviation Administration must be accepted and appropriated to the FY 2015-2016 Capital Projects Fund budget to assist with the removal of trees adjacent to and off of both ends of Runway 4-22.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

1. The sum of \$157,500 shall be reflected as budget in the following accounts in the Fiscal Year 2015-16 Capital Projects Fund budget:

Revenue

310-150000-2106_433140.105	Aviation Federal	<u>\$157,500</u>
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Expenditure

310-150000-2106_53850.105	Construction Contracts	<u>\$157,500</u>
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2. The fund amount totaling \$157,500 is hereby appropriated for use as referenced in this ordinance and the budget approved by Ordinance Number 15-O-036, as amended. The City Manager be, and is hereby authorized and directed to do all things necessary to effectuate this action.

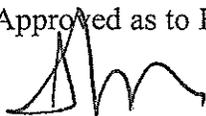
3. This ordinance shall be effective upon passage and shall not be published.

READ AND PASSED: _____

TESTE: _____

Erika S. Dawley, City Clerk

Approved as to Form:



Helivi L. Holland, City Attorney



U.S. Department
of Transportation
Federal Aviation
Administration

GRANT AGREEMENT

PART I – OFFER

Date of Offer	<u>August 14, 2015</u>
Airport/Planning Area	<u>Suffolk Executive Airport</u>
AIP Grant Number	<u>3-51-0050-022-2015</u>
DUNS Number	<u>066024845</u>
TO:	<u>City of Suffolk</u> (herein called the "Sponsor")

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated July 1, 2015, for a grant of Federal funds for a project at or associated with the Suffolk Executive Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Suffolk Executive Airport (herein called the "Project") consisting of the following:

Remove Obstructions (Construction)

which is more fully described in the Project Application.

NOW THEREFORE, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. 47101, et seq., (herein the AAIA grant statute is referred to as "the Act"), the representations contained in the Project Application, and in consideration of (a) the Sponsor's adoption and ratification of the Grant Assurances dated March 2014, and the Sponsor's acceptance of this Offer, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided,

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$517,500.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$0 for planning

\$517,500 for airport development or noise program implementation

\$0 for land acquisition.

The source of this Grant may include funding from the Small Airport Fund.

2. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
3. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with the regulations, policies and procedures of the Secretary. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies and procedures of the Secretary. The Sponsor also agrees to comply with the assurances which are part of this agreement.
5. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
6. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before September 14, 2015, or such subsequent date as may be prescribed in writing by the FAA.
7. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.
8. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.
9. **System for Award Management (SAM) Registration And Universal Identifier.**
 - A. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least

annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).

B. Requirement for Data Universal Numbering System (DUNS) Numbers

1. The Sponsor must notify potential subrecipient that it cannot receive a contract unless it has provided its DUNS number to the Sponsor. A subrecipient means a consultant, contractor, or other entity that enters into an agreement with the Sponsor to provide services or other work to further this project, and is accountable to the Sponsor for the use of the Federal funds provided by the agreement, which may be provided through any legal agreement, including a contract.
2. The Sponsor may not make an award to a subrecipient unless the subrecipient has provided its DUNS number to the Sponsor.
3. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-492-0280) or the Internet (currently at <http://fedgov.dnb.com/webform>).

10. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

11. **Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter to the Sponsor unilaterally reducing the maximum obligation. The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. If the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the FAA can issue a letter to the Sponsor amending the grant description.

By issuing an Informal Letter Amendment, the FAA has changed the grant amount or grant description to the amount or description in the letter.

12. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this grant.

13. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

14. **Buy American.** Unless otherwise approved in advance by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.

15. **Maximum Obligation Increase For Nonprimary Airports.** In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:

- A. May not be increased for a planning project;
- B. May be increased by not more than 15 percent for development projects;

- C. May be increased by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.

16. Audits for Public Sponsors. The Sponsor must provide for a Single Audit in accordance with 2 CFR Part 200. The Sponsor must submit the Single Audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. The Sponsor must also provide one copy of the completed 2 CFR Part 200 audit to the Airports District Office.

17. Suspension or Debarment. The Sponsor must inform the FAA when the Sponsor suspends or debars a contractor, person, or entity.

18. Ban on Texting While Driving.

- A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- B. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts and subcontracts.

19. Trafficking in Persons.

- A. Prohibitions: The prohibitions against trafficking in persons (Prohibitions) that apply to any entity other than a State, local government, Indian tribe, or foreign public entity. This includes private Sponsors, public Sponsor employees, subrecipients of private or public Sponsors (private entity) are:
 - 1. Engaging in severe forms of trafficking in persons during the period of time that the agreement is in effect;
 - 2. Procuring a commercial sex act during the period of time that the agreement is in effect; or
 - 3. Using forced labor in the performance of the agreement, including subcontracts or subagreements under the agreement.
- B. In addition to all other remedies for noncompliance that are available to the FAA, Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), allows the FAA to unilaterally terminate this agreement, without penalty, if a private entity –
 - 1. Is determined to have violated the Prohibitions; or
 - 2. Has an employee who the FAA determines has violated the Prohibitions through conduct that is either:
 - a. Associated with performance under this agreement; or

- b. Imputed to the Sponsor or subrecipient using 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 49 CFR Part 29.

20. Exhibit "A" Property Map. The Exhibit "A" Property Map dated May 5, 2010, is incorporated herein by reference or is submitted with the project application and made part of this grant agreement.

21. Environmental. The environmental approval for this project was issued on October 9, 2013. This project includes the following mitigation measures:

- 1) A project-specific erosion and sediment control (ESC) plan must be submitted and approved by the City of Suffolk prior to start of project if the project involves land-disturbing activities of equal to or greater than 10,000 square feet (2,500 square feet or more in the Chesapeake Bay Preservation Area). Depending on local requirements the area of land disturbance requiring an ESC plan may be less. All regulated land-disturbing activities associated with the project, including on and off site access roads, staging areas, borrow areas, stockpiles, and soil intentionally transported from the project must be covered by the project-specific ESC Plan.
- 2) A project-specific Stormwater Pollution Prevention Plan (SWPPP) must be developed and sent to Virginia Department of Environmental Quality prior to submission of the registration statement for coverage under the general permit for construction projects involving land-disturbing activities equal to one acre. The SWPPP must address water quality and quantity in accordance with the Virginia Stormwater Management Program Permit Regulations.
- 3) The implementation of BMPs will minimize construction impacts. BMPs are defined as a practice, or combination of practices, that are determined to be the most effective means of reducing the amount of pollution generated by non-point sources to a level compatible with water quality goals. The design will include practices to minimize the impact on the surrounding areas. The use of erosion and sedimentation controls will be required throughout the construction period.
- 4) All required permits and approved plans for the proposed project must be obtained prior to construction.
- 5) Construction contract provisions must contain the provisions of FAA AC 150/5370-10E, *Standards for Specifying Construction of Airports* item P-156, temporary air, water pollution, soil erosion and siltation control and FAA AC 150/5320-5C, *Airport Drainage*.

The Sponsor understands and agrees to complete the above-listed mitigation measures to standards satisfactory to the FAA. It is further mutually agreed that the reasonable cost of completing these mitigation measures is an allowable cost within the scope of this project.

22. Obstruction Removal. The Sponsor agrees to clear Parcel(s) within Airport Property Line, as shown on Exhibit "A" Property Map, of the following obstructions: Part 77 obstructions prior to final payment under the project. The Sponsor also agrees that it will not erect, nor permit the erection of any permanent structures or obstructions on the airport except those required for aids to air navigation or those which have been specifically approved by the FAA.

23. Plans and Specifications Approval Based Upon Certification. The FAA and the Sponsor agree that the FAA approval of the Sponsor's Plans and Specification is based primarily upon the Sponsor's certification to carry out the project in accordance with policies, standards, and specifications approved by the FAA. The Sponsor understands that:

- A. The Sponsor's certification does not relieve the Sponsor of the requirement to obtain prior FAA approval for modifications to any AIP standards or to notify the FAA of any limitations to competition within the project;

- B. The FAA's acceptance of a Sponsor's certification does not limit the FAA from reviewing appropriate project documentation for the purpose of validating the certification statements;
 - C. If the FAA determines that the Sponsor has not complied with their certification statements, the FAA will review the associated project costs to determine whether such costs are allowable under AIP.
24. **Consultant Contract and Cost Analysis.** The Sponsor understands and agrees that no reimbursement will be made on the consultant contract portion of this grant until the FAA has received the consultant contract, the Sponsor's analysis of costs, and the independent fee estimate.
-

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION



(Signature)

Matthew J. Thys

(Typed Name)

Manager, Washington Airports District
Office

(Title)

PART II - ACCEPTANCE

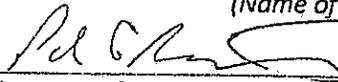
The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.¹

Executed this 26th day of August, 2015.

City of Suffolk

(Name of Sponsor)



(Signature of Sponsor's Designated Official Representative)

By:

PATRICK ROBERTS

(Typed or Printed Name of Sponsor's Designated Official Representative)

Title:

INTERIM CITY MANAGER

(Title of Sponsor's Designated Official Representative)

I, Solomon H. Agnew Jr. **CERTIFICATE OF SPONSOR'S ATTORNEY**
acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Virginia. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at Suffolk VA (location) this 16th day of September, 2015.

By:



(Signature of Sponsor's Attorney)

(Attorney must sign and date same day or after sponsor execution date)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

AGENDA: November 4, 2015, Regular Session

ITEM: Consent Agenda – An ordinance to accept and appropriate additional funds from the Virginia Department of Aviation in support of the Airport Runway and Obstruction Removal Project at the Suffolk Executive Airport

The City has received additional state grant funding in the amount of \$14,000 for the Airport Runway and Obstruction Removal Project at the Suffolk Executive Airport. (Previous state grant funding in FY 2015-16 was adopted in the Operating and Capital budget for a total of \$32,000.) The project currently has remaining state funds of \$32,000. The additional state funds of \$14,000 need to be accepted and appropriated. The project will provide for the removal of trees adjacent to and off of both ends of the Runway 4-22 to comply with the Federal Aviation Administration.

Adoption of the attached ordinance is necessary to accept and appropriate these funds to the Capital Projects Fund for Fiscal Year 2015-16.

BUDGET IMPACT:

Adoption of the ordinance will increase the planned revenues and expenditures of the Capital Projects Fund budget by \$14,000. The additional required local matching funds of \$3,500 for this project are provided for in the FY 2015-16 Capital Projects Fund budget.

RECOMMENDATION:

Adopt the attached ordinance

ATTACHMENTS:

Ordinance
Grant Award Letter

ORDINANCE NUMBER _____

AN ORDINANCE TO ACCEPT AND APPROPRIATE ADDITIONAL FUNDS FROM THE VIRGINIA DEPARTMENT OF AVIATION IN SUPPORT OF THE AIRPORT RUNWAY AND OBSTRUCTION REMOVAL PROJECT AT THE SUFFOLK EXECUTIVE AIRPORT

WHEREAS, the City has received additional grant funds in the amount of \$14,000 from the Virginia Department of Aviation in support of the Airport Runway and Obstruction Removal Project at the Suffolk Executive Airport; and,

WHEREAS, there is \$32,000 in previously adopted state funds for this project and only the balance of \$14,000 needs to be accepted and appropriated; and,

WHEREAS, \$14,000 from Virginia Department of Aviation must be accepted and appropriated to the FY 2015-2016 Capital Projects Fund budget to assist with the removal of trees adjacent to and off of both ends of Runway 4-22.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

1. The sum of \$14,000 shall be reflected as budget in the following accounts in the Fiscal Year 2015-16 Capital Projects Fund budget:

<u>Revenue</u>		
310-150000-2106_424140.110	Aviation State	<u>\$14,000</u>
<u>Expenditure</u>		
310-150000-2106_53850.110	Construction Contracts	<u>\$14,000</u>

2. The fund amount totaling \$14,000 is hereby appropriated for use as referenced in this ordinance and the budget approved by Ordinance Number 15-O-036, as amended. The City Manager be, and is hereby authorized and directed to do all things necessary to effectuate this action.

3. This ordinance shall be effective upon passage and shall not be published.

READ AND PASSED: _____

TESTE: _____
Erika S. Dawley, City Clerk

Approved as to Form:



Helivi L. Holland, City Attorney



Commonwealth of Virginia
Department of Aviation
5702 Gulfstream Road
Richmond, Virginia 23250-2422

Grant Agreement

Part I - Offer

Project Number: **CF0050-22**
Date of Approval: **August 19, 2011**
Date of Offer: **September 28, 2015**
Date of Offer Expiration: **November 28, 2015**

WHEREAS, by executing a *Master Agreement on Terms and Conditions for Accepting State Aviation Funding Resources* (hereinafter referred to as the "Master Agreement"), effective on October 21, 2010, the **City of Suffolk** (hereinafter referred to as the "Sponsor") agreed to the terms and conditions for accepting state aviation funding from the Commonwealth of Virginia (hereinafter referred to as the "Commonwealth"); and

WHEREAS, the Sponsor has submitted a request for a grant of state funds to assist in the development of **Suffolk Executive Airport** (hereinafter referred to as the "Airport") together with the appropriate supporting documentation; and

WHEREAS, the Commonwealth acting by and through the Virginia Aviation Board (hereinafter referred to as the "Board") and/or the Department of Aviation (hereinafter referred to as the "Department"), has approved a project for development of the Airport which consists of the following (hereinafter referred to as the "Project"):

Extend Runway Safety Area - Phase 3 (Silviculture)(Construction)

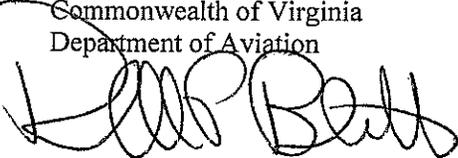
NOW, THEREFORE, pursuant to the authority granted to the Department by §5.1-2.2 of the *Code of Virginia* (1950), as amended, and in consideration of: (a) the authority granted to the Sponsor to operate and maintain the Airport, (b) the Sponsor's adoption and ratification of the assurances provided in the Master Agreement, and (c) the benefits to accrue to the Commonwealth and the public from the accomplishment of this Project, the Department offers to pay, as the Commonwealth's share, **eight (8) percent** of all eligible Project costs.

This offer is made on and subject to the following terms and conditions:

1. The Master Agreement is incorporated by reference herein, and this offer is subject to the terms and conditions of said Master Agreement.
2. The maximum obligation of the Commonwealth payable under this Grant Agreement shall not exceed **\$46,000.00**.
3. If the Federal Aviation Administration (hereinafter referred to as the "FAA") will be participating in the funding of this Project, the Sponsor has, at the time of the execution of this Grant Agreement, a commitment from FAA for federal funds in the amount of **\$ 517,500.00**.
4. This Grant Payment Term will expire on **September 30, 2019**.
5. The Grant Obligation Term is **20 years**.

Grant Agreement, Project Number CF0050-22

The Sponsor's acceptance of this Grant Offer with its terms and conditions shall be evidenced by execution of this Grant Offer by, or on behalf of, the Sponsor, as hereinafter provided, and said Grant Offer and acceptance shall comprise a Grant Agreement for the distribution of funds by the Department as authorized under §5.1-2.2 Code of Virginia (1950), as amended. This Grant Agreement shall become effective upon the Sponsor's acceptance and shall remain in full force as provided herein.

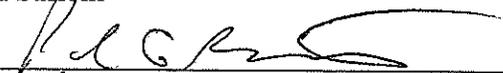
Commonwealth of Virginia
Department of Aviation

Randall P Burdette
Executive Director
Date SEP 30 2015

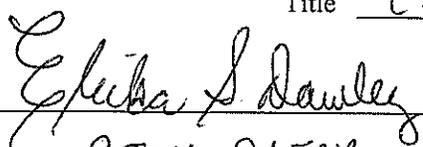
Part II - Acceptance

The **City of Suffolk** does hereby accept and agree all the terms, conditions and assurances contained in this Grant Agreement.

Executed this 20th day of October, 20 15

City of Suffolk

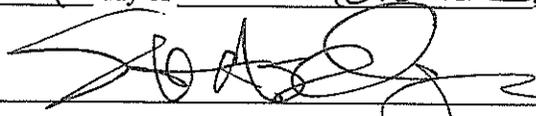
By 
Title City Manager

Attest 
Title CITY CLERK

Certification of Sponsor's Attorney

I, Solomon A. Ashtby Jr, acting as Attorney for the Sponsor do hereby certify that I have examined the foregoing Grant Agreement and find that the Sponsor has been duly authorized and is fully capable under the laws of the Commonwealth of Virginia of fulfilling all obligations under this Grant Agreement and that this Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms and conditions thereof.

Dated at Suffolk, Virginia this 19th day of October, 20 15

By 
Title ASSISTANT CITY ATTORNEY

AGENDA: November 4, 2015, Regular Session

ITEM: Consent Agenda – An ordinance to accept and appropriate funds that were collected from a surrendered performance surety for the Hillpoint Meadows Subdivision Project

The City has collected a performance surety from the Ramsgate Corporation established for the development of complete right of way improvements for the Hillpoint Meadows Subdivision. The surety was established prior to project approval and is intended to provide a guarantee of funding in the event that the developer is unable to complete the requisite right of way improvements associated with the development.

Public Works' staff has reviewed the deficiencies remaining and an estimate to complete the work required was developed. The developer has surrendered surety in the amount of \$91,036.

Adoption of the attached ordinance is necessary to accept and appropriate these funds to the appropriate line item in the Road Maintenance Fund for Fiscal Year 2015-16.

BUDGET IMPACT:

Adoption of the ordinance will increase the planned revenues and expenditures of the Roadway Maintenance Fund budget by \$91,036 for the above noted purpose and requires no additional local fund support.

RECOMMENDATION:

Adopt the attached ordinance

ATTACHMENTS:

Ordinance
Settlement and Release of Claims

ORDINANCE NO. _____

AN ORDINANCE TO ACCEPT AND APPROPRIATE FUNDS THAT WERE COLLECTED FROM A SURRENDERED PERFORMANCE SURETY FOR THE HILLPOINT MEADOWS SUBDIVISION PROJECT

WHEREAS, the Ramsgate Corporation established surety in the form of a performance bond for the guarantee of acceptable performance in development of certain public improvements, to include the right of way development associated with the development at Hillpoint Meadows; and,

WHEREAS, right of way development has not been accomplished consistent with established state and locality standards; and,

WHEREAS, the Ramsgate Corporation has indicated that they are unable to meet their responsibilities to this end; and,

WHEREAS, the City of Suffolk has sought remittance of a portion of this surety so as to complete the necessary improvements; and,

WHEREAS, these funds need to be accepted and appropriated to the FY 2015-2016 Roadway Maintenance Fund budget to complete with this work.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

1. The sum of \$91,036 shall be reflected as budget in the following accounts in the Fiscal Year 2015-2016 Roadway Maintenance Fund budget:

<u>Revenue</u>		
210-418990.14	Miscellaneous Revenue – Other Hillpoint Meadows	<u>\$91,036</u>
<u>Expenditure</u>		
210-41200-53850.14	Construction Contracts Hillpoint Meadows	<u>\$91,036</u>

2. The fund amount totaling \$91,036 is hereby appropriated for use as referenced in this ordinance and the budget approved by Ordinance Number 15-O-036, as amended. The City Manager be, and is hereby authorized and directed to do all things necessary to effectuate this action.

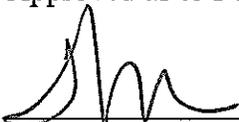
3. This ordinance shall be effective upon passage and shall not be published.

READ AND PASSED: _____

TESTE: _____

Erika S. Dawley, City Clerk

Approved as to Form:



Helivi L. Holland, City Attorney

SETTLEMENT AND RELEASE OF CLAIMS

THIS SETTLEMENT AND RELEASE OF CLAIMS, is made this ___ day of October, 2015, by and between RAMSGATE CORPORATION, INC., PRECON CONSTRUCTION COMPANY, GASTON BROTHERS UTILITIES, LLC, W. PRESTON FUSSELL, individually, S. GREY FOLKES, individually, ROBERT R. KINSER, individually and GEORGE B. KEMP, individually, hereinafter known as "Releasees", together with every predecessor, successor (by merger or otherwise), parent, shareholders, employees and agents, hereinafter collectively known as "Releasees" and the CITY OF SUFFOLK, VIRGINIA, hereinafter known as "Releasor."

WHEREAS, Releasee posted certain construction (completion) bonds with the Releasor. Said bonds being issued by Zurich American Insurance Company (the "Bonding Company") for the construction and completion of certain physical improvements in a subdivision known as "Hillpoint Meadows, Nansemond River Golf Course" Suffolk, Virginia; and

WHEREAS, certain improvements covered by said bonds were never completed or constructed; and

WHEREAS, Releasor has made demand upon Releasees and its bonding company to either complete said improvements or pay the sum of Ninety One Thousand Thirty Six Dollars and 00/100 Dollars (\$91,036.00) to the City of Suffolk as compensation and payment for said improvements which will be performed by the City of Suffolk or its agents in the future.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties, Releasor and Releasee, each intend to be bound and agree as follows:

Consideration. In consideration for the releases and money payments contained in this Settlement and Release Agreement, the Releasee does:

- a. Agree to pay the City of Suffolk, Virginia the sum of Ninety One Thousand Thirty Six and 99/100 Dollars (\$91,036.00) by certified check on or about October 7, 2015;
and
- b. the Releasor agrees to accept the sum of Ninety One Thousand Thirty Six and 99/100 Dollars (\$91,036.00) as full and complete payment from Releasees, RAMSGATE CORPORATION, INC., PRECON CONSTRUCTION CORP., GASTON BROTHERS UTILITIES, INC., W. PRESTON FUSSELL, individually, S. GREY FOLKES, individually, ROBERT R. KINSER, individually and GEORGE B. KEMP, individually, together with every predecessor, successor (by merger or otherwise), parent, shareholders, employees and agents
- c. the Releasor, the City of Suffolk, Virginia, agrees to fully release Releasees from all and any claims, or obligations now, or in the future, claims, causes of action, or liability of any nature known, or unknown, including actual consequential or punitive damages relating to or arising from any mater or source, all of which actions, claims, demands, causes of action or liability are hereby deemed merged into this settlement and general release.

All of which arises from the Releasees posting certain bonds and rendering certain obligations in favor of Releasor known, sometimes known as subdivision, defect, performance or defect obligations bonds for Hillpoint Meadows Subdivision of various bonding indemnification numbers in the amount of Two Hundred Eighty Seven Thousand Five Hundred Ninety Eight and 69/100 (\$287,598.69).

Entire Agreement. This Settlement and Release of Claims Agreement contains the entire agreement of the parties with respect to the subject matter hereof, supersedes any prior

agreements or understandings with respect to the subject matter hereof, and shall be binding upon their respective heirs, executors, administrators, successors and assigns.

Legally Binding. The terms of this Settlement and Release of Claims Agreement contained herein are contractual, and not a mere recital.

RELEASEE:

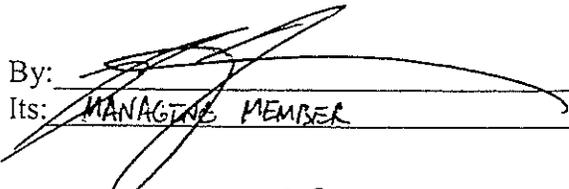
RAMSGATE CORPORATION, INC.,
a Virginia corporation

By: 
Its: _____

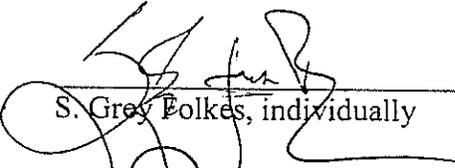
PRECON CONSTRUCTION COMPANY
a Virginia corporation

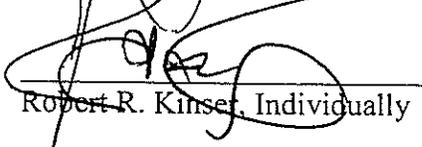
✓ By: W. Preston Fussell
Its: President

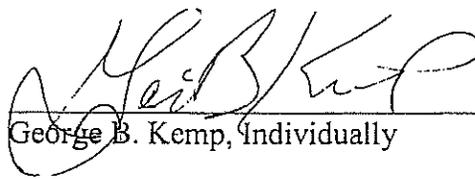
GASTON BROTHERS UTILITIES, LLC
a Virginia limited liability company

✓ By: 
Its: MANAGING MEMBER

✓ W. Preston Fussell
W. Preston Fussell, individually


S. Gray Folkes, individually


Robert R. Kinsey, Individually



George B. Kemp, Individually

RELEASOR:

CITY OF SUFFOLK, VIRGINIA

By: _____

Its: _____

AGENDA: November 4, 2015, Regular Session

ITEM: Consent Agenda - An ordinance to authorize the transfer of funds from the Parks and Recreation Capital Maintenance account to the Canoe/Kayak Launch Construction Project for the construction of the kayak launch at Constant's Wharf Park and Marina

Funds in the amount of \$165,191 are needed to complete the Canoe/Kayak Launch Construction Project for the construction of the kayak launch at Constant's Wharf Park and Marina. Funds are available to transfer from the Parks and Recreation Capital Maintenance account to the Canoe/Kayak Launch Construction project.

Attached for Council's consideration is an ordinance to authorize the transfer of Parks and Recreation Capital Maintenance funds in the amount of \$165,191 to the Canoe/Kayak Launch Construction Project.

RECOMMENDATION:

Adopt the attached ordinance

ATTACHMENT:

Ordinance

ORDINANCE NUMBER _____

AN ORDINANCE TO AUTHORIZE THE TRANSFER OF FUNDS FROM THE PARKS AND RECREATION CAPITAL MAINTENANCE ACCOUNT TO THE CANOE/KAYAK LAUNCH CONSTRUCTION PROJECT FOR THE CONSTRUCTION OF THE KAYAK LAUNCH AT CONSTANT'S WHARF PARK AND MARINA

WHEREAS, the Council of the City of Suffolk has appropriated and committed funds in previous years and in the current Fiscal Year 2015-16 Capital budget for Parks and Recreation Capital Maintenance; and,

WHEREAS, the Parks and Recreation Capital Maintenance account has funds available for transfer in the amount of \$165,191, and;

WHEREAS, the Canoe/Kayak Launch Construction Project currently has an identified construction cost of approximately \$165,191 and requires funding in order to complete construction of the project.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Suffolk, Virginia that:

1. The sum of \$165,191 be, and is hereby, transferred as follows:

Revenue Transfers (From)/To:

310-71100-3056_441050.165	Parks Capital Maintenance	\$ (165,191)
310-71100-3073_441050.165	Canoe/Kayak Launch Construction Project	<u>165,191</u>
		<u>\$ 0</u>

Expenditure Transfers (From)/To:

310-71100-3056_53850.165	Construction Contracts Tr Fr General Fund	\$(165,191)
310-71100-3073_53850.165	Construction Contracts Tr Fr General Fund	<u>165,191</u>
		<u>\$ 0</u>

2. The transfer totaling \$165,191 is hereby appropriated for use as referenced in this ordinance and the budget approved by Ordinance Number 15-O-036, as amended. The City Manager is hereby authorized and directed to do all things necessary to effectuate this action.

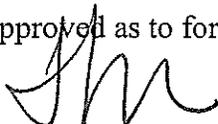
3. This ordinance shall be effective upon passage and shall not be published.

READ AND PASSED: _____

TESTE: _____

Erika S. Dawley, City Clerk

Approved as to form:



Helivi L. Holland, City Attorney

AGENDA: November 4, 2015, Regular Session

ITEM: Consent Agenda – An ordinance to accept and appropriate funds from the Virginia Department of Environmental Quality for the City of Suffolk Litter Prevention and Recycling Program

The City has received a \$16,604 Litter Prevention and Recycling Grant from the Virginia Department of Environmental Quality which provides funds for litter prevention and recycling grants to localities under a non-competitive grant program based on population and road miles. These grants have been awarded annually, since 1980, to localities for local litter prevention and recycling program implementation, continuation, and/or expansion.

Adoption of the attached ordinance is necessary to accept and appropriate these funds to the appropriate line item in the Consolidated Grants Fund for Fiscal Year 2015-2016.

BUDGET IMPACT:

Adoption of the ordinance will increase the planned revenues and expenditures of the Consolidated Grants Fund by \$16,604 for the above noted purpose and requires no local fund support.

RECOMMENDATION:

Adopt the attached ordinance

ATTACHMENTS:

Ordinance
Award Letter

ORDINANCE NO. _____

AN ORDINANCE TO ACCEPT AND APPROPRIATE FUNDS FROM THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY FOR THE CITY OF SUFFOLK LITTER PREVENTION AND RECYCLING PROGRAM

WHEREAS, the City has received funds in the amount of \$16,604 from the Virginia Department of Environmental Quality in support of the Litter Prevention and Recycling Program; and

WHEREAS, the funds received need to be accepted and appropriated to the Consolidated Grants Fund Budget for the fiscal year 2015-16 to assist with the City of Suffolk Litter Prevention and Recycling Program.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Suffolk, Virginia, that:

1. The sum of \$16,604 shall be reflected as budget in the following accounts in the Fiscal Year 2015-2016 Consolidated Grants Fund Budget:

<u>Revenue</u>		
211-41100-1626_424030	LitterPrev.SDEQ; 6/16	<u>\$16,604</u>
<u>Expenditure</u>		
211-41100-1626_51100.02	LitterPrev.SDEQ; 6/16	
	Salary and Wages	\$13,528
211-41100-1626_52100	FICA	1,035
211-41100-1626_52210	VRS	1,872
211-41100-1626_52400	Group Life	161
211-41100-1626_54500	Risk Management	8
		<u>\$16,604</u>

2. The fund amount totaling \$16,604 is hereby appropriated for use as referenced in this ordinance and the budget approved by Ordinance Number 15-O-035 as amended. The City Manager be, and is hereby authorized and directed to do all things necessary to effectuate this action.

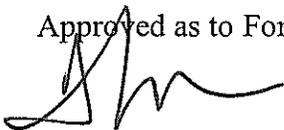
3. This ordinance shall be effective upon passage and shall not be published.

READ AND PASSED: _____

TESTE: _____

Erika S. Dawley, City Clerk

Approved as to Form:



Helivi L. Holland, City Attorney



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

October 8, 2015

Mr. Patrick Roberts
City Manager, City of Suffolk
442 W. Washington Street
Suffolk, VA 23434

Dear Mr. Roberts,

I am pleased to inform you that a grant award of \$ **\$16,604.00** has been approved for the **City of Suffolk** Litter Prevention and Recycling Program activities for the period July 1, 2015 to June 30, 2016. A payment for this amount should be received within the next two weeks if funds can be transferred electronically (EDI) or in thirty days if processing by check is required.

If you have any questions or need additional information, please contact me at prina.chudasama@deq.virginia.gov or at 804-698-4159.

Sincerely,

Sanjay Thirunagari

Sanjay Thirunagari
Manager, Recycling and Litter Programs
Division of Land Protection & Revitalization

Cc: Grant file

AGENDA: November 4, 2015, Regular Session

ITEM: Consent Agenda – A resolution authorizing participation in the Virginia Department of Transportation Revenue Sharing Program for Fiscal Year 2017

Attached is a resolution that provides City Council endorsement of the City of Suffolk's applications for Revenue Sharing Funds through the Virginia Department of Transportation Fiscal Year 2017 Revenue Sharing Program. The applications would request \$1,265,000 in state funding for the following projects:

Nansemond Parkway/Wilroy Road Intersection	\$400,000
Godwin Boulevard/Route 58 Interchange	\$40,000
Colonial Avenue/Northbrooke Avenue Realignment.....	\$175,000
Nansemond Parkway/Bennetts Pasture Road Intersection	\$150,000
Pughsville Drainage and Roadway Improvements.....	\$500,000

BUDGET IMPACT:

The Revenue Sharing Program requires a like local match from the requesting locality. Pending approval of the FY 2017 Capital Improvements Program, it is proposed that \$1,265,000 would be available for the match.

RECOMMENDATION:

Adopt the attached resolution

ATTACHMENT:

Resolution

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING PARTICIPATION IN THE VIRGINIA DEPARTMENT OF TRANSPORTATION REVENUE SHARING PROGRAM FOR FISCAL YEAR 2017

WHEREAS, the City Council of Suffolk, Virginia desires to submit an application for an allocation of funds up to \$1,265,000 through the Virginia Department of Transportation Fiscal Year 2017 Revenue Sharing Program; and

WHEREAS, these funds are requested for the following projects in the amounts specified:

Nansemond Parkway/Wilroy Road Intersection Improvements – the request provides for additional construction funding for the project that is already under design. The project provides for turn lanes on Wilroy Road and Nansemond Parkway to address capacity issues at the intersection and to address safety concerns when the rail crossing is blocked.....**\$400,000**

Godwin Boulevard/Route 58 Interchange – the request provides for additional construction funding for the project that is already under design. The project provides for dual right turn lanes and single through/left turn lane at the west bound Route 58 off ramp at Godwin Boulevard.....**\$40,000**

Colonial Avenue Realignment – the request provides for funding of the construction phase of the project that will begin design this year. The project will provide for the realignment of Colonial Avenue between Grove Avenue and Northbrooke Avenue to address anticipated increases in local traffic as a result of the Route 58 widening project which provides for a signalized intersection at Northbrooke Avenue. This project was approved in response to numerous public comments received during the Route 58 Public Hearing.....**\$175,000**

Nansemond Parkway/Bennetts Pasture Road Intersection Improvements – the request provides for funding of the right of way phase of the project which will begin design this year. The project provides for intersection improvements to include turn lanes at the Nansemond Parkway and Bennetts Pasture Road intersection**\$150,000**

Pughsville Drainage and Roadway Improvements – the request provides for the second phase of various roadway and drainage improvements throughout the Pughsville area in accordance with the Master Drainage Study**\$500,000**

WHEREAS, the Virginia Department of Transportation has allocated funds to be used by all of the Commonwealth for Revenue Sharing project funds; and,

WHEREAS, the Virginia Department of Transportation has requested localities to provide a level of funding that it is willing to participate in; and,

WHEREAS, the City of Suffolk anticipates the required matching funds in the amount of \$1,265,000 to be available in the upcoming FY 2017 Capital Improvements Program; and,

WHEREAS, the City of Suffolk has participated in the Virginia Department of Transportation Revenue Sharing Program in the past.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Suffolk, Virginia hereby supports this application for an allocation of \$1,265,000 through the Virginia Department of Transportation Revenue Sharing Program for fiscal year 2017.

BE IT FURTHER RESOLVED THAT the City Council of Suffolk, Virginia hereby grants authority for the City Manager to execute project administration agreements for any approved revenue sharing projects.

This resolution shall be effective upon adoption and shall not be published.

READ AND ADOPTED: _____

TESTE: _____
Erika S. Dawley, City Clerk

Approved as to Form:



Helivi L. Holland, City Attorney

Public Hearings

Ordinances

Resolutions

AGENDA: November 4, 2015, Regular Session

ITEM: Staff Report - Zoning Regulations Pertaining to Gardens

The Interim Director of Planning and Community Development and Zoning Administrator will brief City Council on the zoning regulations pertaining to gardens.

Motion to Schedule a Work Session

Non-Agenda Speakers

New Business

Announcements and Comments