

Director of Media and Community  
Relations

**SUFFOLK CITY COUNCIL**  
**MEETING OF FEBRUARY 5, 2014**



**WORK SESSION**

**Begins at 4:00 p.m.**

**REGULAR SESSION**

**Begins at 7:00 p.m.**

**SUFFOLK CITY COUNCIL  
WORK SESSION  
February 5, 2014  
4:00 p.m.  
City Council Chamber**

1. Fiscal Year 2015 - 2024 Capital Improvements Plan
  - 2.\* Appointments
  - 3.\* Legal Advice Regarding the Process for Business, Professional, Occupational License Tax Exonerations
  - 4.\* Performance Evaluations of Council Appointees
- \* Proposed Items for Closed Session



**Boards and Commissions Vacancies  
February 5, 2014**

<b>BOARD OR COMMISSION</b>	<b>NAME</b>	<b>TERM EXPIRES</b>	<b>COMMENTS</b>
<b>Advisory Commission for Persons with Disabilities</b>	Mary Hill	06-30-11	Interested in reappointment.
	Vacant	06-30-13	Annette Etheridge resigned.
	Kimberly Frost	06-30-13	Interested in reappointment.
	Barbara Sumpter	06-30-13	Not interested in reappointment.
<b>Economic Development Authority of the City of Suffolk</b>	James Harrell Faulk	02-28-14	Whaleyville Borough representative.
<b>Fine Arts Commission</b>	Alice Mounjoy	06-30-13	Not interested in reappointment.
	Susan Blair	06-30-13	Interested in reappointment.
<b>Historic Landmarks Commission</b>	Geraldine Outterbridge	06-30-13	Interested in reappointment.
<b>Library Board</b>	Carolyn White	06-30-13	Not interested in reappointment.
	Vacant	06-30-17	Former member, Sandra Nee, passed away.
<b>Local Board of Building Code Appeals</b>	Randy Brock	06-30-13	
	Yok Kong Chiang	06-30-13	Interested in reappointment.
<b>Parks and Recreation Advisory Commission</b>	Clinton Jenkins	06-30-13	Not interested in reappointment.
	Henry Buck, Jr.	06-30-13	Interested in reappointment.
	Calvin Frazier	06-30-13	



**Boards and Commissions Vacancies**  
**February 5, 2014**

<b>BOARD OR COMMISSION</b>	<b>NAME</b>	<b>TERM EXPIRES</b>	<b>COMMENTS</b>
<b>Parks and Recreation Advisory Commission (cont'd)</b>	Wayne White	06-30-13	Interested in reappointment.
<b>Planning Council</b>	Joseph Barlow	01-01-14	Not interested in reappointment.
<b>Substance Abuse and Youth Council</b>	Vacant	06-30-13	LeOtis Williams resigned.
	Renyatta L. Banks	06-30-13	
	Louvenia Milteer	06-30-13	Interested in reappointment.
	Costellar Ledbetter	06-30-13	Not interested in reappointment.
<b>Suffolk Clean Community Commission</b>	Evelyn Ledbetter	06-30-13	Interested in reappointment.
	Carolyn P. Butler	06-30-13	Interested in reappointment.
	Russell Meeks	06-30-13	
<b>Suffolk Clean Community Commission Keep Suffolk Beautiful Executive Board</b>	Hugh Cross	06-30-13	
	Margaret Jones	06-30-13	Interested in reappointment.
<b>Wetlands Board</b>	C. Robert Johnson, III	12-31-13	Interested in reappointment.
	Geoffrey C. Hinshelwood	12-31-13	Interested in reappointment.
	Jeffrey Colley	12-31-31	Interested in reappointment.

**SUFFOLK CITY COUNCIL AGENDA**  
**February 5, 2014**  
**7:00 p.m.**  
**City Council Chamber**

1. **Call to Order**
2. **Nonsectarian Invocation**
3. **Approval of the Minutes**
4. **Special Presentation**
5. **Removal of Items from the Consent Agenda and Adoption of the Agenda**
6. **Agenda Speakers**
7. **Consent Agenda** – A resolution authorizing the City Manager to amend the Police Specialized Equipment Storage Building Construction Contract
8. **Consent Agenda** - A resolution authorizing the City Manager to amend the Nansemond Gardens/Wilroy Acres Water System Upgrade Project Engineering Agreement
9. **Consent Agenda** – An ordinance to accept and appropriate funds from the United States Department of Agriculture for the Summer Feeding Program
10. **Consent Agenda** – An ordinance to accept and appropriate one-time asset forfeiture funds from the Office of the Attorney General for the Suffolk Police Department
11. **Public Hearings**
12. **Ordinances**
13. **Resolution** – A resolution authorizing the City Manager to execute a Memorandum of Agreement between the Hampton Roads Sanitation District and the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Town of Smithfield; and the counties of Gloucester, Isle of Wight, and York; and the James City Service Authority to define the roles, responsibilities, and obligations of the parties related to the Regional Wet Weather Management Plan development, financing and implementation

- 14. Staff Reports**
- 15. Motion** – A motion to schedule a public hearing to be held on February 19, 2014, to receive public comment on the proposed Fiscal Year 2015-2024 Capital Improvements Plan
- 16. Motion** – A motion to schedule a Work Session for February 19, 2014, at 4:00 p.m., unless cancelled
- 17. Non-Agenda Speakers**
- 18. New Business**
- 19. Announcements and Comments**
- 20. Adjournment**

Work Session of the Suffolk City Council was held in the City Council Chamber on Wednesday, December 18, 2013, at 5:00 p.m.

**PRESENT**

Council Members -

Linda T. Johnson, Mayor, presiding

Charles F. Brown, Vice Mayor

Michael D. Duman

Roger W. Fawcett

Jeffrey L. Gardy

Curtis R. Milteer, Sr.

Charles D. Parr, Sr.

Lue Ward, Jr.

Selena Cuffee-Glenn, City Manager

Helivi L. Holland, City Attorney

Erika S. Dawley, City Clerk

**ABSENT**

None

**UPDATE ON FEDERAL INMATES AT WESTERN TIDEWATER REGIONAL JAIL**

Utilizing a PowerPoint presentation, William C. Smith, Superintendent of Western Tidewater Regional Jail, gave an update on the status of the above referenced item.

Referring to the presentation, Council Member Parr called for clarification about the loss of income with the reduction of federal inmates. Mr. Smith said that the jail will lose \$1,600,000 in revenue with the removal of 75 inmates.

Referring to the presentation, Council Member Milteer opined about Suffolk's funding share for the Western Tidewater Regional Jail. Mr. Smith advised that the City's funding share for the jail is about 68%.

**ADJOURNMENT**

Council Member Gardy, on a motion seconded by Council Member Parr, moved to adjourn, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

As there was no Closed Meeting, the Work Session was adjourned at 5:30 p.m.

Teste: \_\_\_\_\_  
Erika S. Dawley, City Clerk

Approved: \_\_\_\_\_  
Linda T. Johnson, Mayor

Regular Meeting of the Suffolk City Council was held in the City Council Chamber on Wednesday, December 18, 2013, at 7:00 p.m.

**PRESENT**

- Council Members -
- Linda T. Johnson, Mayor, presiding
- Charles F. Brown, Vice Mayor
- Michael D. Duman
- Roger W. Fawcett
- Jeffrey L. Gardy
- Curtis R. Milteer, Sr.
- Charles D. Parr, Sr.
- Lue R. Ward, Jr.

- Selena Cuffee-Glenn, 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. Vice Mayor Brown offered the Invocation and led the Pledge of Allegiance to the Flag.

**APPROVAL OF THE MINUTES**

Council Member Duman, on a motion seconded by Council Member Gardy, moved to approve the minutes from the November 7, 2013, Special Meeting, as presented, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

**SPECIAL PRESENTATIONS**

**Special Presentation** – Presentation of the Fiscal Year 2013 Comprehensive Annual Financial Report

Finance Director Lenora Reid introduced Robert Churchman, Audit Partner, Cherry Bekaert, LLP, the City’s independent auditors. Utilizing a PowerPoint presentation, Mr. Churchman gave a presentation on the above referenced item.

Referring to the presentation, Council Member Duman opined about any significant accounting changes. Mr. Churchman stated that there were no significant accounting changes since the previous audit.

Utilizing a PowerPoint presentation, Finance Director Reid offered supplementary information about the City’s Finance Department.

**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 of the Consent Agenda items for separate action.

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

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

AYES:	Council Members Duman, Fawcett, Gardy, Milteer Parr, Ward, Brown and Johnson	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 appropriate funds for the Central Library/West Washington Street Plan Capital Improvement Project

**Consent Agenda Item #8** - An ordinance to accept and appropriate funds from the Commonwealth of Virginia Department of Aviation for the Suffolk Executive Airport

Council Member Milteer called for an explanation of Consent Agenda Item #8 - an ordinance to accept and appropriate funds from the Commonwealth of Virginia Department of Aviation for the Suffolk Executive Airport.

Referring to Consent Agenda Item #8, City Manager Cuffee-Glenn provided an overview of the background information as printed in the official agenda.

Council Member Duman, on a motion seconded by Council Member Gardy, moved to approve the Consent Agenda, as presented, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

**PUBLIC HEARINGS**

**Public Hearing** – An ordinance granting Rezoning Request RZ7-13 (Conditional), submitted by Mark Williams, P.E., agent, on behalf of Hunter Smith of Suffolk IL-AL Investors, LLC, applicant, on behalf of Harbourview Partners, property owner, to request a change in zoning from B-2, General Commercial Zoning District, to O-I, Office-Institutional Zoning District (Conditional)

Utilizing a PowerPoint presentation, Planning and Community Development Director D. Scott Mills offered a report on the above referenced item.

Whitney Saunders, 705 West Washington Street, representing Suffolk IL-AL Investors, LLC, applicant, on behalf of Harbourview Partners, property owner, spoke in support of the proposed ordinance.

Susan Eckert, 67 Kingwood Court, Berkeley Springs, West Virginia, representing Harmony Senior Services, spoke in support of the proposed ordinance.

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

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

**AN ORDINANCE TO REZONE AND AMEND THE OFFICIAL ZONING MAP OF THE CITY OF SUFFOLK, TO CHANGE ZONING FROM B-2, GENERAL COMMERCIAL ZONING DISTRICT, TO O-I, OFFICE-INSTITUTIONAL ZONING DISTRICT (CONDITIONAL) FOR PROPERTY LOCATED AT 5871 HARBOUR VIEW BOULEVARD, TAX MAP 6 PARCEL 3\*12B, RZ07-13**

**Public Hearing** – An ordinance granting Street Vacation Request SV03-13, submitted by the CrossPointe Freewill Baptist Church, Chad Conyers and Catherine Matthews, applicants and property owners, to vacate a segment of street formerly identified as Alvah Street

Utilizing a PowerPoint presentation, Planning and Community Development Director Mills submitted a summary of the background information as printed in the official agenda.

David Sexton, 2460 Pruden Boulevard, Pastor, CrossPointe Freewill Baptist Church, spoke in support of the proposed ordinance.

Hearing no additional speakers, the public hearing was closed.

Council Member Gardy, on a motion seconded by Vice Mayor Brown, moved to approve the ordinance, as presented, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

**AN ORDINANCE VACATING AND ABANDONING PORTIONS OF THE ALVAH STREET RIGHT-OF-WAY, OTHERWISE SPECIFIED AS BEING THAT PORTION OF ALVAH STREET LOCATED BETWEEN LIDA AVENUE AND EDWARDS AVENUE, SV03-13**

**Public Hearing** – An ordinance granting an Ordinance Text Amendment, OA3-13, to amend Chapter 31, Unified Development Ordinance, by amending: Section 31-302, Ministerial Permits, Section 31-305, Conditional Rezoning, Section 31-406, Use Regulations, Section 31-606, Parking and Loading Standards, Section 31-612, Street Improvement Standards, Section 31-702, Animal Regulations and Agricultural Production Operations and Facilities, Section 31-714, Sign Regulations, Section 31-801, Intent, and Appendix A, Definitions

Utilizing a PowerPoint presentation, Planning and Community Development Director Mills gave a synopsis of the background information as printed in the official agenda.

Hearing no speakers, the public hearing was closed.

Council Member Milteer, on a motion seconded by Council Member Gardy, moved to approve the ordinance, as presented.

Referring to the presentation, Council Member Duman queried about the proposed amendments regarding off street parking requirements. Planning and Community Development Director Mills advised that the proposed amendment increases the maximum number of spaces for a multi-family development from 1.9 spaces per dwelling unit to 2.0 spaces per dwelling unit. He added that the proposed ordinance clarifies that the Zoning Administrator may approve a ten percent decrease or increase over the specified minimum and maximum number of parking spaces required.

Referring to the presentation, Council Member Duman inquired about the applicability of Section 31-714, should the proposed ordinance be approved. Planning and Community Development Director Mills confirmed that the section would apply to new businesses, and existing businesses would be grandfathered.

Referring to the presentation, Council Member Duman asked about the source of the sign dimensions outlined in the code amendment. Planning and Community Development Director Mills replied that the dimensions are from 2009 code amendments.

Council Member Duman, on a substitute motion seconded by Council Member Fawcett, moved to remove Section 31-714(b)(12), approved the remainder of the proposed ordinance as presented, and refer Section 31-714(b)(12) to the Planning Commission for review.

Referring to the presentation, Mayor Johnson asked about the dimensions of menu boards. Planning and Community Development Director Mills said the signs are eight by four feet.

Mayor Johnson further queried about possible public safety issues if the menu boards were allowed to be larger. Planning and Community Development Director Mills replied that he would have to consult with additional staff to make that determination. He further explained that the primary purpose of the amendment was to allow preview boards, which were previously not allowed.

Referring to the presentation, Council Member Parr opined about the size and location of the menu boards. Planning and Community Development Director Mills advised that the board sizes would vary based on location, according to the proposed ordinance.

Council Member Parr asked whether other localities are consulted when drafting the sign regulations. Planning and Community Development Director Mills replied in the affirmative.

Vice Mayor Brown requested pictures of the sign boards in question when the issue returns to City Council for consideration. Planning and Community Development Director Mills assented.

Referring to the presentation, Council Member Milteer asked about the proposed changes to Section 31-612. Planning and Community Development Director Mills said that the proposed change allows developers to offer funds to the City for the future improvements of surrounding infrastructure in lieu of making the improvements themselves in instances where the project is already in the City’s Capital Improvements Plan.

Council Member Duman, on a substitute motion seconded by Council Member Fawcett, moved to remove Section 31-714(b)(12), approve the remainder of the ordinance as presented, and refer Section 31-714(b)(12) to the Planning Commission for review, was approved by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

**AN ORDINANCE TO AMEND CHAPTER 31, UNIFIED DEVELOPMENT ORDINANCE, BY AMENDING: SECTION 31-302, MINISTERIAL PERMITS, SECTION 31-305, CONDITIONAL REZONING, SECTION 31-406, USE REGULATIONS, SECTION 31-606, PARKING AND LOADING STANDARDS, SECTION 31-612, STREET IMPROVEMENT STANDARDS, SECTION 31-702, ANIMAL REGULATIONS AND AGRICULTURAL PRODUCTION OPERATIONS AND FACILITIES, SECTION 31-714, SIGN REGULATIONS, SECTION 31-801, INTENT, AND APPENDIX A, DEFINITIONS**

**ORDINANCES**

There were no items under this portion of the agenda.

**RESOLUTIONS**

**Resolution** – A resolution amending the 2014 Legislative Agenda for the City of Suffolk

Utilizing a PowerPoint presentation, Intergovernmental Affairs and Special Projects Manager Sherry Hunt gave a summation of background information as printed in the official agenda.

Referring to the presentation, Council Member Milteer asked about the financial commitment of one of the area’s community colleges. Ms. Hunt replied that Paul D. Camp Community College has expressed interest but must seek funding for a feasibility study from the commonwealth.

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

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

**A RESOLUTION AMENDING THE 2014 LEGISLATIVE AGENDA FOR THE CITY OF SUFFOLK**

**STAFF REPORTS**

There were no items under this portion of the agenda.

**MOTIONS**

**Motion** - A motion to schedule a Work Session for January 15, 2014, at 4:00 p.m., unless cancelled

Council Member Gardy, on motion seconded by Council Member Parr, moved to schedule a Work Session for January 15, 2014, at 4:00 p.m., unless canceled, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

**NON-AGENDA SPEAKERS**

Clinton Jenkins, 2029 Hickorywood Drive, representing self, opined about the proposed library project.

**NEW BUSINESS**

There were no items under this portion of the agenda.

**ANNOUNCEMENTS AND COMMENTS**

Utilizing PowerPoint presentation, Media and Community Relations Manager Timothy Kelley reported on the following activities: ribbon cutting for Bainbridge Hampton Roads Crossing Luxury Apartments; report of Officer Mark Drouillard’s rescue of a resident; Suffolk Police Department SWAT activities; Suffolk Fire and Rescue’s “Think Pink for a Good Cause” event; Suffolk Fire and Rescue’s participation in Wreaths Across America; Meet Santa at the Suffolk Visitor Center; holiday events and fire safety tips; Chief Fire Officer Designation from the Commission of Professional Credentialing earned by Fire Chief Cedric Scott; Suffolk University Leader Development’s Situational Leadership form Middle Manager’s Program; information on reporting road problem or streetlight outage; and the City’s holiday hours.

Council Member Duman opined on the city’s audit and actions of Officer Drouillard.

Council Member Duman reported that he attended: employee holiday luncheon; Hampton Roads Chamber of Commerce's holiday party; a Hobson Civic League meeting; and the City Council holiday party.

Council Member Duman lamented the cancellation of the City's holiday parade due to inclement weather.

Council Member Duman opined on Suffolk's ranking #10 in Virginia by Movoto, a real estate website.

Council Member Duman invited all to visit Suffolk's animal care shelter.

Council Member Fawcett opined about the City's audit.

Council Member Fawcett summarized his attendance at the following event: a breakfast with Delegate Chris Jones; Hampton Roads Chamber of Commerce holiday party; ribbon cutting for Bainbridge Hampton Roads Crossing apartments; and Habitat for Humanity's Community Dream Builders luncheon.

Council Member Fawcett opined about the cancellation of the City's holiday parade due to inclement weather.

Council Member Gardy opined about recent traffic incidents on Route 58 and the City's audit.

Council Member Gardy congratulated Chief Scott on his accreditation and closed with season's greetings.

Council Member Milteer commended Chief Scott on his accreditation.

Council Member Milteer reported drainage issues in Whaleyville.

Council Member Milteer advised he attended the Hampton Roads Chamber of Commerce's holiday part.

Council Member Parr opined about the proposed central library project.

Council Member Parr recounted his attendance at a wreath laying ceremony at Oaklawn Cemetery.

Council Member Parr commended Nansemond River High School's production of "Alice in Wonderland".

Council Member Parr opined about the City's audit and thanked City employees for work.

Vice Mayor Brown congratulated Chief Scott on his accreditation and opined about the City's audit.

Mayor Johnson congratulated Attorney General-elect Mark Herring on his election and Chief Scott on his accreditation.

Mayor Johnson reported on meetings with the Speaker of the Virginia House of Delegates, the Governor-elect's Transition Council on Local Government, and incoming Secretary of Transportation Aubrey Lane.

Mayor Johnson relayed her attendance at the Hampton Roads Chamber of Commerce's annual meeting and the wreath laying ceremony at Albert G. Horton Memorial Veterans Cemetery.

Mayor Johnson opined about the proposed central library and work of the City employees.

Council Member Parr, on a motion seconded by Council Member Duman, moved to adjourn, by the following vote:

AYES:	Council Members Duman, Fawcett, Gardy, Milteer, Parr, Ward, Brown and Johnson	8
NAYS:	None	0

There being no further business to come before City Council, the regular meeting was adjourned at 9:24 p.m.

Teste: \_\_\_\_\_  
Erika S. Dawley, City Clerk

Approved: \_\_\_\_\_  
Linda T. Johnson, Mayor

# **Special Presentations**

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

# **Agenda Speakers**

**AGENDA: February 5, 2014, Regular Session**

**ITEM: Consent Agenda** - A resolution authorizing the City Manager to amend the Police Specialized Equipment Storage Building Construction Contract

The Police Specialized Equipment Storage Building project provides a new 3,600 sq. ft., four bay, equipment storage building located at the North Public Safety Center on Bridge Road. Much of the Police Department's large, specialized equipment requires that it be stored in a temperature controlled, secure environment, which is what this new facility requires. The new facility also includes a seized vehicle for asset forfeiture storage lot and additional staff parking spaces. As it was originally designed, the building was a pre-engineered steel building with a steel panel exterior façade. Once bids for construction were received, and the low bid was well within the estimate, it was determined that an upgrade to a brick veneer façade could be achieved within the project budget. Upgrading to a brick veneer is not only aesthetically more appealing and better compliments the existing facility, but it also provides for a more robust structure, making for a better fortified, more secure, and a longer lasting building. The brick veneer upgrade (already executed as change order no. 1 in the amount of \$109,238), along with other contract changes such as additional tree removals, bad soils undercuts for the building pad, driveway, parking lot and impound lot, additional pavement at the impound lot, additional in ground electrical conduits, and an additional water service line total \$163,327.92. These cumulative changes exceed the original contract amount by 46%.

City Council action is required for any contract amendments, which increase the contract expenditure in excess of 25% of the original amount. Attached for City Council's consideration is a resolution authorizing the City Manager to amend the Police Specialized Equipment Storage Building construction contract in the amount of \$163,327.92 for the necessary construction changes. Funds are available within the current project budget.

**ATTACHMENT:**

Resolution

**Resolution No.** \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE  
POLICE SPECIALIZED EQUIPMENT STORAGE BUILDING  
CONSTRUCTION CONTRACT**

WHEREAS, the City has entered into an agreement with A.R. Chesson for the construction of the Police Specialized Equipment Storage Building; and,

WHEREAS, the project requires the undercut of and replacement of bad soils, paving of the seized vehicle lot, and installation of underground conduits and new water service line; and,

WHEREAS, the City of Suffolk Procurement Policy requires City Council action authorizing the City Manager to execute contract amendments which are in excess of 25% of the original amount.

WHEREAS, funding in the amount of \$163,327.92 is available within the current contingency fund to complete the additional work.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Suffolk, Virginia that the City Manager is hereby authorized and directed to execute an amendment to the agreement on behalf of the City, in an amount not to exceed \$163,327.92 to include the additional construction services, and to do all other things necessary in the execution of the amended agreement, and the City Clerk is directed to affix the corporate seal of the City thereto and duly attest the same.

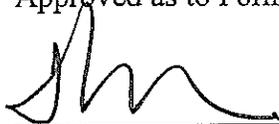
This Resolution shall be in effect upon its adoption and shall not be published.

READ AND ADOPTED: \_\_\_\_\_

TESTE:

\_\_\_\_\_  
Erika S. Dawley, City Clerk

Approved as to Form:



\_\_\_\_\_  
Helivi L. Holland, City Attorney

**AGENDA: February 5, 2014, Regular Session**

**ITEM: Consent Agenda** - A resolution authorizing the City Manager to amend the Nansemond Gardens/Wilroy Acres Water System Upgrade Project Engineering Agreement

The Nansemond Gardens/Wilroy Acres Water Distribution Project provided for the installation of water system upgrades within the Nansemond Gardens and Wilroy Acres neighborhoods. The second phase of the project was previously deferred and constructs the extension of a 12-inch water main along Wilroy Road and 6 and 8-inch mains within Larry Anne Drive and Bracey Drive. The Larry Anne Drive and Jotom Street residents are currently served by a small community well operated by the City with small diameter mains. The residents along Bracey Drive are served by deteriorating small diameter mains previously connected to old well system on Williams Road.

Additional engineering design services were necessary to provide updated construction standards with the drawings, updated specification bid documents, and construction administration services.

In accordance with the City's Procurement Policy, attached for City Council consideration is a resolution authorizing the City Manager to amend the Nansemond Gardens/Wilroy Acres Water Distribution Improvement Project Engineering Agreement in an amount to exceed 25% of the original contract. Funding in the amount of \$16,400.00 for the additional engineering services is available within the current Utility Fund Capital Improvement Budget.

**Attachment:**

Resolution

**RESOLUTION NUMBER \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND  
THE NANSEMOND GARDENS/WILROY ACRES WATER SYSTEM  
UPGRADE PROJECT ENGINEERING AGREEMENT**

WHEREAS, the City has installed water improvements within the Nansemond Gardens/Wilroy Acres neighborhoods to replace deteriorating water mains and to provide improved fire protection; and,

WHEREAS, the final phase of the project extends a 12-inch main along Wilroy Road and installs new water system improvements within the Larry Anne Drive and Bracey Drive areas to eliminate an existing well system and to provide for improved water service inclusive of fire protection; and,

WHEREAS, additional engineering services are required to 1) provide updated construction detail standards, 2) provide revised specification bid documents, and 3) provide construction administrative services; and,

WHEREAS, funding in the amount of \$16,400.00 is available within the current Utility Fund Capital Improvement Budget to complete the additional work.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Suffolk, Virginia, that the City Manager is hereby directed and authorized to amend the engineering contract for the Nansemond Gardens/Wilroy Acres Water Distribution Improvement Project in an amount to exceed 25% of the original contract; and the City Clerk is directed to affix the Corporate Seal of the City thereto and attest the same.

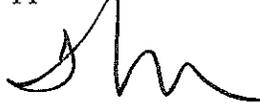
BE IT FURTHER RESOLVED that this resolution shall be effective upon its adoption, and it shall not be published.

READ AND ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_

Erika S. Dawley, City Clerk

Approved as to Form:



\_\_\_\_\_  
Helivi L. Holland, City Attorney

**AGENDA: February 5, 2014, Regular Session**

**ITEM: Consent Agenda** – An ordinance to accept and appropriate funds from the United States Department of Agriculture for the Summer Feeding Program

The City has received \$69,154 in grant funding from the United States Department of Agriculture in support of the Summer Feeding Program. The program, which is administered by the Department of Parks and Recreation, provides breakfasts and lunches to children at qualified sites during the summer.

Adoption of the attached ordinance is necessary to accept and appropriate these funds to the appropriate line item in the Consolidated Grants Fund budget for Fiscal Year 2013-14.

**BUDGET IMPACT:**

Adoption of the ordinance will increase the planned revenues and expenditures of the Consolidated Grants Fund by \$69,154 for the above noted purpose and does not require local fund support.

**RECOMMENDATION:**

Adopt the attached ordinance

**ATTACHMENT:**

Ordinance  
Award Letter

ORDINANCE NUMBER \_\_\_\_\_

**AN ORDINANCE TO ACCEPT AND APPROPRIATE FUNDS FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE FOR THE SUMMER FEEDING PROGRAM**

WHEREAS, the City has received funds in the amount of \$69,154 from the United States Department of Agriculture in support of the Summer Feeding Program at 14 sites throughout the City; and,

WHEREAS, the funds received need to be accepted and appropriated to the Consolidated Grant Fund Budget for Fiscal Year 2013-14 to assist with the reimbursement of funds for the Summer Feeding Program.

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

1. The sum of \$69,154 shall be reflected as budget in the following accounts in the Fiscal Year 2013-14 Consolidated Grant Fund Budget:

<u>Revenue</u>		
211-71350-1429_433060	SumrFeedProg USDA#59047;6/14	\$69,154
<u>Expenditure</u>		
211-71350-1429_56002	SumrFeedProg USDA#59047;6/14 Food Supplies	\$69,154

2. The fund amount totaling \$69,154 is hereby appropriated for use as referenced in this ordinance and the budget approved by Ordinance Number 13-O-040, 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 Health

P O BOX 2448  
RICHMOND, VA 23218

Cynthia C. Romero, MD, FAAFP  
State Health Commissioner

TTY 7-1-1 OR  
1-800-828-1120

**Date:** June 11, 2013  
**Subject:** Notice of Fiscal Year 2013 Application  
**RE:** Agreement Number 59047  
**To:** Summer Food Service Program Administrators

We are pleased to advise you that your application for participation in the 2013 Summer Food Service Program (SFSP) has been approved. The Agreement Number 59047 which appears on the program documents, should be referred to in all future correspondence and communications with this office and is your user ID for the SNP claims processing system. We are providing the following items for your files, information and use:

**PLEASE READ THIS IMPORTANT INFORMATION ABOUT YOUR AGREEMENT**

The Virginia Department of Health revised the *Agreement Between the Sponsor and the Virginia Department of Health*. All sponsors must sign the enclosed new agreement and return it to VDH in order to participate in FY 2013.

1. **NEW Agreement Between the Sponsor and the Virginia Department of Health (VDH)** - Please sign both copies, keep one and return the other to VDH in the enclosed envelope. You are required to operate in accordance with the signed Agreement. When signing the *Sponsor Application and Agreement*, you certify that your organization will accept full financial and administrative responsibility for program operations at all of your sites and that your organization will directly operate the program at each site. Site staff must be ultimately responsible to you for the SFSP meal service.
2. **Site Summary Report**- Please review to ensure that the report lists all approved sites and their approved meals, meal service times, average daily participation, and maximum daily participation agree with the information you reported on your Site Information Sheets. You have the ability to run your site report from the SNP system by selecting "Site Summary" from the Application dropdown menu.

3. **Sponsor Application** - This is a printout of your application for 2013 based on the information you submitted. You should review the 2013 *Sponsor Application* to ensure that the information is accurate.
4. **Claims Guide Information** - Guidance on utilizing the Special Nutrition Programs (SNP) computer system is provided as an enclosure. **Your password to access the computer system shall be furnished in a subsequent correspondence.**

***With regard to your operation and administration of the SFSP, we remind you of the following:***

- You are required to maintain all SFSP records and they should be available to VDH at anytime during the summer. You are required to maintain all invoices, receipts, mileage logs, and delivery logs (if applicable) and other cost documentation for VDH review. You must keep those records for 3 years after the end of the summer.
- You are required to operate a non-profit food service. Any SFSP funds received in excess of your SFSP reimbursement can only be used for the SFSP, CACFP, NSLP, and SBP. We require documentation of the excess funds and documentation of how the funds will be used.
- VDH may use the information provided in your sponsor application, including the Federal Employer Identification Numbers (FEIN), to collect and report on delinquent debt arising out of your relationship with the Federal Government; and may disclose this information to other Federal agencies, as well as private collection agencies, for purposes of claims collection actions including, but not limited to, administrative offset, salary offset, tax refund offset and referral to the Department of Justice for litigation or the Commonwealth's Office of the Attorney General for collection.
- You are required to operate in accordance with the signed Agreement. ***You must notify this office IN ADVANCE of any changes in program operations, such as additions of new feeding sites, additions of meals, changes in the times of meals, and increase in authorized daily participation levels.*** You may do this by email to the [SFSP@vdh.virginia.gov](mailto:SFSP@vdh.virginia.gov) or fax changes to 804-864-7851. **VDH requires two weeks to approve the changes or additions.** The changes, if approved, would be made effective the date of the approval; however, you may not claim any additional meals until after you have received our written confirmation.
- You must submit a *Claim for Reimbursement* **WITHIN 60 DAYS** following the last day of the month covered by the *Claim*. SFSP regulations state that "No payment shall be made for *Claims* submitted later than 60 days after the month unless an exception is granted by VDH."
- You must notify this office **in advance** when you plan to take meals off site on day trips or field trips. Please submit the enclosed field trip notification form.
- Site personnel must be sure to supervise all children on the site while they are eating meals. Only meals actually *served* to children on site are eligible for reimbursement.

We look forward to working with you on a successful Summer Food Service Program. Should you have any further questions, please feel free to contact our SFSP staff at (877) 618-7282 or SFSP@vdh.virginia.gov.

#### Enclosures

Sponsor Agreement – 2 copies  
Sponsor application  
Site Summary report  
Field trip notification form  
Site change form  
Online claim filing guide  
Claim form- 3 copies  
Waiver granted (if applicable)  
Camp Report- 1 for each camp session (for sponsors with “camp” sites)  
Offer vs Serve certification (if applicable)  
Advance info (if requested)  
Menu (if correction)

**AGENDA: February 5, 2014, Regular Session**

**ITEM: Consent Agenda** - An ordinance to accept and appropriate one-time asset forfeiture funds from the Office of the Attorney General for the Suffolk Police Department

The City has received \$80,320, one-time asset forfeiture funds, from the Office of the Attorney General in support of equipment to be purchased for the police department. The funding will be used to purchase a canine dog, electronic control devices (tasers) and other equipment.

Adoption of the attached ordinance is necessary to accept and appropriate these funds to the appropriate line item in the Consolidated Grants Fund budget for Fiscal Year 2013-14.

**BUDGET IMPACT:**

Adoption of the ordinance will increase the planned revenues and expenditures of the Consolidated Grants Fund by \$80,320 for the above noted purpose and requires no local match support.

**RECOMMENDATION:**

Adopt the attached ordinance

**ATTACHMENTS:**

Ordinance  
Award Notification

ORDINANCE NUMBER \_\_\_\_\_

**AN ORDINANCE TO ACCEPT AND APPROPRIATE ONE-TIME ASSET FORFEITURE FUNDS FROM THE OFFICE OF THE ATTORNEY GENERAL FOR THE SUFFOLK POLICE DEPARTMENT**

WHEREAS, the City has received funds in the amount of \$80,320 from the Virginia Office of the Attorney General in support of law enforcement related equipment purchases for the police department; and,

WHEREAS, the funds received need to be accepted and appropriated to the Consolidated Grants Fund budget for Fiscal Year 2013-14 to assist in the purchase of equipment for the Suffolk Police Department.

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

1. The sum of \$80,320 shall be reflected as budget in the following accounts in the Fiscal Year 2013-14 Consolidated Grants Fund budget:

<u>Revenue</u>		
211-31100-1453_433010.13	AssetForfeitureOAG-LEE;09/15	<u>\$80,320</u>
<u>Expenditure</u>		
	AssetForfeitureOAG-LEE;09/15	
211-31100-1453_58200	Capital Outlay	\$80,140
211-31100-1453_56014	Other Operating Supplies	<u>180</u>
		<u>\$80,320</u>

2. The fund amount totaling \$80,320 is hereby appropriated for use as referenced in this ordinance and the budget approved by Ordinance Number 13-O-040, as amended. The City Manager be, and is hereby authorized and directed to do all things necessary to effectuate this action.

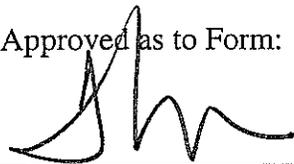
3. This ordinance shall be effective upon passage and shall not be published.

READ AND PASSED: \_\_\_\_\_

TESTE: \_\_\_\_\_

Erika S. Dawley, City Clerk

Approved as to Form:



Helivi L. Holland, City Attorney



**COMMONWEALTH of VIRGINIA**

Office of the Attorney General

Kenneth T. Cuccinelli, II  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

November 26, 2013

City of Suffolk Police Department  
Attn: Thomas Bennett, Chief  
111 Henley Place  
Suffolk, Virginia 23434

Re: One-Time Asset Forfeiture Transfer

Dear Chief Bennett:

On behalf of Attorney General Ken Cuccinelli, I am pleased to announce that your department has been approved for an asset forfeiture transfer based upon your submitted proposal in the amount of \$80,320.00.

We will be in touch after the Thanksgiving holiday with more details regarding how the transfer will be accomplished. We will prepare a Memorandum of Understanding (MOU) between your department and the Commonwealth of Virginia, Office of the Attorney General. The MOU will explain the exact amount and nature of the award approved by the U.S. Department of Treasury. Please note the award amount may differ from your department's original request.

Congratulations on the approval of your request.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Childrey".

John F. Childrey  
Deputy Attorney General  
Public Safety and Enforcement Division  
Office of the Attorney General of Virginia

## MEMORANDUM OF UNDERSTANDING

### COMMONWEALTH OF VIRGINIA, OFFICE OF THE ATTORNEY GENERAL AND CITY OF SUFFOLK POLICE DEPARTMENT

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made this 25th day of November, 2013, by and between the COMMONWEALTH OF VIRGINIA, OFFICE OF THE ATTORNEY GENERAL ("Commonwealth" or "OAG") and the CITY OF SUFFOLK POLICE DEPARTMENT ("Department").

1. **PURPOSE:** This Memorandum sets out the terms of an understanding between the OAG and the Department for the use of federal asset forfeiture funds to help provide supplemental financial support for the Departments immediate law enforcement needs as outlined in the proposal submitted to the OAG. The OAG will provide \$80,320.00 in federal asset forfeiture monies to the Department addressing the Departments' law enforcement need.
2. **TIME FRAME:** These funds shall be spent in no more than 24 months from receipt of transfer.
3. **BACKGROUND:** On May 7, 2012, Abbott Laboratories ("Abbott") entered into a plea agreement with the United States, pleading guilty to one count of violating Title 21, United States Code, Sections 331(a), 333(a)(1), 352(a), and 352(f)(1), related to the introduction and delivery into interstate commerce the misbranded drugs Depakote, Depakote ER, and Depakote Sprinkle. *United States v. Abbott Laboratories*, Case No. 1:12-CR-00026 (W.D. Va.) (Judgment entered October 2, 2012).
4. **PARTIES:** The OAG's Medicaid Fraud Control Unit was the lead investigative agency in the Abbott case. As a result of the plea agreement, the OAG was awarded an equitable share of asset forfeiture funds.

The Department submitted a proposal to the OAG for a law enforcement purpose on July 29, 2013.

#### 5. TERMS AND CONDITIONS:

- a. The OAG will directly transfer \$80,320.00 to the Department.
- b. The Department will use the funding to outfit two SUV patrol supervisor vehicles with equipment to immediately respond to situations. They will also purchase a police dog trained in officer protection and drug detection and various equipment such as ballistic shields, LIDAR units, and electronic control devices.
- c. The Department will abide by the signed Terms and Conditions submitted to the OAG on 07/29/2013.
- d. The Department agrees to at all times be in compliance with the Agreement, Certification and Audit provisions of the United States Department of Treasury's *Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies (Guide/Greenbook)*.

- e. All cash transfers must be used in accordance with the permissible use provisions of the *Greenbook* and as outlined in the proposal. The transfer will be reported on the Equitable Sharing Agreement and Certification form filed by both the OAG and recipient agencies.
- f. The Department shall submit a progress report if requested by the OAG.

6. **SUPLANTING:** The Department agrees that funds made available under this transfer will not be used to supplant state or local funds, but will be used to increase the amounts of such funds that would be, in the absence of these funds, made available for law enforcement activities related to CIT. Federal asset forfeiture funds must be used to supplement existing funds for program activities and must not replace funds that have been appropriated for the same purpose.

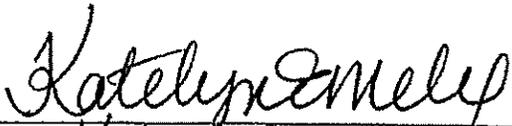
7. **RECORDKEEPING AND AUDITS:** The Department will maintain complete records concerning all requests for disbursements from the federal asset forfeiture fund, and all payments made from the fund, and report on the covered activities on an annual basis. The Department shall retain all books, records, and other documents relative to expenditures permitted by this MOU in accordance with record retention policy and/or Federal and State Auditing Guidelines. The OAG, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period. The Department will cooperate in any audit of the fund by the Virginia Auditor of Public Accounts or the United States Department of Treasury.

8. **PREVAILING LAW:** This MOU shall be construed, interpreted and enforced according to the laws of the Commonwealth of Virginia.

9. **MODIFICATIONS:** Any amendments to or modifications of this MOU must be in writing and signed by the parties.

Witness the following signatures:

**COMMONWEALTH OF VIRGINIA,  
OFFICE OF THE ATTORNEY GENERAL**

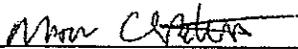


Name: Katelyn E. Melo  
Title: Director of Administration

12/5/2013

Date

**CITY OF SUFFOLK POLICE DEPARTMENT**



Name: Major C. S. Patterson for  
Title: Thomas E. Bennett, Chief of Police

12/27/13

Date

Requested modified budget

Type	Quantity	Unit Price	Total
Police Dual Purpose Dogs <sub>1</sub>	1	13,000	\$13,000
Ballistic Shields <sub>2</sub>	10	1711	\$17,110
Electronic Control Devices, cameras and accessories	10	1584	\$15,840
LIDAR Units	2	\$3,400	\$6,800
Portable Tents	2	90	\$180
In-Car Cameras	4	6847	\$27,390

Total            \$80,320

<sub>1</sub> One K-9 dog was purchased through other funds because the Department only had two of the four dogs working.

<sub>2</sub> Two shields were purchased for Supervisor's response vehicles. Ten are still needed to meet the needs originally requested.

TEB/jdh

# **Public Hearings**

# **Ordinances**

**AGENDA: February 5, 2014, Regular Session**

**ITEM: Resolution** - A resolution authorizing the City Manager to execute a Memorandum of Agreement between the Hampton Roads Sanitation District and the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Town of Smithfield; and the counties of Gloucester, Isle of Wight, and York; and the James City Service Authority to define the roles, responsibilities, and obligations of the parties related to the Regional Wet Weather Management Plan development, financing and implementation

Since 1940, the Hampton Roads Sanitation District (HRSD) has provided wastewater treatment through the operation of nine (9) wastewater treatment facilities within the Hampton Roads region. In addition, HRSD owns and operates interceptor force main systems and large diameter gravity collection mains to convey the Hampton Roads jurisdictions' wastewater to their treatment plants. The jurisdictions own and operate their individual sanitary sewer collection systems and pump stations to collect and convey their residents' wastewater to the HRSD system.

In September 2007 thirteen of the Hampton Roads jurisdictions along with HRSD executed the Special Order By Consent (Order) with the Department of Environmental Quality (DEQ). Subsequently in February 2010 HRSD entered into a Federal Decree (Decree) with the Department of Justice (DOJ) which is administered by the Environmental Protection Agency (EPA). Both the Order and Decree set forth requirements for the development of a Regional Wet Weather Management Plan (RWWMP) along with system rehabilitation plans for the purpose of implementing sewer system projects to eliminate wet weather sanitary sewer overflows.

During the past year, HRSD and the regional jurisdictions participated in a non-binding study to identify and evaluate any potential cost benefits by consolidating sanitary sewer assets. This study was completed in August 2013. Though full consolidation was not considered a viable solution by a majority of the region's jurisdictions, the study did identify potential long-term savings with a more regionalized approach to the Order and Decree requirements. This new approach will require amendments to both the Decree and Order as it relates to the RWWMP and system rehabilitation plans implementation. This new approach was presented to DOJ, EPA, and DEQ and the regulatory agencies provided their concurrence to the proposed regional approach on December 18, 2013. A Memorandum of Agreement between the parties is desired to set forth their roles, responsibilities, obligations for the development, financing, and implementation of the RWWMP and the assurance of adequate wet weather sewer capacity in the region's sanitary sewer system in the future.

**RECOMMENDATION:**

Adopt the attached resolution

**ATTACHMENTS:**

Resolution

Agreement

**Resolution No. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF AGREEMENT BETWEEN THE HAMPTON ROADS SANITATION DISTRICT AND THE CITIES OF CHESAPEAKE, HAMPTON, NEWPORT NEWS, NORFOLK, POQUOSON, PORTSMOUTH, SUFFOLK, VIRGINIA BEACH, AND WILLIAMSBURG; THE TOWN OF SMITHFIELD; AND THE COUNTIES OF GLOUCESTER, ISLE OF WIGHT, AND YORK; AND THE JAMES CITY SERVICE AUTHORITY TO DEFINE THE ROLES, RESPONSIBILITIES, AND OBLIGATIONS OF THE PARTIES RELATED TO THE REGIONAL WET WEATHER MANAGEMENT PLAN DEVELOPMENT, FINANCING, AND IMPLEMENTATION**

WHEREAS, HRSD provides wastewater transmission and treatment services for the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Town of Smithfield; and the Counties of Gloucester, Isle of Wight, and York; and the James City Service Authority (“Localities”); and,

WHEREAS, the Localities, inclusive of the City of Suffolk, individually own and operate sanitary sewer collection systems, which collect sewage within their individual jurisdictional boundaries and deliver it to the HRSD sewer system for conveyance and treatment; and,

WHEREAS, the Localities (excluding Norfolk) and HRSD entered a Special Order By Consent with the State Water Control Board on September 26, 2007 (the Order) for the purpose of resolving certain alleged violations of environmental laws and regulations; and,

WHEREAS, to address regional wet weather sewer capacity requirements, on February 23, 2010, HRSD, the Virginia Department of Environmental Quality and the United States Environmental Protection Agency entered into a Federal Consent Decree; and,

WHEREAS, the Federal Consent Decree requires, among other things, that HRSD work in consultation with the Localities to develop a Regional Wet Weather Management Plan (“RWWMP”) that will ensure adequate wet weather sewer capacity in the regional sewer system; and,

WHEREAS, on June 25, 2012, HRSD, the Localities (excluding Norfolk) and the Commonwealth of Virginia executed an Amendment to the Order that requires the Localities (excluding Norfolk) and HRSD to, among other things, develop a RWWMP identical to the plan called for in the Federal Consent Decree; and,

WHEREAS, prior to the Federal Consent Decree and the Order, on March 17, 2005 HRSD, Norfolk and the Commonwealth of Virginia executed a second phase to their December 17, 2001 Special Order by Consent (the Norfolk/HRSD Consent Orders) that required HRSD and

Norfolk to address wet weather issues in the City of Norfolk with a Long Term Control Plan requiring minimum annual investment in sewer infrastructure; and,

WHEREAS, during the ongoing planning for the RWWMP, HRSD and the Localities conducted a study to determine if HRSD ownership of the Localities' sewer systems would provide significant capital and operational cost savings to the region's ratepayers under the RWWMP; and,

WHEREAS, the regional study was completed in the summer of 2013 and estimated that HRSD ownership of the regional sewers could potentially save the overall region's ratepayers more than one billion dollars over a 30-year period in capital and operation/maintenance costs as compared to a scenario where HRSD and the Localities independently seek to address wet weather capacity needs, although the amount of savings varied significantly among the Localities; and,

WHEREAS, full regionalization of the Localities' sewer systems is unlikely at this time for a variety of reasons; and,

WHEREAS, a significant portion of the estimated savings from full regionalization can still be obtained for the benefit of the region's ratepayers if HRSD agrees to take sole responsibility for financing and implementing the approved RWWMP across the entire regional sewer system; and,

WHEREAS, if HRSD assumes sole responsibility for funding and implementing the approved RWWMP, HRSD will have to raise its regional rates in order to fund the cost of the approved RWWMP and each Locality which is a party hereto acknowledges that such rate increases will be necessary in order to achieve the more affordable and cost-effective RWWMP (which each Locality will have the opportunity to provide input into and to challenge if it believes the RWWMP is not an affordable and cost-effective approach).

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Suffolk, Virginia hereby authorizes the City Manager to execute the Memorandum of Agreement to define the roles, responsibilities, and obligations of the Parties related to the Regional Wet Weather Management Plan development, financing and implementation; and the City Clerk is directed to affix the Corporate Seal of the City thereto and attest the same; and

BE IT FURTHER RESOLVED that the City Manager shall direct staff to perform all required activities necessary, and to work with the City's regional partners and regulatory agencies, for the execution of the pending amendments to the Regional Special Order By Consent; and

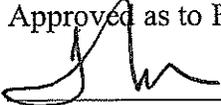
BE IT FURTHER RESOLVED that this resolution shall be in effect upon its adoption, and it shall not be published.

READ AND ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_

Erika S. Dawley, City Clerk

Approved as to Form:

  
\_\_\_\_\_

Helivi L. Holland, City Attorney

**MEMORANDUM OF AGREEMENT**

This Memorandum of Agreement (“Agreement”) is entered into on this \_\_\_\_ day of February, 2014, by and among the Hampton Roads Sanitation District (“HRSD”); and the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Town of Smithfield; and the counties of Gloucester, Isle of Wight, and York; and the James City Service Authority (each a “Locality” and collectively, the “Localities”).

WHEREAS, HRSD provides wastewater transmission and treatment services for the Localities;

WHEREAS, the Localities individually own and operate sanitary sewer collection systems, which collect sewage within their individual jurisdictional boundaries and deliver it to the HRSD sewer system for conveyance and treatment;

WHEREAS, to address regional wet weather sewer capacity requirements, on February 23, 2010, HRSD, the Virginia Department of Environmental Quality and the United States Environmental Protection Agency entered into a Federal Consent Decree;

WHEREAS, the Federal Consent Decree requires, among other things, that HRSD work in consultation with the Localities to develop a Regional Wet Weather Management Plan (“RWWMP”) that will ensure adequate wet weather sewer capacity in HRSD’s portion of the regional sewer system;

WHEREAS, on June 25, 2012, HRSD, the Localities (excluding Norfolk), and the Commonwealth of Virginia executed an Amendment to the September 26, 2007 Special Order By Consent that requires the Localities (excluding Norfolk) and HRSD to, among other things, develop a RWWMP identical to the plan called for in the Federal Consent Decree;

WHEREAS, on March 17, 2005, HRSD, Norfolk and the Commonwealth of Virginia executed a second phase to the December 17, 2001 Special Order by Consent (collectively, the “Norfolk/HRSD Consent Orders”) that required HRSD and Norfolk, to among other things, address wet weather issues in the City of Norfolk with a Long Term Control Plan requiring a minimum annual investment in sewer infrastructure;

WHEREAS, pursuant to the Norfolk/HRSD Consent Orders, the City of Norfolk has made significant financial investments of over \$100 million, though additional capacity-related investments in the Norfolk sewer system are expected as part of further implementation of the Norfolk/HRSD Consent Order (the “Norfolk/HRSD Consent Order Capacity Projects”);

WHEREAS, substantial additional wet weather capacity-related investments in the Norfolk sewer system will still be required to achieve the regional wet weather management capacity requirements in the approved RWWMP (the “Norfolk System RWWMP Projects”);

WHEREAS, during the ongoing planning for the RWWMP, HRSD and the Localities conducted a study to determine if HRSD ownership of the Localities' sewer systems would provide significant capital and operational cost savings to the region's ratepayers under the RWWMP;

WHEREAS, the regional study was completed in the summer of 2013 and estimated that HRSD ownership of the regional sewers could potentially save the overall region's ratepayers more than one billion dollars over a 30-year period in capital and operation/maintenance costs as compared to a scenario where HRSD and the Localities independently seek to address wet weather capacity needs, although the amount of savings varied significantly among the Localities;

WHEREAS, full regionalization of the Localities' sewer systems is unlikely at this time for a variety of reasons;

WHEREAS, a significant portion of the estimated savings from full regionalization can still be obtained for the benefit of the region's ratepayers if HRSD agrees to take sole responsibility for financing and implementing the approved RWWMP across the entire regional sewer system; and

WHEREAS, if HRSD assumes sole responsibility for funding and implementing the approved RWWMP, HRSD will have to raise its regional rates in order to fund the cost of the approved RWWMP, and each Locality which is a party hereto acknowledges that such rate increases will be necessary in order to achieve the more affordable and cost-effective RWWMP (which each Locality will have the opportunity to provide input into and to challenge if it believes the RWWMP is not an affordable and cost-effective approach);

NOW, THEREFORE, in consideration of the premises, mutual covenants and obligations contained herein, HRSD and the Localities do hereby enter into this Agreement for the purpose of defining the roles, responsibilities, and obligations of HRSD and the Localities for the development, financing, and implementation of the RWWMP and the assurance of adequate wet weather sewer capacity in the Regional Sanitary Sewer System in the future.

#### **A. DEFINITIONS**

"2007 MOA" means the Memorandum of Agreement dated June 28, 2007, by and among HRSD; the cities of Chesapeake, Hampton, Newport News, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Town of Smithfield; the counties of Gloucester, Isle of Wight, and York; and the James City Service Authority.

"Board" means the State Water Control Board, a permanent citizens body of the Commonwealth of Virginia as described in Virginia Code §§ 62.1-44.7 and 10.1-1184.

"DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Virginia Code §10.1-1183.

“EPA” means the United States Environmental Protection Agency.

“Federal Consent Decree” means the Amended Consent Decree filed in the United States District Court for the Eastern District of Virginia on February 23, 2010 (Civil Action No. 2:09cv-481), and any subsequent amendments thereto.

“Party” or “Parties” means one or more signatories to this Agreement.

“Regional Sanitary Sewer System” means the collective sanitary sewer systems owned and operated by HRSD and the Localities, including gravity sewer lines, manholes, pump stations, lift stations, pressure reducing stations, force mains, wastewater treatment plants, and all associated appurtenances.

“Special Order By Consent” means the special order by consent dated September 26, 2007, and any subsequent amendments thereto, by and among the Board and HRSD; the cities of Chesapeake, Hampton, Newport News, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Town of Smithfield; the counties of Gloucester, Isle of Wight, and York; and the James City Service Authority.

“Significant Defect” means a physical condition in the sanitary sewer system owned or operated by a Locality, including: (i) existing or imminent structural failures, cave-ins, and similar defects and (ii) significant sources of inflow and infiltration (including but not limited to missing and/or damaged public clean-outs, missing manhole inserts, direct storm water connections, and unsealed manhole pipe penetrations).

“Warranties” means any warranties and/or rights under bonds or similar instruments securing or assuring the quality, adequacy or timeliness of the design, materials, installation or construction of any improvements conveyed by HRSD to a Locality as contemplated in this Agreement.

## **B. ROLES AND RESPONSIBILITIES**

### 1. HRSD agrees to:

a. In consultation with the Localities develop a reasonably affordable and cost-effective RWWMP, including the Norfolk System RWWMP Projects, in accordance with this Agreement and Paragraph 10 of the Federal Consent Decree, to achieve the wet weather capacity requirements of the Federal Consent Decree for the affected portions of the Regional Sanitary Sewer System including the Norfolk sewer system;

b. Implement the approved RWWMP in accordance with the approved RWWMP long-term schedule;

c. Design and construct all RWWMP projects in accordance with HRSD Standards and Preferences, the applicable portions of the Hampton Roads Planning District

Commission Regional Construction Standards, and Locality preferences, policies, or guidelines with respect to operation and maintenance issues where such preferences, policies, or guidelines have been established and are broadly applied by the Locality;

d. Fully fund implementation of the RWWMP regardless of asset ownership through a regional HRSD rate applied equally across all HRSD accounts in the Localities;

e. Upon full implementation of the applicable RWWMP facilities for each HRSD treatment plant service area and the successful completion of the Post-RWWMP Performance Assessment for that service area, HRSD shall be responsible for ensuring and maintaining adequate wet weather capacity for those portions of the Regional Sanitary Sewer System in that service area, whether owned or operated by HRSD or a Locality, up to the applicable capacity level defined in the approved RWWMP;

f. Maintain a flow monitoring program in accordance with the Federal Consent Decree;

g. Investigate, in cooperation with affected Localities, any sanitary sewer overflow where system capacity is reasonably suspected of being a contributing cause or the sole cause of such overflow to determine the actual cause or causes (in support of such inquiry, HRSD shall make available to Localities in a timely manner, upon request, any potentially relevant information it may have) and the appropriate response;

h. Provide to the applicable Locality complete copies of record drawings of improvements constructed by HRSD within that Locality pursuant to the RWWMP within thirty (30) days of completion or amendment of such drawings;

i. Convey to each Locality improvements which HRSD may install or construct pursuant to the approved RWWMP, for addition or modification to the Locality's sewer system;

j. Negotiate and obtain customary commercial Warranties for pavement and other project improvements in Locality systems and enforce such Warranties during warranty periods as necessary, provided that following such warranty period, any assets conveyed to a Locality are the sole responsibility of such Locality;

k. Make available to the Localities information HRSD uses in the development and implementation of the RWWMP and any other relevant information HRSD may have;

l. Comply with applicable Locality ordinances and other laws and regulations in the planning, design, and implementation of the RWWMP;

m. Assume regulatory liability for wet weather overflows occurring upon completion of the RWWMP implementation(including the Post RWWMP Implementation

Performance Assessment) and which are determined to result from lack of adequate capacity as defined in the RWWMP for such sanitary sewer overflows;

n. Reimburse, to the extent permitted by law, any Locality for reasonable claims paid to any third-party resulting from wet weather overflows occurring upon completion of the RWWMP implementation (including the Post RWWMP Implementation Performance Assessment) and which are determined to result from lack of adequate capacity as defined in the RWWMP for such sanitary sewer overflows, provided that HRSD retains the right to assert governmental immunity as allowed by law if HRSD determines a claim is unreasonable or due to causes beyond HRSD's control;

o. Provide staff and/or consultant resources to coordinate development and implementation of the approved RWWMP as it applies to each Locality in accordance with the approved RWWMP schedule;

p. Issue in a timely manner and in accordance with established processes any approvals, and timely execute any documents, necessary for implementation by a Locality of improvements or management, operations or maintenance measures as required by the RWWMP or contemplated by the Special Order by Consent, and not unreasonably withhold, condition or delay such approvals or execution of documents;

q. Support the modification of the Special Order by Consent between DEQ, HRSD and the Localities consistent with the changes to the Federal Consent Decree;

r. Consult with the Localities as necessary to facilitate the timely implementation of the approved RWWMP; and

s. Cooperate with Localities when requested to incorporate other locally funded infrastructure improvements as part of any RWWMP project, provided that HRSD can do so consistent with the approved RWWMP schedule and HRSD's project-related costs do not increase by more than ten percent (10%) (a Locality may pay any amount of additional HRSD cost above the 10% threshold in order to satisfy this condition).

2. Each Locality agrees to:

a. Maintain and operate Locality-owned collection system assets and any improvements constructed by HRSD in Locality-owned assets as part of the RWWMP. This obligation shall be performed in accordance with any approved Management, Operations, and Maintenance program and industry accepted practices relating to sewer inspection, Sewer System Evaluation Survey work and repair of Significant Defects (not scheduled to be addressed by the RWWMP within a reasonable period of time but excluding those for which HRSD is responsible under Section B.1.j above);

b. Provide full access to data, information and Locality-owned assets necessary for timely and cost-effective development of the RWWMP. This includes, but is not

limited to, flow monitoring data, calibrated hydrologic models, long-term simulations, SSES data and results, Rehabilitation Plans and Preliminary Capacity Assessments including hydraulic models and related calculations;

c. Maintain and calibrate the existing locality-owned flow monitoring equipment (previously required by the Regional Technical Standards) and provide data at regular intervals in a mutually acceptable form, throughout the development of the RWWMP;

d. Provide staff and/or consultant resources to coordinate development and implementation of the approved RWWMP as it applies to each Locality in accordance with the approved RWWMP schedule, subject to appropriation, provided that in the event adequate resources are not appropriated, HRSD shall be relieved of its obligations under Section B.1.a with respect to consultation with the Localities and Section B.1.q of this Agreement;

e. Timely issue any Locality administrative permits in accordance with established processes and, subject to applicable law, timely execute any documents, as necessary for implementation of RWWMP-related improvements in that Locality, and not unreasonably withhold, condition or delay such permits or execution of documents;

f. Accommodate reasonable contractor requests for standard work hours and maintenance of traffic in accordance with existing Locality policies during implementation of RWWMP improvements within the Locality;

g. Support the modification of the September 26, 2007 Special Order by Consent, as amended, between DEQ, HRSD and the Localities consistent with the changes to the Federal Consent Decree;

h. Upon HRSD's request, provide a written letter of support for a modification of HRSD's Federal Consent Decree to establish HRSD's responsibilities consistent with this Agreement;

i. Cooperate with HRSD and the other Localities as necessary to facilitate the timely implementation of the approved RWWMP; and

j. Provide timely notice of and investigate, in cooperation with HRSD, all capacity-related sanitary sewer overflows.

### **C. REMEDIES AND RESERVATIONS OF RIGHTS**

1. If any Party shall fail to perform or observe any of the material terms, conditions, or provisions of this Agreement applicable to it, and said failure is not rectified or cured within thirty (30) days after receipt of written notice thereof from another Party, then the defaulting Party shall be deemed in breach of this Agreement; provided, however, that no Party shall have a right to issue a notice of default pursuant to this Section C.1 until the dispute resolution procedures set forth in Section C.2 below have been exhausted. The Parties agree that, in the

event of a material breach of this Agreement, a non-defaulting Party, which is or would be harmed by the breach, may seek injunctive relief or specific performance of the defaulting Party's obligations without the requirement to post a bond. The Parties acknowledge that each Party's performance of its material obligations is valuable and unique and that, for purposes of allowing the non-defaulting Party to seek injunctive relief, the failure of a Party to perform its material obligations hereunder may result in irreparable injury to the other Parties. Nothing in this Agreement shall be deemed to modify, alter, or otherwise affect such other rights and remedies as may be available to the Parties under applicable law or equity.

2. If any dispute arises with respect to the alleged failure of any Party to perform or observe any of the material terms, conditions, or provisions of this Agreement applicable to it, as a condition precedent to instituting a formal action in a court with competent jurisdiction, the parties shall first attempt to resolve the dispute through the dispute resolution procedures contained in this Section C.2. A Party may initiate the dispute resolution procedures of this Section C.2 by providing to the other Parties to the dispute written notice of the existence and nature of the dispute. Within thirty (30) days of such notice, the Parties to the dispute shall meet and attempt in good faith to resolve the dispute. Upon the request of any Party to the dispute, the Parties to the dispute shall participate in non-binding mediation. The mediator shall be selected by mutual agreement of the Parties to the dispute, and the cost of the mediator shall be shared equally by those Parties engaged in the mediation. If the dispute cannot be resolved within sixty (60) days after receipt of written notice of the dispute or any reasonable extension as may be mutually agreed upon by the Parties, then any Party to the dispute may elect to end dispute resolution by providing written notice of such election to the other Parties to the dispute, in which case the dispute resolution procedures shall be deemed to have been exhausted. The dispute resolution procedures may also be deemed exhausted by written agreement of all the Parties to the dispute.

3. Nothing herein shall be construed as or otherwise constitute a waiver or release by any Party of any right, power, immunity, or standing of that Party that may exist pursuant to applicable law or regulation, including, without limitation, such right or standing to appeal or seek review of any case decision or other reviewable determination of the Board, DEQ, EPA, a Court having jurisdiction over the dispute, or any other agency or governmental body related to the matters addressed in this Agreement, the Federal Consent Decree, or the Special Order By Consent.

#### **D. MISCELLANEOUS**

1. Amendments to Agreement. Amendments to this Agreement must be in writing and signed by all the Parties.

2. Entire Agreement. This Agreement contains the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior agreements, written or oral, with respect thereto, including the 2007 MOA.

3. Severability. If any provision of this Agreement is found to be unenforceable, the

remainder of this Agreement shall remain in full force and effect.

4. Authority. The Parties represent that they have the authority to enter into this Agreement and that the individuals signing this Agreement on their behalf have the requisite power and authority to bind the Parties to its terms and conditions. This Agreement shall apply to, and be binding upon the Parties, their elected officials, officers, agents, employees, successors, and assigns.

5. Reservation. Except as expressly provided herein, nothing in this Agreement shall be construed to limit or otherwise affect the authority, rights, or responsibilities of the Parties.

6. Notices and Written Communications. All notices and written communication pursuant to this Agreement shall be submitted to the recipients listed in Attachment A. A Party may change its designated notice recipient by so informing all other Parties in writing.

7. Effective Date. This Agreement shall be effective and binding upon its execution by all Parties and shall continue in effect until terminated in accordance with Section D.11.

8. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia, without regard to the conflict of laws and rules thereof.

9. Force Majeure. No Party shall be responsible for its failure to fulfill an obligation pursuant to this Agreement to the extent that such failure is due to acts of God; strikes; war or terrorism; the actions of a third party; the actions of another Party; lockouts; or other events not reasonably within the control of the Party claiming force majeure. A Party experiencing a force majeure event that prevents fulfillment of a material obligation hereunder shall (a) give the other Parties prompt written notice describing the particulars of the event; (b) suspend performance only to the extent and for the duration that is reasonably required by the force majeure event; (c) use reasonable efforts to overcome or mitigate the effects of such occurrence; and (d) promptly resume performance of the affected obligation if and when such Party is able to do so.

10. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any Party whose signature appears thereon, and all of which shall together constitute one and the same instrument.

11. Termination. This Agreement shall terminate (a) if the Motion to Amend the Federal Consent Decree contemplated herein is either not filed with the Court by May 31, 2014 or is filed but denied by the Court; (b) if the Federal Consent Decree is not amended as contemplated herein by August 31, 2014; (c) if the State Special Order by Consent is not, by December 31, 2014, either (1) rescinded in its entirety or (2) amended to relieve the Localities of any obligation to develop, fund, and implement the Regional Wet Weather Management Plan; or (d) upon the written agreement of all Parties. If this Agreement is terminated for any reason,

except upon the agreement of HRSD, then HRSD reserves the right to assert a force majeure under the Federal Consent Decree.

12. Not for Benefit of Third Parties. This Agreement and each and every provision hereof is for the exclusive benefit of the Parties and not for the benefit of any third party.

13. Binding Effect. This Agreement shall inure to the benefit of the Parties and shall, to the maximum extent permitted by law, be binding on the Parties and their successors and assigns.

[REST OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officials as of the dates next to their respective signatures as shown below.

**(ELECTRONIC SIGNATURES OF ALL PARTIES TO THE AGREEMENT  
WILL BE CONSOLIDATED ON THIS PAGE IN THE FINAL DOCUMENT)**

## **LIST OF SIGNATORIES**

CITY OF CHESAPEAKE

GLOUCESTER COUNTY

CITY OF HAMPTON

ISLE OF WIGHT COUNTY

JAMES CITY COUNTY

CITY OF NEWPORT NEWS

CITY OF NORFOLK

CITY OF POQUOSON

CITY OF PORTSMOUTH

CITY OF SUFFOLK

CITY OF VIRGINIA BEACH

CITY OF WILLIAMSBURG

YORK COUNTY

TOWN OF SMITHFIELD

HAMPTON ROADS SANITATION DISTRICT

This listing of participants is followed by the signature page to be completed by each party.



IN WITNESS WHEREOF, the Party has caused this Agreement to be executed by their duly authorized officials as shown below.

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

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

Locality: \_\_\_\_\_

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

Attest: \_\_\_\_\_

## **ATTACHMENT A**

List of Individuals to Receive Notices Pursuant to Paragraph D.6:

[List Notice Parties]

# **Staff Reports**

**AGENDA: February 5, 2014, Regular Session**

**ITEM: Motion** - A motion to schedule a public hearing to be held on February 19, 2014, to receive public comment on the proposed Fiscal Year 2015-2024 Capital Improvements Plan

A public hearing is required to receive public comment on the proposed FY 2015-2024 Capital Improvements Plan (CIP).

**RECOMMENDATION:**

Schedule a public hearing for February 19, 2014, to obtain public comment on the proposed FY 2015-2024 CIP.

## **Motion to Schedule a Work Session**

## **Non-Agenda Speakers**

# **New Business**

## **Announcements and Comments**