

# Memorandum

**Date:** October 5, 2011

**To:** Mayor and City Council

**Subject:** Agenda Briefing - Regular City Council  
Meeting - *Tuesday, October 11, 2011*



Following is a brief review and description of the various business items listed upon the agenda and set for discussion at the next regular meeting of City Council:

## 6. Commendations and Presentations:

- A. This item is for the formal recognition and presentation of a Council Proclamation designating October 2011 as *Domestic Violence Awareness and Prevention Month* in the City. A copy of the Proclamation is included in the meeting packet.
- B. This item is for the formal recognition and presentation of a Council Proclamation also designating October 2011 as *Community Planning Month* in the City. A copy of the Proclamation is included in the meeting packet.
- C. This item is for the formal recognition and presentation of a Council Proclamation designating the week of October 9-15, 2011 as *Fire Prevention Week* in the City. A copy of the Proclamation is included in the meeting packet.
- D. This item is for the formal introduction/recognition of the 2011 Chesterfield-Colonial Heights Christmas Mother, Mrs. Linda King.
- E. This item is for the formal recognition of David Lawrence Smith upon his recent attainment of Eagle Scout as part of Colonial Heights BSA Troop 184.
- F. This item is for formal recognition of *Bennie Foster*, Senior Water Meter Reader in Utility Billing as September 2011 City Employee of the Month by Mayor Davis. A copy of the formal recognition is included in with the meeting packet. The Mayor will be making a brief presentation of the award to Bennie at the meeting.

## 7. Consent Agenda (“Consideration of Uncontested Minutes, Ordinances, Resolutions, & Motions . . .”):

- A. Copies of the minutes from our (1.) Special Meeting on 8/16/11, (2.) Special Meeting on 8/30/11, (3.) Special Meeting on 9/13/11, (4.) Regular Meeting on 9/13/11, and (5.) Special Meeting on 9/27/11 is included in the meeting packet for your review.

### B. “Adoption of:”

- ORDINANCE NO. 11-20 - Requested by Councilman Freeland and discussed at previous meetings; This item is for Second Reading and Final Adoption of an Ordinance to formally amend and reordain Chapter 226 (Precious Metals and Gems) of the City Code to require annual rather than semi-annual issuance of a dealer permit and raising the annual permit fee for same from \$100 to \$200.

This Ordinance has been proposed to help simplify the permitting process for businesses and economize the workload for city staff. This change should have no impact on the effectiveness of the process; nor adversely impact revenue for the City.

*Budgetary Impact* – None

**7. Consent Agenda (continued):**

ORD 11-20 (cont'd) - A public hearing on this Ordinance was conducted at our last meeting; and an additional copy of the Ordinance is included in the meeting packet.

**The staff recommends approval of this item as presented**

- ORDINANCE NO. 11-FIN-20 - Discussed and approved at the last regular meeting; This item is for Second Reading and Final Adoption of an Ordinance to authorize an amendment to the FY11-12 Annual Budget to accommodate various funding adjustments as follows:

- For the routine, annual reappropriation of encumbered funds (\$543,235) from FY 2010-11 being carried over to the current fiscal year. A copy of a memorandum from the Director of Finance providing a brief review and explanation of this item is included with the meeting packet.
- To appropriate \$78,399 in grant funding coming from a Community Development Block Grant to be used for the emergency home repair program. A copy of a memorandum from the Director of Community Development providing a brief review and explanation of this item is included with the meeting packet.
- The Sheriff's Office has received a donation in the total amount of \$200 in support of the "Halloween in the Park" event.

*Budgetary Impact* - This amendment as proposed is bottom-line, "cost-neutral", as it is the formal appropriation budget-anticipated state funds, donated funds and/or restricted funds and will not adversely affect overall funding or costs to taxpayers.

A copy of the proposed Ordinance and supporting information is included in the meeting packet.

**The staff recommends approval of this item as presented**

- ORDINANCE NO. 11-FIN-21 - Discussed at last regular meeting; This item is for Second Reading and Final Adoption of an Ordinance to authorize a routine amendment to the FY10-11 Annual Budget to reflect the modified School Fund Budget as requested by the CH School Administration.

*Budgetary Impact* – This action has no adverse impact on the city's budget.

A copy of the proposed Ordinance and supporting information is included with the meeting packet.

**The staff recommends approval of this item as presented**

**8. Reading of Manner Addressing Council**

**9. Public Hearings:**

- A. RESOLUTION NO. 11-38** – This item is for a required Public Hearing and consideration of a Resolution to formally authorize the submission of a grant application for the Boulevard-Government Center Enhancement Project - Phase 2.

This is the continuation of an on-going project, for which the City has received grant awards from VDOT previously - \$50,000 in 2005 and \$75,000 in 2006. Phase 1 of the Boulevard-Government Center Enhancement Project is now under construction and we have complete engineering plans for the entire project.

9. **Public Hearings (continued):**

RES 11-38 (cont'd) - While the staff is still in the process of developing the specific project scope, it is expected that the total project will be in the neighborhood of \$300,000 and will support construction improvements similar to what is now being done. The area of work that would be improved by Phase 2 would be from Charlotte to A Ave.

*Budgetary Impact* – This specific action has no direct budgetary impact.

As noted on the agenda, the required notice of public hearing for this agenda item was published in *The Progress-Index*. The staff will be making a brief presentation of this item at the meeting. A copy of the proposed Ordinance is included in the meeting packet.

**The staff recommends approval of this item as presented**

10. **Written Petitions/Communications** – *None submitted for inclusion on the meeting agenda*

11. **Public Comments** (“*Hearing of Citizens Generally on Non-Agenda Issues*”):

12. **New Business/Legislation** (“*Introduction and Consideration of Ordinances and Resolutions*”):

- RESOLUTION NO. 11-39 – Discussed at previous meetings; This item is for consideration of a Resolution formally authorizing the PPEA Interim Agreement with Kenbridge Construction of Kenbridge, Virginia for construction-manager-at-risk services for pre-construction activities, including final design, relating to of the new Municipal Courthouse.

This action is in conformity with the Courthouse Development Schedule previously reviewed with the Council.

This engagement provides essentially the final planning step prior to initiating construction. The Kenbridge team will now “take over” the project plans completed to date (Moseley’s work) and will carry same to final design – and clear definition of what will be the final, agreed-upon project and not-to-exceed cost.

Please note that while there is a dollar amount referenced in the agreement, this is still a preliminary estimate and this action will not constitute a commitment to said amount. This action, however, is the necessary step for us to get to the “real number”.

*Budgetary Impact* – There are obviously significant costs related to this project but this action will have no adverse effect on the current-year operating budget. All costs associated with this contract will be paid for and/or reimbursed from the proceeds of a debt issuance that is anticipated to fund the entire Courthouse Project.

A copy of the proposed Ordinance and supporting information is included in the meeting packet. The staff will be making a presentation and answering any questions on this item at the meeting.

*\*\*Due to the size of the contract document, it will be provided in a separate attachment and not included as part of the general meeting packet.*

**The staff recommends approval of this item as presented**

- ORDINANCE NO. 11-FIN-22 - This item is for consideration of an Ordinance on First Reading to authorize an amendment to the FY11-12 Annual Budget to accommodate various funding adjustments as follows:

- To re-appropriate \$24,146 in restricted funds for the CH Police Department in highway grant proceeds to be used for overtime expenses for selective enforcement and checkpoints. Copies of memorandums from the Director of Finance and the Chief of Police providing a brief review and explanation of this item is included with the meeting packet.

**12. New Business/Legislation (continued):**

- To approve the transfer of \$23,477 from Contingencies & Reserve to be transferred to certain individual departmental accounts for the purchase of computer equipment (IPad2s). Please refer to the same memorandum from the Director of Finance providing a brief review and explanation of this item is included with the meeting packet.
- To appropriate \$5,842 in restricted Police Asset Forfeiture Funds to support general public safety purposes by the CH Police Department.
- To appropriate a total of \$100,000 for the Recreation & Parks Senior Transportation Division for the purchase of two new 15-passenger handicap vans - \$80,000 of which will come from a grant received from the Crater Area Agency on Aging and the remaining amount coming from restricted fund balance. A copy of a memorandum from the Director of Recreation & Parks providing a brief review and explanation of this item is included with the meeting packet.

*Budgetary Impact* - This amendment as proposed is bottom-line, “cost-neutral”, as it is the formal appropriation grant funds, fund balance, donated funds and/or restricted funds and will not adversely affect overall funding or costs to taxpayers.

A copy of the proposed Ordinance and supporting information is included in the meeting packet.

**The staff recommends approval of this item as presented**

**13. Unfinished Business . . . and Items Removed from Consent Agenda**

*– None identified for inclusion on the meeting agenda*

**14. Staff Reports (“Reports of Officers . . .”):**

**A. City Manager**

1. ***Update on the Boulevard Modernization Project*** – The staff will be making a brief presentation on this item at the meeting.
2. ***City of Colonial Heights 2012 Five-Year Capital Program*** – A staff memorandum relative to this agenda item is included in the meeting packet. The staff will be making a brief presentation on this item at the meeting.
3. ***Update on Municipal Solid Waste Services RFP/Contract*** – A staff memorandum relative to this agenda item is included in the meeting packet. The staff will be making a brief presentation on this item at the meeting.
4. ***Council Meeting Schedule for October-December, 2011*** - This item is to review current plans with the entire Council for our meeting schedule through the end of the year.
5. ***General Activity Report and/or Project Update*** - This item is for miscellaneous updates and comments by the staff; and general Q&A with the City Council relative to on-going projects and/or issues.

14. **Staff Reports** (*“Reports of Officers . . .”*):

B. City Attorney

C. Director of Planning and Community Development

15. **Consideration of Claims** – *None submitted for inclusion on the meeting agenda*

Please feel free to contact me anytime prior to Tuesday’s meeting if you have any questions or require additional information relative to any item on the agenda; or if you need an update on any item not listed on the agenda.

A handwritten signature in black ink, appearing to be 'T. Mattis', written over a light blue horizontal line.

Thomas L. Mattis  
City Manager

**DESIGNATING THE MONTH OF OCTOBER 2011 AS “DOMESTIC VIOLENCE AWARENESS AND  
PREVENTION MONTH”  
IN THE CITY OF COLONIAL HEIGHTS, VIRGINIA**

**WHEREAS, The Colonial Heights Juvenile & Domestic Violence Task Force, organized in 1999, has recognized domestic violence in our City, and is supported by the City, business and civic leaders, judges, lawyers, doctors, clergy, police, sheriff, social services, Commonwealth’s Attorney, magistrates, the Colonial Heights School System, and interested citizens; and**

**WHEREAS, sexual and domestic violence affects every person of Colonial Heights, Virginia as a victim or as a family member, significant other, neighbor or co-worker of a victim; and**

**WHEREAS, the Colonial Heights Juvenile & Domestic Violence Task Force is a member of the Regional Domestic Violence Task Force and serves on the planning committee to acknowledge and recognize community members, who make an impact on domestic violence issues; and**

**WHEREAS, the Colonial Heights Juvenile & Domestic Violence Task Force believes it is vitally important that educational efforts to provide information about prevention and services for sexual assault and domestic violence be continually supported and enhanced; and**

**WHEREAS, the Colonial Heights Juvenile & Domestic Violence Task Force highlighted April as Child Abuse Awareness and Prevention Month by planting more than 200 pinwheels at the public library to honor all Colonial Heights children, and to promote child abuse prevention, education, and awareness; and**

**WHEREAS, the Colonial Heights Juvenile & Domestic Violence Task Force offers education and awareness information to teens and parents on dating violence in an effort to prevent teens from experiencing dating violence and date rape; and**

**WHEREAS, the Colonial Heights Juvenile & Domestic Violence Task Force has instituted the *REACT Program*, which identifies children who have witnessed domestic violence and offers counseling services to these children; and**

**WHEREAS, the Colonial Heights Juvenile & Domestic Violence Task Force has increased public awareness, if sexual assault and domestic violence should be ongoing, with education about the need for citizen involvement in efforts to reduce sexual and family violence; and**

**WHEREAS, the Colonial Heights Animal Shelter assists victims of domestic violence with pet care and temporary shelter for their pets; and**

**NOW, THEREFORE, I, C. Scott Davis, Mayor of the City of Colonial Heights, do hereby proclaim the month of October 2011 as “Domestic Violence Awareness and Prevention Month” in Colonial Heights, Virginia, and encourage the citizens of our community to increase awareness and prevention efforts to reduce dating and family violence.**

**Signed this 11th day of October 2011.**

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**C. Scott Davis, Mayor**

**Attest:**

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**DeAnna D. Atkins, City Clerk**

**DESIGNATING OCTOBER 2011 AS *COMMUNITY PLANNING MONTH* IN THE  
CITY OF COLONIAL HEIGHTS, VIRGINIA**

**WHEREAS, change is constant and affects all cities, towns, suburbs, counties, boroughs, townships, rural areas, and other places; and**

**WHEREAS, community planning and plans can help manage this change in a way that provides better choices for how people work and live; and**

**WHEREAS, community planning provides an opportunity for all residents to be meaningfully involved in making choices that determine the future of their community; and**

**WHEREAS, the full benefits of planning requires public officials and citizens who understand, support, and demand excellence in planning and plan implementation; and**

**WHEREAS, the month of October is designated as National Community Planning Month throughout the United States of America and its territories, and**

**WHEREAS, The American Planning Association and its professional institute, the American Institute of Certified Planners, endorse National Community Planning Month as an opportunity to highlight the contributions sound planning and plan implementation make to the quality of our settlements and environment; and**

**WHEREAS, the celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of the members of planning commissions and other citizen planners who have contributed their time and expertise to the improvement of the City of Colonial Heights; and**

**WHEREAS, we recognize the many valuable contributions made by professional community and regional planners of the City of Colonial Heights and extend our heartfelt thanks for the continued commitment to public service by these professionals;**

**NOW, THEREFORE, I, C. Scott Davis, Mayor of the City of Colonial Heights, do hereby proclaim the month of October 2011 as *Community Planning Month* in Colonial Heights, Virginia in conjunction with the celebration of National Community Planning Month.**

**Signed this 13<sup>th</sup> day of October, 2011.**

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**C. Scott Davis, Mayor**

**Attest:**

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**DeAnna D. Atkins, City Clerk**

**DESIGNATING THE WEEK OF OCTOBER 9 - 15, 2011 AS  
FIRE PREVENTION WEEK IN THE CITY OF COLONIAL HEIGHTS**

**WHEREAS, the City of Colonial Heights is committed to ensuring the safety and security of all those living in and visiting our City; and**

**WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk; and**

**WHEREAS, roughly 3,000 people die as a result of home fires and burns, and more than 200,000 individuals are seen in the nation's emergency rooms for burn injuries; and**

**WHEREAS, thermal burns outnumber scalds nearly two-to-one, but for children ages five and under, scalds outnumber burns roughly two-to-one; and**

**WHEREAS, cooking is the leading cause of home fires and home fire injuries, while heating equipment and smoking are the leading causes of home fire deaths; and**

**WHEREAS, the City of Colonial Heights first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and**

**WHEREAS, the City's residents are responsive to public education measures and are able to take personal steps to increase their safety from fire, especially in their homes; and**

**WHEREAS, residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and**

**WHEREAS, the 2011 Fire Prevention Week theme, "It's Fire Prevention Week! Protect Your Family From Fire!" effectively serves to remind us all of the simple actions we can take to stay safer from fire during Fire Prevention Week and year-round.**

**NOW, THEREFORE, to commemorate the Great Chicago Fire of 1871 and to prevent fires and injuries from fires, I, C. Scott Davis, Mayor, on behalf of the City of Colonial Heights and the citizens of our City, do hereby proclaim October 9-15, 2011 as Fire Prevention Week, and encourage all residents to protect their homes and families by heeding the important safety messages of Fire Prevention Week 2011 and support the many public safety activities and efforts of the City of Colonial Heights Fire and Emergency Services.**

**SIGNED this 9<sup>th</sup> day of October, 2011.**

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**C. Scott Davis, Mayor**

**Attest:**

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**DeAnna D. Atkins, City Clerk**





Chesterfield - Colonial Heights

## ***Christmas Mother***

P.O. Box 2500  
Chesterfield, Virginia 23832

**August 9, 2011**

Ms. Deanna Atkins, Clerk  
Colonial Heights City Council  
Municipal Building  
P. O. Box 3401  
Colonial Heights, Virginia 23834

Dear Ms. Atkins:

We would like to request that Mrs. Linda King, 2011 Chesterfield-Colonial Heights Christmas Mother be included on the Council's agenda for the meeting to be held on October 11, 2011 at 7:00 p.m.

We would also like to request that the check for the donation from the City of Colonial Heights be presented to Mrs. King at this time so that she can personally express our appreciation for the support we receive from the Council members.

Thank you so much for your assistance in this matter.

Sincerely,

Sarah M. Tatum, Coordinator  
Chesterfield-Colonial Heights Christmas Mother

Cc: Mrs. Linda King  
Ms. Marsha Sharp

**RECOGNIZING DAVID LAWRENCE SMITH  
UPON HIS ATTAINING RANK OF EAGLE SCOUT**

**WHEREAS, the Boy Scouts of America was incorporated by Mr. William D. Boyce on February 8, 1910; and**

**WHEREAS, the Boy Scouts of America was founded to promote citizenship training, personal development, and fitness of individuals; and**

**WHEREAS, after earning over twenty-one merit badges in a wide variety of fields, serving in a variety of leadership roles, carrying out a service project beneficial to the community by clearing trails at the Petersburg National Battlefield, being active in the troop, demonstrating Scout spirit, and living up to the Scout Oath and Law, David Lawrence Smith of Troop 184, has reached the long-sought goal of Eagle Scout; and**

**WHEREAS, David Lawrence Smith has accomplished those high standards of commitment which are acquired by only five percent of those individuals entering the Scouting movement; and**

**WHEREAS, growing through his experiences in scouting and learning the lessons of responsible citizenship, Lawrence is indeed a member of a new generation of prepared young citizens of whom we can all be very proud.**

**NOW, THEREFORE, I, C. Scott Davis, Mayor, on behalf of the Colonial Heights City Council, hereby recognize David Lawrence Smith for his accomplishments, extend congratulations to him and acknowledge the good fortune of the City for having such an outstanding young man as one of its citizens.**

**Signed this 13<sup>th</sup> day of October 2011.**

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**C. Scott Davis, Mayor**

**Attest:**

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**DeAnna D. Atkins, City Clerk**

# SEPTEMBER 2011 EMPLOYEE OF THE MONTH



**NAME:** Bennie B. Foster

**POSITION:** Senior Meter Reader

## **EMPLOYMENT**

**HISTORY:** Bennie began his employment with the City on August 3, 1987, as the Water Meter Reader in Utility Billing. As this function grew to two full time readers, he was promoted to Senior Meter Reader on December 1, 1999.

**NARRATIVE:** Since his arrival, Bennie has always been a valuable member and sometimes the only member of the City's meter reading force. Bennie gets along with everyone, and his work ethic is one of the strongest in the City's workforce. He is reliable, dependable, trustworthy, accurate and a pleasure to work with.

Any task given to Bennie is done in a prompt and professional manner. His expertise was invaluable when the City progressed from a manual system which utilized preprinted sheets and a pencil to record consumption to the current hand held electronic units. He has identified more difficult meters that should be converted to electronic reading methods when better economic conditions return.

Bennie has trained all his fellow fulltime and temporary meter readers since he was hired by the City. This is a wealth of knowledge, with the age of our City's system; meters are not always in a consistent location, which requires a wealth of knowledge with approximately 6,500 meters to read.

He takes time to answer numerous consumer questions on water leaks and how they can test for them. He takes the time to be a true ambassador on the streets for our City. He always has the best interest of the City at heart and there is never a question on his abilities.

Bennie does many small things that do not get noticed except by the citizens he serves. Bennie is appreciated and is a valuable member of our staff, and deserves to be recognized and rewarded for the service that he provides to the City.

**CITY OF COLONIAL HEIGHTS, VIRGINIA**  
**Special Meeting of City Council**  
**August 16, 2011**

**1. Call to Order.**

**The Special Meeting of City Council was called to order by Mayor Davis at 6:00 P.M.**

**2. Roll Call.**

**Present:** Councilman Milton E. Freeland, Jr.  
Councilman Kenneth B. Frenier  
Councilwoman Diane H. Yates  
Mayor C. Scott Davis

**Absent:** Councilman W. Joe Green, Jr. (Arrived at 6:03 P.M.)  
Vice Mayor Elizabeth G. Luck  
Councilman John T. Wood

**Also Present:** Mr. Thomas L. Mattis, City Manager  
Mr. Hugh P. Fisher, III, City Attorney

**3. Special Meeting to hold a work session for general discussion of the following items by the City Council and possible direction to staff:**

- A. Review and consideration of the proposed Municipal Solid Waste Collection Services Request for Proposals and administration process for same by the Central Virginia Waste Management Authority**

**Ms. Kimberly Hynes, Executive Director of Central Virginia Waste Management Authority (CVWMA), provided a brief explanation of the history of CVWMA and reviewed the services provided by CVWMA to the City. She provided details of the steps and responsibilities for the municipal solid waste procurement process and gave an overview of the suggested members serving on the Selection Committee.**

**In response to questions from Mayor Davis, Ms. Hynes stated information regarding the RFP will be added on the City's website along with the CVWMA website. She further stated the general contract terms will be available to the vendors that submit proposals to CVWMA. She stated the CVWMA Board of Directors will authorize her to sign the contract with the selected vendor.**

**Mr. Henley stated that Council will have an opportunity to review the scope of services of the contract prior to the CVWMA Board of Directors' approval.**

In response to a question from Mayor Davis, Ms. Hynes stated CVWMA will reach an agreement on the contract terms with the vendor prior to it being approved by the CVWMA Board of Directors.

Mr. Mattis stated if the Selection Committee designates a preferred vendor and Council does not want to utilize that vendor, Council does have the option to start the process over.

Ms. Hynes stated if CVWMA is unable to negotiate the terms of the contract with the top ranked vendor, there is the option to move to the second or third ranked vendor without starting the process over.

In response to a question from Mayor Davis, Mr. Henley stated citizens have the option of calling and scheduling a pickup of larger items if they need to be picked up on a day other than the normal collection day. He further stated Council has made adjustments to the service levels regarding collection services in the City in the past. He stated the RFP has been developed to request the best value approach for collection services and will not change except for the collection of litter baskets along the Boulevard. He further stated there are service innovations the industry can bring to the City. He provided a brief overview of the goals and objectives of the RFP.

Mr. Mattis stated two points that will enhance the collection process for the City is the contractor will provide an annual report to Council and the increased penalties in the contract which will force the vendor to reply in a timely manner to missed pick ups.

Mr. Henley stated offerors are encouraged to submit the best proposal which achieve the goals outlined in the RFP.

Mr. Mattis stated the RFP calls for a continuation of waste collection on Wednesdays but is written in a way that other proposals will be considered.

Mr. Frenier stated since the City went to waste collection once a week, he has received complaints from citizens who have to sort the recycling from the regular trash.

In response to questions from Mr. Frenier, Mr. Henley stated staff is confident alternate solutions will be received from offerors for the City's waste collection services. He further stated if citizens need items picked up on days other than the normal collection day, the option is there for them to call for service.

Mr. Freeland stated if an additional collection day is added for the City, the cost to the City would increase.

In response to a question from Mr. Freeland, Ms. Hynes stated the City could offer a tire amnesty day where citizens could bring tires to the recycling center at no cost.

There was a brief discussion regarding the possibility of having solid waste collection two days a week throughout the City.

In response to a question from Mayor Davis, Mr. Henley stated the RFP allows the Board of Directors to be flexible in terms of the requirements, but sets the guidelines for the vendors.

In response to a question from Mrs. Yates, Ms. Hynes stated the cost for the larger recycling receptacles available through CVWMA is \$65.00.

In response to a question from Mayor Davis, Ms. Hynes stated there is no warranty on the larger receptacles, so if something happens to them, the customer will have to pay to replace them.

Mr. Henley stated larger companies may be able to provide innovative services to the City.

In response to a question from Mr. Freeland, Ms. Hynes stated CVWMA currently keeps all records for seven years and the state mandate is for those records to be kept five years.

Mr. Mattis read the following statement from Mrs. Luck: "My position is that we must maintain the level of quality that we have. Most importantly the added benefit of the trash collectors being willing to go up and retrieve the cans from elderly homes. My parents live on a hill in Sherwood Hills and are physically not able to get the can to the curb and then back up the hill. The current operators come and get it from their back yard and return it to the same place. It doesn't sound like a big deal, but I promise you, it means the world to them and all of the other handicapped people in this community. I see that you have addressed it in 4., d. and I really appreciate it. We need to make sure we emphasize this added benefit."

Mayor Davis expressed appreciation to Ms. Hynes for reviewing the services CVWMA provides for the City. He stated that he is confident Council will make the decision that is in the best interest of the citizens and he is ready to move forward.

It was a general consensus of Council to move forward with the municipal solid waste collection services request for proposals and the administration process by the Central Virginia Waste Management Authority.

(Council took a five minute recess.)

**B. Presentation of the *Appomattox River Corridor Development Plan* and staff recommendations regarding same**

Mr. Mattis stated staff and the consultant will present the final version of the Appomattox River Corridor Development Plan. He further stated the discussion will focus on the City-owned property on Charles Dimmock Parkway. He stated this discussion will be utilized to assist Council in reaching a consensus on the vision for the property. He requested Council's endorsement of the Plan, either as presented or as modified by Council. He stated staff would then utilize elements of the Plan in the City's Comprehensive Plan.

Mr. Schanzenbacher provided a brief background of the process used to develop the Appomattox River Corridor Development Plan. He stated the City received a grant from the Virginia Housing Development Authority to look at the bigger picture for the development of the property and hired LPDA to assist with that process.

Mr. Bill Mechnick, President of LPDA, stated various factors which affect the corridor were considered during the study. He further stated although the entire area was included in the study area, the study ultimately focused on the City-owned parcel. He stated the objective of the project was to determine the development potential of the corridor as a whole and what would be the highest and best use for the City-owned property. He reviewed the data which was utilized to compile the Plan.

Mr. Green stated the report does not include the closed landfill areas which are located beneath the Southpark Mall parking lot.

Mr. Mechnick stated some of those areas did show up in the information provided from the City. He further stated LPDA relied heavily upon data provided by the City in terms of summarizing what was located on the different parcels. He stated Parcel 1 is the most heavily encumbered piece of the study area in being a closed and mitigated landfill area with specific covenants and restrictions regarding its use. He provided details on potential limitations on each of the parcels. He stated all of the data was utilized to reach a conservative estimate for the amount of developable land. He further stated the expansion at Fort Lee is not a strong driver for sales in the City.

Mayor Davis stated he disagreed with the fact that the expansion at Fort Lee is not a strong driver for sales in the City. He further stated the soldiers participating in AIT during the week want to leave the base and buy items that are not in the PX. He stated if you go to Southpark Mall or to other areas in the City on the weekends, you can see the soldiers out making purchases.

Mr. Green spoke in agreement with Mayor Davis' comments. He stated many of the military personnel stationed at Fort Lee do not live on base and have no desire to shop on base with the exception of groceries. He further stated the region has a shortage of furniture stores and other types of specialty retail establishments and many citizens leave the region to purchase those items.

Mr. Mechnick stated if the military personnel shops off base; it is a positive for the local economy. He further stated the current development along the corridor may deter residential development, but the river and recreational area gives the parcel a lot of potential.

In response to questions from Mr. Green, Mr. Mechnick stated portions of the study was done by a real estate development who specializes in mixed-use residential development, and he provided his first impressions of the corridor's potential. He further stated residential development and businesses to support the local neighborhood was the recommendation he made. He stated due to the covenants and

restrictions on Parcel 1 limits the amount of residential development which could be placed there.

Mr. Mechnick stated the transportation network and access to the parcels were studied and they are cut off other than the East Roslyn Road network. He provided examples of how the transportation network could be extended through the parcels to create more inner connectivity and what potential uses could be placed on the property. He stated it is important to get as much visibility and access off of Charles Dimmock Parkway, as well as the secondary access from East Roslyn Road.

In response to a question from Mr. Green, Mr. Mechnick stated Parcel 2 is large enough for a big box retailer.

Mr. Green stated the reclamation area on Parcel 2 could be utilized as a parking lot for a big box retailer.

Mr. Mechnick presented the details of the two development options for the property, one being a neo-traditional development and the other being a traditional type of development. He stated the architectural quality of those facades would be important in terms of creating the right atmosphere.

In response to a question from Mr. Green, Mr. Mechnick stated an outlet mall type of development could work on the property along with restaurant clusters. He further stated specialty retail stores would work on the property.

Mr. Mechnick reviewed the potential yields in terms of commercial, retail, and office uses on the property. He stated there is a big difference in land development costs between the two concepts due to the number of units proposed.

In response to a question from Mayor Davis, Mr. Mechnick stated the recommendation from the real estate consultant was to build middle income type housing on the property with quality architecture.

In response to a question from Mrs. Yates, Mr. Mechnick stated the concept of placing retail and apartments above the retail was not studied for the corridor.

In response to a question from Mr. Green, Mr. Mechnick stated there are several developments which have retail under residential. He further stated the younger generation and retirees are interested in being in these types of developments.

Mr. Mechnick provided estimates for development costs for the property. He reviewed the proposed action plan on how to move forward with development of the property. He stated it is recommended that the City to move forward with the development of Parcel 1, since that is the parcel the most is known about and it is the City-owned property. He further stated the City needs to gather geotechnical data for the property. He provided the suggested next steps for the development of the property.



Mr. Schanzenbacher stated that staff review indicates if the development occurred on the property it would be beneficial to the City. He reviewed the methodology utilized to come up with the figures for the return on investment. He stated with Scenario 1 the City could make approximately \$700,000 and approximately \$1 million with Scenario 2 at complete build out of the development.

Mayor Davis stated the City may have to offer different types of incentives in economic development in order to have a developer develop the property.

Mr. Mattis stated that the numbers presented are gross receipts of tax revenue.

Ms. Bonnie Kirby provided a brief synopsis of the economic development environment in the City. She reviewed the shopping habits and trends which are changing.

Mr. Green stated retailers are now offering online sales, with pick up in the store.

Ms. Kirby stated retailers are looking for smaller footprints for their stores. She reviewed the possible challenges of the property which include the adjacent parcels, limited resources for financing for retailers and developers, location of the property, perceived environment concerns and limited market demand.

Mr. Green stated if the right business locates on the property it would draw citizens to the location.

Ms. Kirby stated the adjacent property owned by Dominion Chevrolet will come into play in the future. She reviewed the advantages of the scenarios presented by LPDA. She stated by following one of the scenarios it will assist with coming up with a clear marketing package to take to developers. She stated Scenario 1 offers a sense of place or an identity for the City and can set a precedence for redevelopment down the road. She further stated Scenario 1 with the mixed use allows the City to maximize development on the property.

Mr. Mattis stated since the City owns the land it allows for a different type of discussion on Council's overall vision for the corridor. He further stated staff needs Council direction to mold the information presented into a plan for the corridor.

Mayor Davis stated the goal is to produce a development which will be beneficial to the City in the long term.

Mr. Mattis stated the City may have to offer incentives to achieve the right type of development in the corridor.

In response to a question from Mr. Green, Mr. Mattis stated the property does cost the City money just sitting there, but there are a lot of incentives the City can offer to potential developers.

Mr. Green stated that once the property is developed it will generate tax revenue and jobs. He further stated the traffic generated by the development would help keep that

section of the City alive. He stated the City could barter to have some of the infrastructure put in by the developer.

In response to a question from Mrs. Yates, Mr. Mattis stated it is important for Council to be on the record as being supportive of development on the property. He further stated he has seen in the past localities putting the infrastructure in on a property, and then the developers having to try to fit a development on the property. He stated localities have more success by sitting down with the potential developers and discussing a pooling of assets.

Mr. Green stated in the past he had heard contractors say they would love to have some place where their younger bulldozer operators could practice and that may be a possibility for the City to get some of the clearing done at no cost on the property.

Mr. Freeland stated the potential developer for the property may not want the roads where they have been practicing. He further stated the trash cells located on the property may hinder utilizing the property for practice.

Mayor Davis stated the City Manager is requesting Council to move the project along at a gradual pace.

Mr. Mattis stated a step to move forward with the project is to decide what kind of development is wanted on the property.

Mayor Davis requested staff break down the information and present it to Council over future work sessions.

Mr. Green stated he is happy with the plan for the corridor, but he emphasized he didn't want to lose track of the Temple Avenue property.

Mayor Davis stated the City is working on multiple projects and will not stop the marketing of the Temple Avenue property.

Mr. Freeland stated mixed use is the trend in development now and can be successful on this property if the right mix is achieved.

There was a brief discussion regarding potential developments throughout the City.

Mr. Green stated he does not want the Temple Avenue property to sit vacant for a couple of years like the property on Charles Dimmock Parkway.

Mr. Mattis stated the Temple Avenue property is more marketable and staff will continue working on it.

Mr. Henley presented an overlay photo of the area which showed the encumbrances and encroachments for the property on Charles Dimmock Parkway. He stated Parcel 1 has been cleared by the DEQ for development with the restrictions of no residential development, no daycares or anything for children. He further stated the City spent

\$1 million in 2006 to clear the solid waste off of the parcel and have it qualified for commercial development. He stated the resource protection area boundaries may be able to be adjusted which would allow for more development.

Mr. Mattis stated the City is working towards extending Wal-Mart Drive.

In response to a question from Mayor Davis, Mr. Henley stated without the pump station on the property, the development is not possible. He further stated it would not be a deterrent to developers due to its location on the side of the property.

Mr. Henley stated he has been working with Wal-Mart for three years to obtain the right of way necessary to extend Wal-Mart Drive. He further stated the City was close to developing a letter of intent with Wal-Mart on property the City would provide to replace parking and storage but Wal-Mart does not want to own the City property, they would only lease it. He stated the City needs to have appraisals done on the properties which would be swapped with Wal-Mart. He further stated additional geotechnical work also needs to be done on the property for Wal-Mart Drive. He stated the City recommends having a study done on the resource protection area boundaries as one of the next steps for the property.

Mr. Mattis stated the Wal-Mart Drive project is a longer term project but the road will be the key to the development of the property.

In response to a question from Mr. Green, Mr. Henley stated having Wal-Mart Drive completed will make the property more marketable, usable and accessible. He recommended in the short term that the City do a site specific environmental study of Parcel 1 to see whether those environmental boundaries of the wetlands could be delineated to free up more property.

Mr. Mattis suggested part of the property be converted to a walking trail to attract more activity on the property. He stated the City can utilize current resources and cut trails across the trash mound and connect with the existing trail system. He further stated an area adjacent to the animal shelter could be utilized for a dog park. He provided details of the plans for the walking trail which would not be a huge investment on the City's part. He stated the trails could be built over the next year.

In response to a question from Mr. Freeland, Mr. Mattis stated the City would not have no additional liability with walking trails, then it currently does with the property.

Mr. Mattis stated the trail system could be tied into the back of American Family Fitness and provide more opportunities for citizens. He further stated the activity on the property would help build public confidence of the property.

In response to question from Mr. Green, Mr. Mattis stated if an organization is interested in helping develop the walking trails, they could contact Mr. Schanzenbacher.

Mr. Green stated the park has a lot of potential on the property.

Mr. Mattis stated the park has a lot of potential but it also has challenges. He further stated the trails will be a way to get activity on the property and may attract potential developers.

Mayor Davis expressed appreciation to staff for their work done on the project. He stated additional meetings to review the project and recommendations in stages are needed in order to move forward with the project.

Mr. Mattis stated staff will divide the project into segments and bring it back to Council.

**4. Adjournment of Special Meeting.**

A motion to adjourn the Special Meeting was made by Mr. Freeland, seconded by Mayor Davis, and carried unanimously on voice vote at 8:45 P.M.

**APPROVED:**

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**C. Scott Davis, Mayor**

**ATTEST:**

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**DeAnna D. Atkins, City Clerk**

**CITY OF COLONIAL HEIGHTS, VIRGINIA**  
**Special Meeting of City Council**  
**August 30, 2011**

**1. Call to Order.**

The Special Meeting of City Council was called to order by Mayor Davis at 6:00 P.M.

**2. Roll Call.**

**Present:**

**Councilman Kenneth B. Frenier  
Vice Mayor Elizabeth G. Luck  
Councilman John T. Wood  
Councilwoman Diane H. Yates  
Mayor C. Scott Davis**

**Absent:**

**Councilman Milton E. Freeland, Jr.  
Councilman W. Joe Green, Jr.**

**Also Present:**

**Mr. Thomas L. Mattis, City Manager  
Mr. Hugh P. Fisher, III, City Attorney  
Mr. A. G. Moore, Jr., Chief of Fire and EMS  
Mr. Craig R. Skalak, Director of Recreation and Parks**

**3. Special Meeting for the purpose of:**

Mayor Davis stated the meeting has been called to discuss the effects of Hurricane Irene and to declare a local emergency.

Chief Moore provided a PowerPoint presentation of the City's preparation for Hurricane Irene, damage sustained throughout the City from the wind and rain, the restoration efforts by City staff, and the challenges faced by staff throughout the event. He stated the City's emergency radio system continued to work magnificently. He further stated the call to implement a curfew the first night after the storm was to eliminate citizens out in the City hampering recovery efforts. He stated there were significant problems with the City's current cell phone provider, and staff will be looking to make some changes in the future. He provided an update on the number of citizens currently without power in the City and staff's efforts of meeting with Dominion Virginia Power.

Mr. Skalak provided an update on damage at the City's parks. He stated White Bank Park and Fort Clifton received the most damage but fortunately none of the buildings were damaged at the parks. He further stated the parks will be closed until they are safe for citizens to enjoy. He provided details of how staff plans to proceed with reservations for parks facilities over the next couple of weeks.

Mr. Mattis stressed that the parks are not being closed because of the appearance but due to the safety of the citizens. He stated the number one concern as the City moves forward is to ensure all of the citizens get their power back. He further stated Dominion Virginia Power is doing the best they can to get power fully restored. He provided details of two issues with power lines and transformers which are affecting large parts of the City.

Chief Moore presented information on the Dominion Virginia Power website which is available to the Emergency Operations Center and is being constantly monitored.

In response to questions from Mayor Davis, Mr. Mattis stated staff is working with Congressman Forbes' office to provide them with the information needed to have the City added to the emergency declarations at the State level. He further stated he would be in contact with Delegate Kirk Cox's office and provide the needed information to be presented to the Governor.

In response to a question from Mayor Davis, Chief Moore stated staff is currently working on what is needed to make the upgrades to the emergency radio system and will be presenting this information to Council at a later time.

In response to a question from Mayor Davis, Mr. Skalak stated White Bank Park should be opened before the Annual Boards and Commissions Picnic which is scheduled for September 19. He further stated he would be in touch with the Clerk to discuss the opening of White Bank Park.

Mayor Davis expressed appreciation to Chief Moore and to everyone who worked behind the scenes for the City. He stated that those employees were not able to be home with their families during the storm but were there for the rest of the City.

Mrs. Yates expressed appreciation for all of the work Chief Moore has done since Hurricane Irene came through the City.

In response to a question from Mrs. Yates, Chief Moore stated the citizen with the uprooted tree in his yard and which is laying on a power line, needs to continue to call Dominion Virginia Power. He further stated Dominion Virginia Power will need to get a contractor to the property to remove the tree.

Mr. Mattis stated the citizen can call Chief Moore also to make sure the City has the issue on their list. He further stated the City's team has done a great job assessing all of the issues throughout the City.

In response to a question from Mrs. Yates, Chief Moore stated the current emergency notification system, Code Red, has three weather warnings citizens can sign up to receive flash flood, severe thunderstorm, and tornado warnings.

Mayor Davis stated he is unaware of any emergency notification systems which have a hurricane warning.

Mr. Mattis stated the City could have done a notification call to the citizens on their own during the hurricane.

In response to questions from Mr. Wood, Mr. Mattis stated once the repairs are complete to the damaged power grid, which is located in Chesterfield County, a large portion of the citizens in the northern section of the City will have their power restored. He further stated Dominion Virginia Power is saying the power grid should be repaired within the next 24 hours.

There was a brief discussion regarding how the power grid is set up and how the City is affected by damage to the grid that is not located within City limits.

In response to a question from Mr. Wood, Mr. Mattis stated Dominion Virginia Power crews are currently working along Archer Avenue, and once those repairs are completed power should be restored to a large portion of the southern end of the City.

In response to a question from Mr. Wood, Chief Moore stated he is not aware of any power lines hanging from unsupported poles within the City.

Mr. Mattis stated that for the safety of the citizens, if there are any power lines down across streets, those streets will remain closed until the repairs can be made.

In response to a question from Mr. Wood, Chief Moore stated that the electrical computer board in the generator at the middle school had failed.

In response to a question from Mrs. Yates, Chief Moore stated the middle school is no longer being used as a shelter.

In response to a question from Mrs. Yates, Mr. Salot stated the website presented to Council is for emergency managers. He further stated the public can sign in to [www.dom.com](http://www.dom.com), which does not provide the same detail.

In response to a question from Mr. Wood, Mr. Salot stated each red dot on the website is a transformer and each transformer serves four to six homes.

Mr. Mattis stated the City stressed with Dominion Virginia Power that if there were cases where customers would be without power for an extended amount of time to let the City know so there could be an effort to notify those customers. He further stated the legislation before Council is to ratify the declaration.

In response to a question from Mr. Wood, Mr. Mattis stated the primary objective of ratifying the declaration is to secure disaster funds.

- A. Consideration of RESOLUTION NO. 11-29. Consenting to and confirming the declaration of a local emergency and a disaster by the Director of Emergency Services.

**WHEREAS, the City Council of the City of Colonial Heights does hereby find that:**

- 1. Due to the occurrence of Hurricane Irene on August 27, 2011, the City of Colonial Heights faced a condition of extreme peril to the lives, safety and property of its residents; and**
- 2. That as a result of this extreme peril, the proclamation of the existence of an emergency and a disaster is necessary to permit the full powers of government to deal effectively with the consequences of Hurricane Irene; and**
- 3. The Director of Emergency Services declared a state of local emergency and a disaster as of August 27, 2011; NOW, THEREFORE,**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLONIAL HEIGHTS:**

- 1. That Council hereby confirms the declaration of a state of local emergency throughout the City of Colonial Heights, as a result of the disaster of August 27, 2011.**
- 2. That during the existence of this emergency and disaster, the powers, functions and duties of the Director of Emergency Services and the Coordinator of Emergency Service Activities shall be those prescribed by the laws of the Commonwealth of Virginia and the ordinances, resolutions, and approved plans of the City of Colonial Heights in order to mitigate the effects of such emergency and disaster.**
- 3. That this resolution shall be in full force and effect upon its passage.**

**A motion for adoption of Resolution No. 11-29 was made by Mayor Davis and seconded by Mrs. Luck.**

<b><u>Vote:</u></b>	<b>5-0</b>
<b>Yes:</b>	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Yates</b>
	<b>Davis</b>
<b>No:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>
<b>Absent:</b>	<b>Freeland, Jr.</b>
	<b>Green, Jr.</b>

**Motion UNANIMOUS PASS.**

- 4. Adjournment of Special Meeting.**



**A motion to adjourn the Special Meeting was made by Mrs. Luck, seconded by Mrs. Yates, and carried unanimously on voice vote at 6:45 P.M.**

**APPROVED:**

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**C. Scott Davis, Mayor**

**ATTEST:**

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**DeAnna D. Atkins, City Clerk**

**CITY OF COLONIAL HEIGHTS, VIRGINIA**  
**Special Meeting of City Council**  
**September 13, 2011**

**1. Call to Order.**

**The Special Meeting of City Council was called to order by Mayor Davis at 6:00 P.M.**

**2. Roll Call.**

**Present:** Councilman Milton E. Freeland, Jr.  
Councilman Kenneth B. Frenier  
Vice Mayor Elizabeth G. Luck  
Councilman John T. Wood  
Mayor C. Scott Davis

**Absent:** Councilman W. Joe Green, Jr.  
Councilwoman Diane H. Yates

**Also Present:** Mr. Thomas L. Mattis, City Manager  
Mr. Hugh P. Fisher, III, City Attorney

**3. Special Meeting for the purpose of:**

**A. Holding a closed meeting pursuant to the Code of Virginia in accordance with the following provisions:**

- **Section 2.2-3711.A.1 – to discuss and consider appointments to the Virginia’s Gateway Region, Advisory Board to City Council, Crater District Area Agency on Aging Board of Directors, Fire Prevention Board of Appeals, Personnel Board and Advisory Board to Recreation and Parks.**
- **Section 2.2-3711.A.7 – to consult with legal counsel employed by a public body regarding specific legal matters – i.e., City Council’s obligations given an approved vacation of an alley section and an approved preliminary site plan – requiring the provision of legal advice by such counsel.**

**The Clerk announced the purpose of the meeting.**

**A motion to go into closed session was made by Mr. Frenier, seconded by Mr. Freeland, and carried unanimously on voice vote at 6:01 P.M.**

**4. Voice Vote – come back into Open Session.**

A motion to reconvene in open session was made by Mr. Freeland, seconded by Mr. Frenier, and carried unanimously on voice vote at 7:06 P.M.

5. The Council has been in a closed meeting pursuant to the Code of Virginia in accordance with the following provisions:

- Section 2.2-3711.A.1 – to discuss and consider appointments to the Virginia’s Gateway Region, Advisory Board to City Council, Crater District Area Agency on Aging Board of Directors, Fire Prevention Board of Appeals, Personnel Board and Advisory Board to Recreation and Parks.
- Section 2.2-3711.A.7 – to consult with legal counsel employed by a public body regarding specific legal matters – i.e., City Council’s obligations given an approved vacation of an alley section and an approved preliminary site plan – requiring the provision of legal advice by such counsel.

6. Each member will now certify that to the best of the member’s knowledge, only public business matters lawfully exempted from the open meeting requirements of the act and identified in the motion pursuant to which the closed meeting was convened were heard, discussed or considered. Any members who do not intend to so certify shall state now, for the minutes, their reasons.

7. Roll Call. An affirmative vote shall constitute certification of compliance.

<b>Vote:</b>	<b>5-0</b>
<b>Yes:</b>	<b>Freeland, Jr.</b>
	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Davis</b>
<b>No:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>
<b>Absent:</b>	<b>Green, Jr.</b>
	<b>Yates</b>

**Motion UNANIMOUS PASS.**

As a result of the closed meeting, a motion was made by Mrs. Luck, seconded by Mr. Freeland, to make the following appointments:

**Virginia’s Gateway Region** – Mayor C. Scott Davis and Mr. Charles E. Townes

**Advisory Board to City Council** - Mr. David Breidenbach, Mr. Barry Tudor, Mr. Robert B. Harrison, Jr., and Mr. Mark Bridgman

**Crater District Area Agency on Aging Board of Directors** - Ms. Elvira Shaw

**Fire Prevention Board of Appeals** - Mr. Thomas L. Herman, Mr. Charles C. Townes, II,  
and Mr. John V. Mazza, Jr.

**Advisory Board to Recreation and Parks** – Mr. Barry Tudor

<b><u>Vote:</u></b>	<b>5-0</b>
<b><u>Yes:</u></b>	<b>Freeland, Jr.</b>
	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Davis</b>
<b><u>No:</u></b>	<b>None</b>
<b><u>Abstained:</u></b>	<b>None</b>
<b><u>Absent:</u></b>	<b>Green, Jr.</b>
	<b>Yates</b>

**Motion UNANIMOUS PASS.**

**8. Adjournment of Special Meeting.**

**A motion to adjourn the Special Meeting was made by Mrs. Luck, seconded by Mr. Freeland, and carried unanimously on voice vote at 7:07 P.M.**

**APPROVED:**

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**C. Scott Davis, Mayor**

**ATTEST:**

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**DeAnna D. Atkins, City Clerk**

**CITY OF COLONIAL HEIGHTS, VIRGINIA**  
**Regular Meeting of City Council**  
**Tuesday, September 13, 2011**

**1. Call to Order.**

**The Regular Meeting of City Council was called to order by Mayor Davis at 7:07 P.M.**

**2. Roll Call.**

**The following members of Council and Council's staff were present for roll call by the Clerk:**

**Present:**  
**Councilman Milton E. Freeland, Jr.**  
**Councilman Kenneth B. Frenier**  
**Vice Mayor Elizabeth G. Luck**  
**Councilman John T. Wood**  
**Mayor C. Scott Davis**

**Absent:**  
**Councilman W. Joe Green, Jr.**  
**Councilwoman Diane H. Yates**

**Also Present:**  
**Mr. Thomas L. Mattis, City Manager**  
**Mr. Hugh P. Fisher, III, City Attorney**

**Mr. William E. Johnson, Director of Finance**  
**Mrs. Jennifer N. Carpenter, Director of Human Resources**  
**Mr. Craig R. Skalak, Director of Recreation and Parks**  
**Mr. Jeffrey W. Faries, Chief of Police**  
**Mr. George W. Schanzenbacher, Director of Planning**  
**Ms. Karen K. Saunders, Information Technology Administrator**  
**Mr. William E. Henley, Director of Public Works/Engineering**  
**Mr. A. G. Moore, Jr., Chief of Fire and EMS**  
**Ms. Bonnie Kirby, Retail Development Coordinator**

**3. Devotion.**

**A devotional prayer was led by Mayor Davis.**

**4. Pledge of Allegiance.**

**The Pledge of Allegiance was led by Mayor Davis.**

**5. Adoption of Agenda.**

**A motion to adopt the agenda, as presented, was made by Mr. Frenier and seconded by Mr. Freeland.**

<b><u>Vote:</u></b>	<b>5-0</b>
<b>Yes:</b>	<b>Freeland, Jr.</b>
	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Davis</b>
<b>No:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>
<b>Absent:</b>	<b>Green, Jr.</b>
	<b>Yates</b>

**Motion UNANIMOUS PASS.**

**6. Commendations and Presentations.**

**A. Update and Review of Hurricane Irene Response and Recovery Activity.**

**Mr. Mattis provided a brief update on the recovery from Hurricane Irene. He stated teamwork throughout the City staff was outstanding.**

**Chief Faries provided a brief overview of the work of the Police Department during Hurricane Irene and stated the response from the volunteers was terrific.**

**Mr. Henley stated staff is still cleaning up debris throughout the City and is eligible for reimbursement of the costs of the contractors.**

**Mr. Mattis expressed appreciation to the Mayor, Council, and staff for their support throughout Hurricane Irene.**

**Mayor Davis expressed appreciation to staff for the support offered to the City.**

**B. A RESOLUTION NO. 11-28. Remembering Gilbert Creff Martin,  
October 23, 1922 – July 31, 2011.**

**A motion for adoption of Resolution No. 11-28 was made by Mayor Davis and seconded by Mrs. Luck.**

**Mayor Davis recognized Mrs. Pamela Comstock, Mr. Martin's daughter, and read the resolution in its entirety.**

**REMEMBERING GILBERT CREFF MARTIN  
OCTOBER 23, 1922 – JULY 31, 2011**

**WHEREAS, Gilbert Creff Martin was born October 23, 1922 to George Creff and Marinda Aldridge Martin and was reared with two sisters, Catherine and Barbara and one brother, George; and**

**WHEREAS, Mr. Martin served honorably in the United States Army during World War II as a captain in the Transportation Corps; and**

**WHEREAS, Mr. Martin was married to the late Geraldine “Gerry” Sowder Martin and was the proud parent of one daughter, Pamela Martin Comstock, as well as one grandchild; and**

**WHEREAS, Mr. Martin owned and operated Gilbert C. Martin Company Inc., developing many subdivisions in Colonial Heights, including Bennington, Edinborough, Lexington, Burlington, and Concord; and**

**WHEREAS, Mr. Martin, along with his brother, George Franklin Martin, co-owned Martin Oldsmobile-Toyota for 40 years in Colonial Heights; and**

**WHEREAS, Mr. Martin was also a dedicated community leader in the Tri-Cities serving as the president of the Southside Virginia Fair for several years; past president of the Petersburg Lions Club and member for more than 60 years; and a member of Dinwiddie Masonic Lodge No. 136 A.F. & A.M., the Petersburg Shrine Club, the ACCA Temple, the Scottish Rite, and the Royal Order of Jesters; and**

**WHEREAS, Gilbert Creff Martin will be remembered for his love of family and dedicated community service; NOW, THEREFORE,**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLONIAL HEIGHTS:**

**1. That Council hereby expresses, on behalf of the City, its gratitude to Gilbert Creff Martin for his community spirit and service to others and sympathy to his family for their loss.**

**2. That, in attestation of the high regard in which Gilbert Creff Martin was held by this Council, this resolution is hereby read into the minutes of this meeting and permanent record of the City of Colonial Heights, this 13<sup>th</sup> day of September, 2011; and the members of Council unanimously affix their signatures.**

<b><u>Vote:</u></b>	<b>5-0</b>
<b>Yes:</b>	<b>Freeland, Jr.</b>
	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Davis</b>
<b>No:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>
<b>Absent:</b>	<b>Green, Jr.</b>
	<b>Yates</b>

**Motion UNANIMOUS PASS.**

**C. A RESOLUTION NO. 11-30. Recognizing the Youth Advisory Council on its 30<sup>th</sup> Anniversary.**

**A motion for adoption of Resolution No. 11-30 was made by Mayor Davis and seconded by Mrs. Luck.**

**Mayor Davis recognized members, past and present, of the Youth Advisory Council and expressed appreciation for their service to the youth of the City.**

**A RESOLUTION NO. 11-30**

**Recognizing the Youth Advisory Council on its 30th Anniversary.**

**WHEREAS, in 1981 the Youth Advisory Council (YAC) was established to form a partnership between the youth in the middle and high schools and City Council; and**

**WHEREAS, as members of YAC, youth have been able to participate in leadership roles, officer and facilitator training, recreational events, and outreach activities to serve those less fortunate in our community; and**

**WHEREAS, YAC is involved in many worthwhile projects, such as the Lemon-Aid Stand to support childhood cancer research, the Christmas Mother project, Christmas caroling at Dunlop House, sending Christmas cards to veterans at McGuire Hospital, offering bingo to residents at Colonial Heights Convalescent Center, administering the Shoe Fund for needy children, and the Adopt-a-Street program; and**

**WHEREAS, in addition to the many projects that these youth are involved in, they also tutor elementary students, help with the citywide cleanup and a Back-to-School Festival, coach children's soccer teams, provide a scholarship opportunity for YAC seniors, plan and host the Annual Youth Forum, and provide representation on the Youth Services Commission; and**

**WHEREAS, YAC has been instrumental in the development of "Pete's Place," the teen center for Colonial Heights youth, which offers them a place to do homework, play, learn and socialize with each other or just "hang out" in a positive environment; and**

**WHEREAS, those young people who serve and have served as members of YAC are role models for other youth in our city, promoting an environment for personal growth and development, encouraging positive activities and services for all; NOW, THEREFORE,**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLONIAL HEIGHTS:**



1. That Council hereby expresses, on behalf of the City, its gratitude and pride to all past, present and future members of the Youth Advisory Council for their community spirit and service over the past 30 years; and urges its citizens to support the worthy endeavors of this organization.

2. That, in attestation of the high regard in which the Youth Advisory Council is held by this Council, this resolution is hereby read into the minutes of this meeting and permanent record of the City of Colonial Heights, this 13th day of September, 2011; and the members of Council unanimously affix their signatures.

<b><u>Vote:</u></b>	<b>5-0</b>
<b>Yes:</b>	<b>Freeland, Jr.</b>
	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Davis</b>
<b>No:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>
<b>Absent:</b>	<b>Green, Jr.</b>
	<b>Yates</b>

**Motion UNANIMOUS PASS.**

**D. A RESOLUTION NO. 11-31. Recognizing the Colonial Heights High School graduating class of 1961 on its 50<sup>th</sup> Anniversary.**

**A motion for adoption of Resolution No. 11-31 was made by Mayor Davis and seconded by Mr. Frenier.**

**A RESOLUTION NO. 11-31**

**Recognizing the Colonial Heights High School graduating class of 1961 on its 50th Anniversary.**

**WHEREAS, the City of Colonial Heights became a city of the first class and was granted its charter in 1960; and upon the proclamation of becoming a city of the first class, a separate school district was created; and**

**WHEREAS, prior to 1957, students in grades 1-7 went to Colonial Heights Elementary School, which opened in 1921 as a Chesterfield County school, with high school students attending school in either Petersburg or Chester; and**

**WHEREAS, in 1957 Colonial Heights High School was established at the present site of Colonial Heights Middle School, remaining at that site until the completion of the current high school building in 1964; and**

**WHEREAS, this year marks the 50th anniversary of the first graduating class from Colonial Heights High School in 1961; and**

**WHEREAS, Council finds it an appropriate time to recognize the Class of 1961 for the numerous contributions it made not only for its class but for all future students who would attend Colonial Heights High School; NOW, THEREFORE,**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLONIAL HEIGHTS:**

**1. That Council wishes to recognize the Class of 1961, the first class to graduate from Colonial Heights High School, on this its 50th anniversary.**

**2. That, in attestation of this memorable event and the high regard in which Council holds the Class of 1961, this resolution is hereby read into the minutes of this meeting and permanent record of the City of Colonial Heights, this 13th day of September, 2011; and the members of Council unanimously affix their signatures.**

<b><u>Vote:</u></b>	<b>5-0</b>
<b>Yes:</b>	<b>Freeland, Jr.</b>
	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Davis</b>
<b>No:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>
<b>Absent:</b>	<b>Green, Jr.</b>
	<b>Yates</b>

**Motion UNANIMOUS PASS.**

**Mayor Davis recognized Ms. Cindy Shortlidge, who was in the audience representing the Colonial Heights School Board.**

**7. Consideration of Uncontested Minutes, Ordinances, Resolutions, and Motions in Accordance with the Consent Agenda.**

**A. Approval of Minutes:**

- 1. Special Meeting, July 19, 2011.**
- 2. Special Meeting, August 9, 2011.**
- 3. Regular Meeting, August 9, 2011.**

**B. Adoption of:**

**AN ORDINANCE NO. 11-18 (Second Reading). To amend and reordain § 273-19 of Chapter 273, Vehicles and Traffic, of the Colonial Heights City Code, prohibiting the distribution of handbills, leaflets, etc., the solicitation of contributions, and the sale of**

merchandise or services on highways, public roadways, and medians within the City; and providing that violators shall be guilty of a traffic infraction.

**AN ORDINANCE NO. 11-FIN-18 (Second Reading).** To amend the General Fund Budget for the fiscal year beginning July 1, 2011, and ending June 30, 2012, to appropriate \$150,207, consisting of \$79,517 in additional state funding changes, grants, and intergovernmental reimbursement; and \$70,690 of grant funds and donations to be used to continue part-time funding of the Emergency Management Assistant position, to purchase additional fire hoses, HazMat equipment, turnout gear for paid and volunteer firefighters, a digital camera for fire investigations, a mobile license reader for the Police Department, and police cameras for the Sheriff's Office, and for citizen preparedness activities.

**AN ORDINANCE NO. 11-FIN-19 (Second Reading).** To amend the General Fund Budget for the fiscal year beginning July 1, 2011, and ending June 30, 2012, to reflect a three percent cost-of-living increase for employees, effective October 1, 2011.

Mr. Frenier read a Declaration of Personal Interest as it pertained to Ordinance No. 11-FIN-19 with specific regard to his part-time employment with the Fire/EMS Department and the employment of his spouse by the City, which he filed with the Clerk.

A motion for adoption of the Consent Agenda, as presented, was made by Mrs. Luck and seconded by Mr. Freeland.

<b><u>Vote:</u></b>	<b>5-0</b>
<b>Yes:</b>	<b>Freeland, Jr.</b>
	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Davis</b>
<b>No:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>
<b>Absent:</b>	<b>Green, Jr.</b>
	<b>Yates</b>

**Motion UNANIMOUS PASS.**

**8. Reading of Manner of Addressing Council.**

The City Attorney read the Manner of Addressing Council.

**9. Advertised Public Hearings.**

- A. Public Hearing as advertised in *The Progress-Index* on Tuesday, August 30, 2011.**

**AN ORDINANCE NO. 11-20. (First Reading). To amend and reordain §§ 226-3 and 226-12 of Chapter 226, Precious Metals and Gems, of the Colonial Heights City Code, providing for annual rather than semi-annual issuance of a dealer permit, raising the annual permit fee from \$100 to \$200, and providing for enhanced penalties for first and second convictions under this chapter.**

**A motion for adoption of Ordinance No. 11-20 was made by Mrs. Luck and seconded by Mr. Frenier.**

**Mayor Davis provided a brief explanation of Ordinance No. 11-20.**

<b><u>Vote:</u></b>	<b>5-0</b>
<b>Yes:</b>	<b>Freeland, Jr.</b>
	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Davis</b>
<b>No:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>
<b>Absent:</b>	<b>Green, Jr.</b>
	<b>Yates</b>

**Motion UNANIMOUS PASS.**

**10. Written Petitions and Communications.**

**There were none.**

**11. Hearing of Citizens Generally on Non-Agenda Issues.**

**Mrs. Johanna Stoneking, 1003 Forest View Drive, stated she has a neighbor who lost trees during Hurricane Irene and inquired how long the City is giving the residents to have the debris cleaned up.**

**In response to a question from Mrs. Stoneking, Mr. Henley stated there is no indication that individuals will receive assistance for removal of debris or trees from their property.**

**Mayor Davis stated there has been a change in Administration of the City and also in the leadership of the Health Department. He suggested Mrs. Stoneking contact the Health Department for assistance.**

**12. Introduction and Consideration of Ordinances and Resolutions.**

**AN ORDINANCE NO. 11-FIN-20. (First Reading).To amend the General Fund Budget for the fiscal year beginning July 1, 2011, and ending June 30, 2012, to appropriate \$621,834, consisting of \$543,235 of encumbered funds from FY 2010-11 being carried over to the current fiscal year; \$78,399 in grant funding coming from a Community**

Development Block Grant to be used for the emergency home repair program; and \$200 in donated funds to be used towards the Sheriff's Office "Halloween in the Park" event.

A motion for adoption of Ordinance No. 11-FIN-20 was made by Mrs. Luck and seconded by Mr. Freeland.

Mayor Davis provided a brief explanation of Ordinance No. 11-FIN-20.

<b><u>Vote:</u></b>	<b>5-0</b>
<b>Yes:</b>	<b>Freeland, Jr.</b>
	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Davis</b>
<b>No:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>
<b>Absent:</b>	<b>Green, Jr.</b>
	<b>Yates</b>

**Motion UNANIMOUS PASS.**

**AN ORDINANCE NO. 11-FIN-21 (First Reading).** To amend and reordain the School Fund Budget for the fiscal year beginning July 1, 2010, and ending June 30, 2011, so as to modify such budget by \$2,008,576 for the fiscal year ending June 30, 2011; pursuant to School Board action.

Mrs. Luck read a Declaration of Personal Interest as it pertained to her employment with the School System, which she filed with the Clerk.

A motion for adoption of Ordinance No. 11-FIN-21 was made by Mr. Frenier and seconded by Mayor Davis.

Mayor Davis provided a brief explanation of Ordinance No. 11-FIN-21.

<b><u>Vote:</u></b>	<b>5-0</b>
<b>Yes:</b>	<b>Freeland, Jr.</b>
	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Davis</b>
<b>No:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>
<b>Absent:</b>	<b>Green, Jr.</b>
	<b>Yates</b>

**Motion UNANIMOUS PASS.**

**A RESOLUTION NO. 11-32. Relating to the performance contract for the District 19 Community Services Board for FY 2012.**

**A motion for adoption of Resolution No. 11-32 was made by Mayor Davis and seconded by Mrs. Luck.**

**Mayor Davis provided a brief explanation of Resolution No. 11-32.**

<b><u>Vote:</u></b>	<b>5-0</b>
<b>Yes:</b>	<b>Freeland, Jr.</b>
	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Davis</b>
<b>No:</b>	<b>None</b>
<b>Abstained:</b>	<b>None</b>
<b>Absent:</b>	<b>Green, Jr.</b>
	<b>Yates</b>

**Motion UNANIMOUS PASS.**

**13. Unfinished Business, Contested Ordinances and Resolutions, and Items Removed from the Consent Agenda.**

**AN ORDINANCE NO. 11-19 (Second Reading). To approve a General Pay Plan Class and Salary Range, effective October 1, 2011.**

**A motion for adoption of Ordinance No. 11-19 was made by Mayor Davis and seconded by Mrs. Luck.**

**Mayor Davis provided a brief explanation of Ordinance No. 11-19.**

**Mr. Mattis stated there was a concern regarding the costs associated with the response and recovery to Hurricane Irene and the ability to fund the cost of living increase. He further stated the City has been notified it has been designated as a recipient of federal funds to offset the cost of the response to Hurricane Irene.**

**Mayor Davis provided an explanation of how the FEMA assistance for disasters is distributed and stated the City will still be responsible for ten percent of the costs associated with Hurricane Irene response and recovery.**

<b><u>Vote:</u></b>	<b>5-0</b>
<b>Yes:</b>	<b>Freeland, Jr.</b>
	<b>Frenier</b>
	<b>Luck</b>
	<b>Wood</b>
	<b>Davis</b>

No:	None
Abstained:	None
Absent:	Green, Jr. Yates

**Motion UNANIMOUS PASS.**

**14. Reports of Officers and Documents Related Thereto.**

**A. City Manager.**

- 1. Review of Council Policy Goals relating to aesthetic control of commercial buildings adjacent to the Boulevard; possible direction to staff regarding same.**

**Mr. Mattis stated staff is prepared to discuss Council's policy goals relating to aesthetic control of commercial buildings on the Boulevard tonight or can wait until all members of Council are present.**

**Mayor Davis stated it would be best for all members of Council to have input on this issue. He further stated to fully address the concerns, Council may need to have it on more than one work session agenda. He stated that addressing these concerns will change part of the new zoning ordinance.**

**In response to a question from Mr. Mattis, Mayor Davis stated Council needs to look at the options available to address aesthetics of buildings in the City.**

**In response to a question from Mr. Wood, Mr. Mattis stated the policy revisions would be for commercial districts.**

**In response to questions from Mr. Wood, Mr. Fisher stated the reservations he has expressed relative to possible policy revisions regarding aesthetics of commercial buildings are due to the constitutionality of those revisions. He further stated there is a Supreme Court case which specifically states localities cannot regulate properties merely for aesthetic purposes. He provided details of the Supreme Court case, Board of Supervisors of James City County v. Rowe. He stated the law seems to have flexibility with regard to aesthetic considerations in historic districts. He further stated that he is not aware of any cases which have been upheld giving localities the authority to regulate properties merely for aesthetic purposes.**

**Mayor Davis stated a work session is needed to discuss all options available to Council to address aesthetics of commercial buildings.**

**Mr. Wood stated if coming up with a policy to address the aesthetics of commercial buildings is going to take a lot of staff time in the development of the policy, it needs to be done in a way that is enforceable and constitutional.**

Mayor Davis stated research needs to be done to see if the City has any options in addressing aesthetics of commercial buildings.

Mr. Mattis stated there may be ways to address the concerns and staff will research that information and bring back to Council at a work session.

Mr. Fisher stated the regulations may be able to be placed in overlay districts.

## **2. Update on City Courthouse Project**

Mr. Wood read a Declaration of Personal Interest with regard to his residential location near the former church property (the proposed site of the new Courthouse), which was filed with the Clerk.

Mr. Henley provided a brief update on the status of the City Courthouse Project.

In response to a question from Mayor Davis, Mr. Henley stated the interim agreement is on task for October approval by Council.

In response to a question from Mayor Davis, Mr. Fisher stated plans for the Courthouse need to go to the Planning Commission to make changes to the Comprehensive Plan to accommodate the change of location and change of land use and transportation maps; to change the zoning from R2 to BB; and for the Planning Commission to certify the substantial location and nature of the improvements on the site. He further stated the plans would be before Council at the November meeting for approval.

In response to a question from Mayor Davis, Mr. Mattis stated the timeline which has been negotiated will not be affected by taking the plans to the Planning Commission.

There was a brief discussion regarding the November Council meeting and the meeting date was changed from November 10 to November 15.

Mr. Fisher stated the vacation or abandonment of part of Chesterfield Avenue will come before Council at the November meeting.

Mr. Wood stated Mr. Freeland had shared some ideas regarding the fencing on the back of the property which backs up to Battery Place.

Mr. Freeland stated a berm with an architectural fence with columns and wrought iron along the back of the property would be more appropriate for the site than a solid block fence. He further stated it would give an openness to the neighborhood but also offer security.

In response to a question from Mr. Wood, Mr. Henley stated staff has submitted a copy of the schematic building design and schematic site plan to the Planning Commission. He further stated an architectural fence is included on those plans, although its details



are uncertain. He stated more work can be done with regard to that feature and staff is open to all options.

Mayor Davis stated the plans approved by Council have to go to the Planning Commission.

Mr. Mattis stated the plans approved by Council are the plans which will be submitted to the Planning Commission. He further stated Mr. Wood's concerns have been heard and will be taken into consideration.

In response to a question from Mayor Davis, Mr. Mattis stated the site plan is not going to dictate exactly how the property will be landscaped. He further stated staff is moving forward with the Plan approved by Council.

Mr. Wood stated the alternative of a berm with a fence across the top would provide security to the property.

Mayor Davis stated from the committee's standpoint, the plan that has been approved by Council is the one all stakeholders have agreed upon and they did not see any security issues.

In response to a question from Mrs. Luck, Mayor Davis stated the interim agreement is based on the \$13.5 million cost which was provided from Moseley Architects.

Mr. Henley stated Moseley is operating under what is called a design not to exceed \$13.5 million and adding features such as architectural fences will take away from other parts of the project.

Mr. Freeland stated the City needs to get the building built before worrying about the fencing behind it.

**3. September 20 Work Session - *Cancelled***

Mr. Mattis stated the September 20, 2011, Work Session has been cancelled.

**4. General Activity Report and/or Project Update**

Mayor Davis reminded everyone that the Annual Appreciation Picnic for Boards, Commissions, and Committees will be held on September 19, 2011 at 6:00 P.M. at Pavilion 2 at White Bank Park.

**B. City Attorney.**

Mr. Fisher stated his office has been working on the Boulevard Modernization Project, which is taking up a considerable amount of time. He further stated the City is

**purchasing property or getting easements from about 50 properties along the Boulevard and each of the properties have different issues.**

**C. Director of Planning and Community Development.**

**There was no report.**

**15. Consideration of Claims.**

**Mr. Frenier expressed appreciation to fellow Council members for the phone calls after the passing of his grandmother.**

**16. Adjournment.**

**A motion to adjourn the Regular Meeting was made by Mr. Freeland, seconded by Mrs. Luck and carried unanimously on voice vote at 8:50 P.M.**

**APPROVED:**

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**C. Scott Davis, Mayor**

**ATTEST:**

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**DeAnna D. Atkins, City Clerk**

**CITY OF COLONIAL HEIGHTS, VIRGINIA  
Special Meeting of City Council  
September 27, 2011**

**1. Call to Order.**

**The Special Meeting of City Council was held at the Colonial Heights Public Library, and called to order by Mayor Davis at 5:31 P.M.**

**2. Roll Call.**

**Present:**

**Councilman Kenneth B. Frenier  
Councilman Milton E. Freeland, Jr. (Arrived 5:41 P.M.)  
Vice Mayor Elizabeth G. Luck  
Councilman John T. Wood (Arrived 5:41 P.M.)  
Councilwoman Diane H. Yates  
Mayor C. Scott Davis**

**Absent: Councilman W. Joe Green, Jr.**

**Also Present:**

**Mr. Thomas L. Mattis, City Manager  
Mr. William E. Johnson, Director of Finance  
Mr. Craig R. Skalak, Director of Recreation and Parks  
Mr. Jeffrey W. Faries, Chief of Police  
Mr. George W. Schanzenbacher, Director of Planning  
Ms. Karen K. Saunders, Information Technology Administrator  
Mr. William E. Henley, Director of Public Works/Engineering  
Mr. A. G. Moore, Jr., Chief of Fire and EMS**

**3. Special Meeting for the purpose of:**

- Computer Training for Council Members and Department Directors.**

**Ms. Saunders conducted training for Council members and department directors on the use of iPads.**

**4. Adjournment of Special Meeting.**

**A motion to adjourn the Special Meeting was made by Mrs. Luck, seconded by Mrs. Yates, and carried unanimously on voice vote at 7:28 P.M.**

**APPROVED:**

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**C. Scott Davis, Mayor**

**ATTEST:**

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**DeAnna D. Atkins, City Clerk**

AN ORDINANCE NO. 11-20

To amend and reordain §§ 226-3 and 226-12 of Chapter 226, Precious Metals and Gems, of the Colonial Heights City Code, providing for annual rather than semi-annual issuance of a dealer permit, raising the annual permit fee from \$100 to \$200, and providing for enhanced penalties for first and second convictions under this chapter.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:

1. That §§ 226-3 and 226-12 of Chapter 226, Precious Metals and Gems, of the Colonial Heights City Code, be, and are hereby, amended and reordained as follows:

**§ 226-3. Issuance of permit; fee.**

The permit required herein shall be issued by the Police Chief or his designee upon payment of an application fee of ~~\$100~~ \$200 and satisfaction of the requirements herein. The applicant shall be given a permit if he satisfies the Police Chief of his good character and he has not been convicted within the past seven years of a crime of moral turpitude. Information required on the application shall include the applicant's full name, aliases, address, age, sex, fingerprints and photograph and the name, address and telephone number of the applicant's employer, if any, and the location of the place of business of the dealer. No permit shall be valid for more than ~~six months~~ one year from the date of issuance, but a permit may be renewed in the same manner as the initial permit is obtained. If the dealer does not operate continuously (Saturdays, Sundays and recognized holidays excepted) from the date of obtaining his permit, then he shall notify the Police Chief of any closing and renewing of business. A dealer shall notify the Police Chief of any change in the location of his business.

**§ 226-12. Violations and penalties.**

Violation of any provisions of this chapter shall be a Class 2 misdemeanor for the first offense and, upon conviction therefor, shall be punished by a fine of not more than \$1,000 or confinement in jail for not more than six months, either or both. Conviction of any subsequent offense shall be a Class 1 misdemeanor and shall be punished by a fine of not more than \$2,500 or confinement in jail for not more than 12 months, either or both.

*Upon the first conviction of a dealer for violation of any provision of this chapter, the Police Chief may revoke the dealer's permit for one full year from the date the conviction becomes final. Such revocation shall be mandatory for two full years from the date the conviction becomes final upon a second conviction.*

2. That this ordinance shall be in full force and effect upon its passage on second reading.

Approved:

\_\_\_\_\_  
Mayor

Attest:

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

\*\*\*\*\*

I certify that the above ordinance was:

Adopted on its first reading on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Milton E. Freeland, Jr., Councilman: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_.

The Honorable W. Joe Green, Jr., Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Vice Mayor: \_\_\_\_\_.

The Honorable John T. Wood, Councilman: \_\_\_\_\_.

The Honorable Diane H. Yates, Councilwoman: \_\_\_\_\_.

The Honorable C. Scott Davis, Mayor: \_\_\_\_\_.

Adopted on its second reading on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Milton E. Freeland, Jr., Councilman: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_.

The Honorable W. Joe Green, Jr., Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Vice Mayor: \_\_\_\_\_.

The Honorable John T. Wood, Councilman: \_\_\_\_\_.

The Honorable Diane H. Yates, Councilwoman: \_\_\_\_\_.

The Honorable C. Scott Davis, Mayor: \_\_\_\_\_.

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

Approved as to form:

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

AN ORDINANCE NO. 11-FIN-20

To amend the General Fund Budget for the fiscal year beginning July 1, 2011, and ending June 30, 2012, to appropriate \$621,834, consisting of \$543,235 of encumbered funds from FY 2010-11 being carried over to the current fiscal year; \$78,399 in grant funding coming from a Community Development Block Grant to be used for the emergency home repair program; and \$200 in donated funds to be used towards the Sheriff's Office "Halloween in the Park" event.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:

1. That Sections 1 and 2 of Ordinance No. 11-FIN-6, the General Fund Budget, be, and are hereby amended and reordained as follows:

1. That the budget designated the General Fund Budget for the fiscal year beginning July 1, 2011, and ending June 30, 2012, is hereby adopted; and that, subject to transfers by resolution pursuant to § 6.15 of the City Charter, funds hereby appropriated shall be used for the following purposes:

Legislative (City Council)	\$ 136,863	137,650
Administrative (City Manager)	288,045	303,045
Legal (City Attorney)	202,565	215,369
Tax Collections	428,851	430,297
Finance	6,318,402	6,336,264
Information Technologies	166,234	207,092
Board of Elections	127,349	127,397
Judicial	4,370,185	4,383,699
Public Safety	7,454,904	7,625,811
Public Works	2,782,798	2,966,133
Health and Social Services	647,559	707,559
Parks and Recreation	1,331,321	1,349,674
Cultural Enrichment	83,734	84,632
Library	580,111	583,141
Community Development	462,804	465,851
Human Services	282,108	361,828
Nondepartmental	524,171	524,396
Debt Service	2,843,192	
Operating Transfers Out	19,043,934	
TOTAL	\$48,075,130	48,696,964

2. That the foregoing appropriation is based upon the following revenue estimates for the fiscal year beginning July 1, 2011:

General Property Taxes	\$21,283,149	
Other Local Taxes	14,996,861	
Licenses, Permits & Fees	3,368,705	
Fines and Forfeitures	693,000	
Use of Money & Property	158,000	
Intergovernmental Revenues	6,007,557	6,085,956
Charges for Current Services	1,227,954	
Miscellaneous	315,663	315,863
Restricted Fund Balance – After School Program	400	
Restricted Fund Balance – Violet Bank	11,500	
Restricted Fund Balance – Asset Forfeiture	12,341	
Fund Balance	543,235	
TOTAL	\$48,075,130	48,696,964

2. That this ordinance shall be in full force and effect upon its passage on second reading.

Approved:

\_\_\_\_\_  
Mayor

Attest:

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

\*\*\*\*\*

I certify that the above ordinance was:

Adopted on its first reading on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Milton E. Freeland, Jr., Councilman: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_.

The Honorable W. Joe Green, Jr., Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Vice Mayor: \_\_\_\_\_.

The Honorable John T. Wood, Councilman: \_\_\_\_\_.

The Honorable Diane H. Yates, Councilwoman: \_\_\_\_\_.

The Honorable C. Scott Davis, Mayor: \_\_\_\_\_.

Adopted on its second reading on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Milton E. Freeland, Jr., Councilman: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_.

The Honorable W. Joe Green, Jr., Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Vice Mayor: \_\_\_\_\_.

The Honorable John T. Wood, Councilman: \_\_\_\_\_.

The Honorable Diane H. Yates, Councilwoman: \_\_\_\_\_.

The Honorable C. Scott Davis, Mayor: \_\_\_\_\_.

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

Approved as to form:

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



AN ORDINANCE NO. 11-FIN-21

To amend and reordain the School Fund Budget for the fiscal year beginning July 1, 2010, and ending June 30, 2011, so as to modify such budget by \$2,008,576 for the fiscal year ending June 30, 2011; pursuant to School Board action.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:

1. That Sections 2 and 3 of Ordinance No. 10-FIN-18 (As Amended), be, and are hereby amended and reordained, as follows:

2. That the sum of ~~\$33,463,962~~ \$35,472,538 be, and the same is hereby, appropriated from the resources and revenues of the City of Colonial Heights School Fund for the fiscal year beginning July 1, 2010.

School Expenditures	<del>\$33,463,962</del> 35,472,538
TOTAL	<del>\$33,463,962</del> 35,472,538

3. That the foregoing appropriation is based upon the following estimates of revenue and transfers for the fiscal year beginning July 1, 2010.

Federal Funds	\$ <del>1,422,646</del> 3,468,153
State Funds	<del>12,059,341</del> 11,923,047
City Funds	<del>18,387,606</del> 18,537,606
Other Funds	<del>738,963</del> 688,326
Fund Balance	<u>855,406</u>
TOTAL	<del>\$33,463,962</del> 35,472,538

2. That this ordinance shall be in full force and effect upon its passage on second reading.

Approved:

\_\_\_\_\_  
Mayor

Attest:

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

\*\*\*\*\*

I certify that the above ordinance was:

Adopted on its first reading on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Milton E. Freeland, Jr., Councilman: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_.

The Honorable W. Joe Green, Jr., Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Vice Mayor: \_\_\_\_\_.

The Honorable John T. Wood, Councilman: \_\_\_\_\_.

The Honorable Diane H. Yates, Councilwoman: \_\_\_\_\_.

The Honorable C. Scott Davis, Mayor: \_\_\_\_\_.

Adopted on its second reading on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Milton E. Freeland, Jr., Councilman: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_.

The Honorable W. Joe Green, Jr., Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Vice Mayor: \_\_\_\_\_.

The Honorable John T. Wood, Councilman: \_\_\_\_\_.

The Honorable Diane H. Yates, Councilwoman: \_\_\_\_\_.

The Honorable C. Scott Davis, Mayor: \_\_\_\_\_.

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

Approved as to form:

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

A RESOLUTION NO. 11-38

Requesting the Commonwealth Transportation Board to fund the design and construction of improvements for the Boulevard Government Center Enhancement Project – Phase II.

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the sponsoring local jurisdiction or state/federal agency in order that the Virginia Department of Transportation establish an enhancement project in the City of Colonial Heights; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLONIAL HEIGHTS:

1. That the City of Colonial Heights requests the Commonwealth Transportation Board to fund the improvements for the Boulevard Government Center Enhancement Project – Project II.
2. That the project's improvements may include, but shall not be limited to, the installation on the Boulevard of sidewalks, curbs, gutters, decorative lighting, and landscaping trees.
3. That the City of Colonial Heights hereby agrees to provide a minimum 20 percent of the total cost for planning and design, right of way, and construction of this project.
4. That the City of Colonial Heights hereby agrees to enter into an agreement with the Virginia Department of Transportation to provide oversight that ensures the project is developed in accordance with all state and federal requirements for design, right of way acquisition, and construction of a federally funded transportation project.
5. That the City of Colonial Heights will be responsible for maintenance, upkeep and operating costs of any facility constructed with enhancement program funds.
6. That if the City of Colonial Heights subsequently elects to cancel this project, the City hereby agrees to reimburse the Virginia Department of Transportation for the total amount of costs expended by the Department through the date the Department is notified of such cancellation. The City of Colonial Heights also agrees to repay any funds previously reimbursed that are later deemed ineligible by the Federal Highway Administration.

7. That this resolution shall be in full force and effect upon its passage.

Approved:

\_\_\_\_\_  
Mayor

Attest:

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

\*\*\*\*\*

I certify that the above resolution was:

Adopted on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Milton E. Freeland, Jr., Councilman: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_.

The Honorable W. Joe Green, Jr., Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Vice Mayor: \_\_\_\_\_.

The Honorable John T. Wood, Councilman: \_\_\_\_\_.

The Honorable Diane H. Yates, Councilwoman: \_\_\_\_\_.

The Honorable C. Scott Davis, Mayor: \_\_\_\_\_.

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

Approved as to form:

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



**Department of Planning and Community Development**

VIA E-Mail

September 28, 2011

The Progress Index  
15 Franklin Street  
Petersburg, VA 23803

ATTN: Legal Advertisements

Please publish the attached Legal Notice on Monday October 1, 2011 and send the invoice to my attention.

Please E-mail a draft to Robin Gay at [Gayr@colonial-heights.com](mailto:Gayr@colonial-heights.com).

Thank you for your assistance.

Sincerely,

*George W Schanzenbacher*

George W. Schanzenbacher, AICP  
Director  
804- 520-9275

**NOTICE OF PUBLIC HEARING**  
**CITY OF COLONIAL HEIGHTS, VIRGINIA**

Notice is hereby given to all persons affected or interested that at the Colonial Heights City Council meeting to be held on **Tuesday, October 11, 2011, at 7:00 P.M.**, in Council Chambers of City Hall, 201 James Avenue, Colonial Heights, Virginia, the City Council shall hold a public hearing to accept comments on the following:

A RESOLUTION NO. 11-38

Requesting the Commonwealth Transportation Board to fund the design and construction of improvements for the Boulevard Government Center Enhancement Project – Phase II. Such improvements may include, but shall not be limited to, the installation on the Boulevard of sidewalks, curbs, gutters, decorative lighting, and landscaping trees.

A copy of the proposed resolution is on file for public examination during regular business hours in the City Clerk's Office in City Hall, 201 James Avenue, Colonial Heights, Virginia. All persons affected or interested are invited to be present at the public hearing of the City Council, to be held at the time and place stated above, when an opportunity will be given for them to be heard.

George W. Schanzenbacher  
Director of Planning and Community Development

Any interested party whose participation in this meeting would require reasonable accommodation of a handicap should contact the City Manager's Office at 520-9265 at least six days in advance.

A RESOLUTION NO. 11-39

Authorizing the City Manager to execute an interim agreement with Kenbridge Construction under the PPEA to provide pre-construction services for the new Courthouse at 231 Chesterfield Avenue.

WHEREAS, on July 19, 2011, the City Council approved overall conceptual design and development plans for the new City of Colonial Heights Courthouse at 231 Chesterfield Avenue, as recommended by the Building and Land Use Oversight Committees; and

WHEREAS, on July 19, 2011, the Council also authorized the City Manager to negotiate an interim agreement with Kenbridge Construction (Kenbridge), as recommended by the Building Oversight Committee, for the conceptual design and for construction management/general contractor at-risk services for the new Courthouse under the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA); and

WHEREAS, the City Manager, with input from the City Engineer and the City Attorney, has caused such an interim agreement to be prepared pursuant to the PPEA and has negotiated with Kenbridge on its terms; and

WHEREAS, the City Manager and Kenbridge agree on the great majority of terms in the proposed interim agreement, although currently the parties have not yet reached agreement on all terms; and

WHEREAS, a copy of the proposed interim agreement, entitled "City of Colonial Heights' CM Construction Contract (Construction Manager "At Risk")" is attached hereto – without the contract's exhibits or attachments; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLONIAL HEIGHTS:

1. That the City Manager is authorized to execute an interim agreement with Kenbridge under the PPEA to provide pre-construction services for the new Courthouse at 231 Chesterfield Avenue.

2. That Council's authorization referenced in paragraph 1 is contingent upon (i) the City Manager and Kenbridge agreeing on all terms of the interim agreement, which shall be the attached "City of Colonial Heights' CM Construction Contract (Construction Manager "At Risk")" and its exhibits and attachments, subject to minor changes thereto; and (ii) the City Attorney's approval.

3. That this resolution shall be in full force and effect upon its passage.

Approved:

\_\_\_\_\_  
Mayor

Attest:

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

\*\*\*\*\*

I certify that the above resolution was:

Adopted on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Milton E. Freeland, Jr., Councilman: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_.

The Honorable W. Joe Green, Jr., Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Vice Mayor: \_\_\_\_\_.

The Honorable John T. Wood, Councilman: \_\_\_\_\_.

The Honorable Diane H. Yates, Councilwoman: \_\_\_\_\_.

The Honorable C. Scott Davis, Mayor: \_\_\_\_\_.

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

Approved as to form:

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





**CITY OF COLONIAL HEIGHTS'**  
**CM CONSTRUCTION CONTRACT**  
**(Construction Manager "At Risk")**

THE CONTRACT IS BETWEEN:

AGENCY:

City of Colonial Heights ("**Agency**")

And

CONSTRUCTION MANAGER (referred to in the Commonwealth of Virginia General Conditions of the Construction Manager "At Risk" Contract as "Contractor" or "CM" and referred to herein as the "CM"):

Kenbridge Construction Company, Inc.  
1101 5<sup>th</sup> Avenue, P. O. Box 480  
Kenbridge, VA 23944

The Project is:

CM Services for New Courts Facility

The Agency's Architect (responsible for schematic and preliminary design according to the Commonwealth of Virginia's A/E Manual and referred to herein as the "**Agency's A/E**") is:

Mosely Architects, Inc.  
3200 Norfolk Street  
Richmond, VA 23235

The Virginia licensed Architect / Engineer who will provide working drawings (Construction Documents) for the Project and referred to herein as the "**Contractor's A/E**" is identified as:

Enteros Design, PC  
314 Exchange Alley, Suite A  
Petersburg, VA 23803

The Agency's Authorized Representative ("**Agency Project Manager**") is: the

City Engineer or designee  
201 James Avenue P. O. Box 3401  
Colonial Heights, VA 24834

The Agency's Estimated GMP is:

\$15.7 million

# Table of Contents

<b>EXHIBITS .....</b>	<b>1</b>
<b>CM CONTRACT .....</b>	<b>2</b>
<b>RECITALS .....</b>	<b>2</b>
<b>ARTICLE 1 – GENERAL CONTRACT PROVISIONS, DEFINED TERMS.....</b>	<b>2</b>
<b>ARTICLE 2 – CONTRACT DOCUMENTS .....</b>	<b>3</b>
<b>ARTICLE 3 – WORK OF THE CONTRACT .....</b>	<b>5</b>
<b>ARTICLE 4 – RELATIONSHIP AND ROLES OF THE PARTIES .....</b>	<b>6</b>
<b>ARTICLE 5 – DATE OF COMMENCEMENT; INTERIM AND CONTRACT COMPLETION DATES .....</b>	<b>8</b>
<b>ARTICLE 6 – PRE-CONSTRUCTION COSTS, CM FEE, WORK PACKAGES, AND GMP.....</b>	<b>10</b>
<b>ARTICLE 7 – CHANGES IN THE WORK .....</b>	<b>16</b>
<b>ARTICLE 8 – DISCOUNTS, REBATES AND REFUNDS .....</b>	<b>16</b>
<b>ARTICLE 9 – SUBCONTRACTS AND OTHER CONTRACTS .....</b>	<b>17</b>
<b>ARTICLE 10 – ACCOUNTING RECORDS .....</b>	<b>20</b>
<b>ARTICLE 11 – CONTRACT AMOUNT; PAYMENTS .....</b>	<b>20</b>
<b>ARTICLE 12 – FINAL PAYMENT .....</b>	<b>23</b>
<b>ARTICLE 13 – TERMINATION OR SUSPENSION .....</b>	<b>25</b>
<b>ARTICLE 14 – REPRESENTATIONS, WARRANTIES AND CERTIFICATIONS .....</b>	<b>27</b>
<b>ARTICLE 15 – MISCELLANEOUS .....</b>	<b>28</b>
<b>ARTICLE 16 – BONDING AND INSURANCE .....</b>	<b>30</b>

## **EXHIBITS**

Exhibit A: Project and Program Goals

Exhibit B: Special Conditions – Scope of Preconstruction Services

Exhibit C: Pre-construction Phase Services Fee and Schedule Proposal

Exhibit D: Sample GMP Amendment to the CM Contract

Exhibit E: Construction Phase CM Percentage Fee Proposal

Exhibit F: Special Conditions – Construction Phase General Conditions Definition

Exhibit G: Construction Phase General Conditions Fee Proposal

Exhibit H: CM Supplemental General Conditions, City of Colonial Heights

Exhibit I: CM General Conditions, Commonwealth of Virginia

Exhibit J: CM Payment and Performance Bonds, City of Colonial Heights

Exhibit K: Insurance Requirements, City of Colonial Heights

## **CM CONTRACT**

THIS CONSTRUCTION MANAGER “AT RISK” CONTRACT (the “CM Contract”) is made and entered into by and between Colonial Heights (the “Agency”) and Kenbridge Construction Company, Inc., (the “CM”) (collectively, the “Parties”) as of the Effective Date of the Contract.

### **RECITALS**

WHEREAS, the Agency requires the services of a Construction Manager “At Risk” (“CM”) for the Colonial Heights’ Courthouse Project, CM Services. The Agency will use the CM Contract delivery approach for construction of this Project. The Agency will enter into this CM Contract with the CM firm to provide Preconstruction Phase Services only, with provisions for adding Construction Phase Services through acceptance of an Early Work Amendment and through later acceptance of a Guaranteed Maximum Price (“GMP”) Amendment by subsequent GMP amendment. Alternatively to these Amendments, the Agency may choose not to continue the CM Contract beyond the completion of Preconstruction Phase Services or any Early Work, instead soliciting bids from qualified contractors for the construction of the Project, and otherwise reserving all rights to terminate the Contract for public convenience.

WHEREAS, the Agency may require additional related Work within the general vicinity of the Project which, if required, shall be included in the Project and added to the Contract by Change Order; and

WHEREAS, the Agency requires a contractor competent to perform all Work necessary to complete the Project in accordance with the terms and conditions of the Contract, and able to do so within the Contract Price and Time allocated herein; and

WHEREAS, the CM asserts that it is competent and prepared to perform all Work necessary to complete the Project in accordance with the terms and conditions of the Contract, and that it is able to do so within the Contract Price and Time allotted herein;

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration identified herein, the Agency and the CM agree as follows:

### **ARTICLE 1 – GENERAL CONTRACT PROVISIONS, DEFINED TERMS**

**1.1 Incorporation of Recitals:** The foregoing Recitals incorporated herein and made a part hereof for all purposes as if fully set forth, constitute additional promises, representations and warranties of the Parties.

**1.2 Applicable Version of Law or Standard:** All Work shall be performed in accordance with the Laws and Standards then in effect, unless otherwise specified in the Contract Documents.

**1.3 Defined Terms:** Defined terms utilized in this CM Contract and all other Contract Documents are either set forth in the Commonwealth of Virginia's Construction and Professional Services Manual ("A/E Manual"), City of Colonial Heights' Supplemental General Conditions of the Construction Manager "At Risk" Construction Contract ("CM Supplemental General Conditions"), Commonwealth of Virginia's General Conditions of the Construction Manager "At Risk" Construction Contract ("CM General Conditions"), or defined in the text accompanying the term.

1.3.1 "Agency's Representative" or "Agency's A/E": refers to "Mosely Architects, Inc." (Mosely), its sub-consultants and any other consultant employed by the Agency. The Agency has contracted with Mosely Architects to provide Schematic and Preliminary Design services and Owner's Representative services to assist the Agency in the implementation of this Project through design and construction. The scope of these services is under development.

1.3.2 The terms "Agency", "Owner", and "Engineer": The terms "Owner" and "Agency" may be used interchangeably throughout these documents, with "Agency" being defined in the Supplemental General Conditions as the City of Colonial Heights, Virginia. The term "Engineer" shall refer to the City Engineer and is defined in the Supplemental General Conditions.

**1.4 COMMONWEALTH OF VIRGINIA, GENERAL CONDITIONS OF THE CONSTRUCTION MANAGER "AT RISK" CONSTRUCTION CONTRACT ("CM General Conditions")**, as revised by the City of Colonial Heights in the Supplemental General Conditions shall be incorporated into this Contract, as follows;

1.4.1 CM General Conditions, Sections 1 through 50, except Section 15:

**1.5 COMMONWEALTH OF VIRGINIA, CONSTRUCTION AND PROFESSIONAL SERVICES MANUAL ("A/E Manual")**, Revision 1, October 1, 2004, shall be incorporated into this Contract, as follows:

1.5.1 Chapters 1 through 10.

## **ARTICLE 2 – CONTRACT DOCUMENTS**

**2.1 Contract Documents:** For valuable consideration as stated below, Agency and the CM agree to the terms of the agreement that are set forth in the Contract Documents which include this CM Contract and all other Contract Documents enumerated in the definition of "Contract Documents" in the CM General Conditions, Section 1 and the CM Supplemental General Conditions, Section 1. The Contract Documents other than this CM Contract, and all exhibits attached to this CM Contract, are by this reference incorporated herein. Exhibits incorporated into this CM Contract include the following:

Exhibit A: Project and Program Goals

Exhibit B: Special Conditions – Scope of Preconstruction Services

Exhibit C: Pre-construction Phase Services Fee and Schedule Proposal

Exhibit D: Sample GMP Amendment to CM Contract Construction Phase

Exhibit E: Construction Phase CM Percentage Fee Proposal

Exhibit F: Special Conditions – Construction Phase General Conditions Definition

Exhibit G: Construction Phase General Conditions Cost Proposal

Exhibit H: CM Supplemental General Conditions, City of Colonial Heights

Exhibit I: CM General Conditions, Commonwealth of Virginia

Exhibit J: CM Payment and Performance Bonds

Exhibit K: Insurance Requirements

**2.2 Effective Date:** The Contract shall become effective on the first date on which every party has signed this CM Contract and Agency has received all necessary approvals, including approval for legal sufficiency by the City of Colonial Heights Attorney.

**2.3 The Contract; Order of Precedence:** This CM Contract, together with the other Contract Documents, form the entire agreement between the parties. Notwithstanding anything to the contrary in the CM General Conditions, if there are inconsistent or conflicting terms among the Contract Documents, discrepancies shall be resolved in the following descending order of precedence:

1. Contract Amendments and Change Orders
2. CM Contract
3. Special Conditions
4. CM Supplemental General Conditions, by the City of Colonial Heights, Virginia
5. CM General Conditions
6. Those portions of the accepted CM Proposal that meet or exceed minimum Contract requirements established by the Agency
7. Design documents prepared by the Agency's A/E specifically applicable to the Project and bearing the Project title
8. Site Plans prepared by the City of Colonial Heights specifically applicable to the Project and bearing the Project title
9. City Standard Drawings (Notes on a drawing shall take precedence over drawing details. Dimensions shown on the drawings, or that can be computed, shall take precedence over scaled dimensions)

10. City Supplemental Drawings (if any) (Notes on a drawing shall take precedence over drawing details. Dimensions shown on the drawings, or that can be computed, shall take precedence over scaled dimensions)
11. All other Contract Documents

### **ARTICLE 3 – WORK OF THE CONTRACT**

**3.1 Pre-construction Phase Services:** As authorized by the Agency, the CM agrees to provide the Pre-construction Phase Services described in the CM Special Conditions, Exhibit “B”, and as priced in Exhibit “C”: Pre-construction Phase Services Costs. Unit prices in the attached Exhibit “C” are hereby incorporated in this Contract.

Commencement of the Construction Phase shall not excuse the CM from completion of the Pre-construction Phase Services, if such services have not been fully performed at commencement of the Construction Phase.

**3.2 Construction Phase Services:** Notwithstanding any other references to Construction Phase Services in this CM Contract, the Contract shall include Pre-construction Phase Services only unless (1) the parties execute a GMP Amendment or (2) the parties execute an Early Work Amendment. Upon execution of a GMP Amendment or an Early Work Amendment, the CM agrees to provide the Construction Phase Services generally described in Section VI. of the RFP titled “Comprehensive Agreement,” and further, the CM agrees that the CM Fee Percentage and categories of costs shown in Article 6.3.1 and Exhibits “E” and “F”, are hereby incorporated into this CM Contract.

The parties may execute one or more Early Work Amendments identifying specific Construction Phase Services that must be performed in advance of the GMP. If one or more Early Work Amendments are executed, the CM shall diligently continue to work towards development of a GMP Amendment acceptable to the Agency, which shall incorporate the Early Work Amendments.

**3.3 Agency CM Objectives:** The Agency’s Program and Project Goals are defined in Exhibit “A”. In addition, the Agency’s objectives for using the CM delivery method for the Project include the following:

- Flexible, integrated team approach,
- Responsiveness to Stakeholder concerns
- Early budget certainty
- Cost and schedule control
- Delivery of the overall Project at least cost,
- Achieving highly effective, sustainable practices,
- Implementation of a cost effective, risk management strategy,
- Mitigation of impacts to the community, traffic flow and the environment,
- Maximizing value engineering and innovation,
- The selected CM will be a key team member in assisting the Agency in successfully meeting these objectives.

**3.4 Project Reports:** The CM shall provide all reports required by the Contract Documents and any additional reports required by the Agency. As part of this Contract, the CM shall provide in a timely manner all reports and plans required in CM General Conditions Section 19. Further, the CM is referred to provisions in the Exhibits for additional reporting that is required during Pre-construction and Construction phase services.

#### **ARTICLE 4 – RELATIONSHIP AND ROLES OF THE PARTIES**

A basic description of the main roles and responsibilities of the parties is provided below. This Project is to be developed in an interactive, team-oriented approach together with the Agency and the Agency's A&E.

**4.1 Co-Location Requirements:** The Agency may require co-location of Key Personnel during the Pre-construction and Construction phases of the Project. Co-location requirements will be negotiated with the selected CM.

**4.2 Independent Contractor:** The CM is an independent contractor and not an officer, employee, or agent of the Agency as those terms are used in the Code of Virginia § 2.2-4301.

**4.3 Performance of Work:** The CM agrees to cooperate with the Agency's A&E and Agency and utilize the CM's professional skill, efforts and judgment in furthering the interests of the Agency; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and Materials; and to perform the Work in conformance with the terms and conditions of the Contract Documents and in an expeditious and economical manner consistent with the interests of the Agency.

**4.4 Design and Owner's Representative Consultants:** The Agency has separate contracts with an A/E related to the Project. Both the CM and the A/E shall be given direction by the Agency through the Agency's Project Manager. The CM agrees to support the Agency's efforts to create a collaborative and cooperative relationship among all parties and stakeholders.

**4.5 Forms and Procedures:** The Agency has developed, may develop or may utilize Commonwealth of Virginia procedures and forms for the administration of the Contract. The CM agrees to abide by those procedures and use those forms.

**4.6 CM's Key Personnel:** The CM's Key Personnel shall consist of the following:

**4.6.1 Project Principal/Lead:** The Project Principal designated as having the lead responsibility for managing the CM's organization for this Project is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_



E-mail Address \_\_\_\_\_

Phone / Fax Numbers \_\_\_\_\_

The Project Principal will support all of the CM's Key Personnel and other staff during all phases to ensure the success of the Project, and will be available to the Agency to assist in resolution of any Project issues.

4.6.2 Project Manager: The CM's representative for this Project is the CM's Project Manager ("CM's PM"):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Phone / Fax Numbers: \_\_\_\_\_

The CM's PM will supervise and coordinate all Pre-construction and Construction phase services of the CM and participate in meetings during the Project as necessary to ensure the success of the Project. The CM represents that the CM's PM shall have the authority to execute Change Orders and Contract Amendments on behalf of the CM.

4.6.3 Construction Manager/Field Superintendent: The CM's Construction Manager/Field Superintendent ("CM's CM") during the Project is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Phone / Fax Numbers: \_\_\_\_\_

The CM's CM will supervise, coordinate and provide all Construction Phase Services of the CM, in accordance with the Contracting and Diversity Plans, Conduct of Construction and Work Plans, Baseline Schedule, GMP, and all other deliverables developed and approved by the Agency during Pre-construction Phase Services.

4.6.4 Cost Estimator: The CM's Cost Estimator during the Project is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Phone / Fax Numbers: \_\_\_\_\_

The CM's Cost Estimator will participate in meetings and prepare cost estimate deliverables under the supervision of the CM's Principal and Project Manager during Pre-construction Phase services, as is necessary to establish an acceptable and timely GMP with the Agency.

**4.7 Key Personnel:** The CM's Key Personnel identified in Article 4.6, and any other personnel identified by name in the CM's Proposal shall be considered Key Personnel and shall not be replaced during the Project without the written permission of the Agency. If the CM intends to substitute any Key Personnel, a request must be given to the Agency at least 30 Calendar Days (or such shorter period as permitted by the Agency) prior to the intended time of substitution. When replacements have been approved by the Agency, the CM shall provide a transition period of at least 10 Business Days during which the original and replacement personnel shall be working on the Project concurrently. Once a replacement for any Key Personnel is authorized, further replacement shall not occur without the written permission of the Agency.

**4.8 Agency Representative and Contact Information:** The Agency's representative for this Project is the Agency Project Manager ("Agency PM"):

Name: William E. (Chuck) Henley, P. E., City Engineer or Designee

Address: 201 James Avenue, P. O. Box 3401, Colonial Heights, VA 23834

E-mail Address: henleyc@colonial-heights.com

Fax Number: (804) 520-9237

Phone Number: (804) 520-9334

## **ARTICLE 5 – DATE OF COMMENCEMENT; INTERIM AND CONTRACT COMPLETION DATES**

**5.1 Commencement of Services:** The CM is authorized to commence the Work contemplated by the Contract upon the issuance of Notice to Proceed.

5.1.1 The CM shall not allow any Subcontractor to enter onto, or move Materials, Equipment, or workers onto, the Project Site until the CM has confirmed that the Subcontractor has complied with the regulations of the Virginia Board for Contractors.

5.1.2 A Notice to Proceed ("NTP") will be issued by the Agency to begin Work under each Early Work Amendment and the GMP Amendment.

**5.2 Completion Dates:** Completion dates for tasks under this CM Contract for Pre-construction Phase Services shall be in accordance with the deliverable schedule identified in Exhibit "C." Dates of completion relative to each Contract Amendment for construction shall be established in the Amendment for the particular scope of Work. The GMP Amendment shall include the Contract Completion Date established for the Project and may establish Interim Completion Date(s) for the Work as agreed to by the Agency and CM. As described in Article 5.5, liquidated damages figures shall be applied to each of the established completion dates.

The Agency has established, or will establish, the following Interim Completion Dates and Contract Completion Date:

5.2.1 Pre-Construction Phase Services (Interim Completion Date): **To be determined**

5.2.2 Early Work Amendments (Interim Completion Date): **To be determined**

5.2.3 Construction Phase Services (Contract Completion Date): **July 1, 2013** (Complete all Work to be done under the Contract GMP Amendment, except for plant establishment and punch list items)

**5.3 Time is of the Essence:** All time limits stated in the Contract Documents are of the essence.

**5.4 Time Extensions:** The Agency and the CM agree that timely completion of the Work is essential to the success of the Project, and that approval for time extension shall be granted only as a last resort. During this CM Contract for Pre-construction Phase Services and Contract Amendments for Construction Phase Services, the CM agrees to make every effort to avoid delays and recover "lost" time in a manner acceptable to the Agency.

**5.5 Liquidated Damages related to Amendments for Construction Phase Services:** The CM acknowledges that the Agency will sustain loss of use damages as a result of the CM's failure to complete Work by the Interim and Contract Completion Dates in accordance with the Contract Documents. The liquidated damages for loss of use cover only loss of revenue and cost of replacement facilities. The liquidated damages for loss of use do not cover (and Agency does not waive) delay damages incurred by Agency for extended overhead or management costs, extra or extended financing costs, extra or extended services by the A&E or other design professionals, claims by other contractors, and possibly other types of costs, expenses and damages incurred by the Agency. The CM and the Agency acknowledge that the actual amount of the Agency's loss of use damages would be difficult to determine accurately and agree that the liquidated damages figure(s) established represent a reasonable estimate of such damages and is not a penalty.

The CM agrees to pay to the Agency the liquidated damage sums established for each Calendar Day of delay or any fraction thereof and further agrees that the Agency may

deduct such sums from payments the Agency otherwise owes to the CM. If such deduction does not result in payment to the Agency of the assessed liquidated damages in full, the CM shall promptly pay any and all remaining sums due to the Agency upon demand.

The daily amount of liquidated damages applicable to the Agency-established Contract Completion Date defined in Article 5.2 are:

- Step One damages shall be \$2,500 per calendar day.
- Step Two damages shall be \$5,000 per calendar day.

Liquidated damages that would apply to Early Work Packages will be negotiated based upon the scope of Work and schedule for completion of the Work.

## **ARTICLE 6 – PRE-CONSTRUCTION COSTS, CM FEE, WORK PACKAGES, AND GMP**

**6.1 GMP:** The GMP shall be determined in accordance with the formula set forth below and as described in this Article 6.

**Pre-construction Costs** (*Becomes a not-to-exceed amount*)

+ **CM Fee** (Initially based on a percentage of the Cost of the Work but becomes fixed dollar amount, which is subject to adjustment in accordance with Article 12.2)

+ **Cost of the Construction Work** (Becomes a total amount based on established Pay Items)

+ **General Conditions Fee** (Estimated costs)

+ **CM Contingency Items** (*An allowance not included in Cost of the Construction Work*)

= GMP

*\*Formula assumes no Early Work is performed.*

**6.2 Pre-construction Costs:** The Pre-construction Costs is the not-to-exceed amount determined in accordance with Exhibit “C”.

**6.3 Establishment of CM Fee:** The Agency and CM agree that the CM Fee set forth on Exhibit “E” is incorporated into this CM Contract and will be incorporated into any Early Work Amendments or GMP Amendment, in accordance with the following provisions.

**6.3.1 Converting CM Fee Percentage into a Fixed Amount:** The CM Fee shall be established based upon the final negotiated percentage set forth on Exhibit “E” and the Cost of the Construction Work. The CM Fee shall be a fixed amount, subject to

adjustment by Change Order and in accordance with Article 12.2, which is based upon the Cost of the Work in any Early Work Amendment(s) and the GMP Amendment. In making such calculation for the GMP, the Cost of the Construction Work shall exclude the Pre-construction Costs, the CM Fee itself, and any other cost or charge which this CM Contract states is not to be included in calculating the CM Fee.

6.3.1.1 CM Fee Components: Components of the CM Fee shall be limited to those described in the CM General Conditions, Section 1, Definitions. The CM Fee shall exclude costs for construction risk/contingencies to perform the Work. Costs for Construction General Conditions shall not be included in the CM Fee. Risk for construction that is allocated to the CM shall not be included in the agreed-upon Pay Items that comprise the Cost of the Construction Work.

#### **6.4 Determination of Pricing of Work Packages**

6.4.1 Collaboration: The CM shall collaborate with the Agency and the A&E in the development of Work Packages, including those for any Early Work Amendment(s) and the GMP Amendment. Scope of the Work and value of each Work Package shall be determined through collaboration with the Agency, and agreed to by the Agency prior to execution of any Amendment.

6.4.2 Bid (Pay) Items: The CM shall propose Pay Items and corresponding estimated quantities for all Work items included in a Work Package. Once the Agency has agreed to the Pay Items and estimated quantities for all items of Work, the CM shall propose a fixed lump sum, fixed unit cost, or estimated actual cost reimbursable amount for each Pay Item. The Agency and the CM shall meet to review all proposed Pay Items and all necessary supporting data, including but not limited to, the following:

- Cost build-ups: All open-book cost build-ups including Subcontractor quotes and estimates inclusive of labor, material, equipment, overhead, general conditions and fee.
- Project Bid Item List: The Contractor shall prepare and submit along with its cost estimate a complete Bid Item List for each Work Package. The Contractor shall develop these Bid Item Lists and estimates in conformance with Commonwealth of Virginia and Agency procedures for cost estimating.
- Cost Estimate Format: The Contractor shall submit an MS Excel spreadsheet, with all construction cost bid items broken out in a format agreed to by the Project Team. The CM's estimates shall be in the agreed format to facilitate quantity and unit price reconciliation.

Detailed Back-up: The CM's cost estimate shall be supported by quantity and material take-off calculations, and detailed cost build-up for each proposed bid item as either a unit cost or lump sum item. The detailed cost build-up, in addition to being in the format agreed-upon between the parties, shall include labor, materials, equipment type and rates, overheads and indirect costs not in the CM fee, and Construction General Conditions.

Construction General Conditions: The CM shall provide a detailed itemization of all anticipated Construction General Conditions costs with back-up to verify actual cost of each of these items, or estimated cost where actual cost is not available.

Assumptions: The CM shall provide a list of clarifications and assumptions it made in the establishment of the proposed unit costs, including site conditions, access, staging, construction means and methods, and identification of Work to be subcontracted or self-performed by the CM in accordance with its proposed Contracting Plan.

Schedule Milestones: The CM shall propose key schedule milestones including any Interim Completion Date(s) applicable to the Work Package and the Contract Completion Date for the GMP Amendment.

Risk: In its build-up of unit or lump sum Pay Items for construction, the CM shall identify proposed costs related to construction risks, allocated in accordance with the Risk Management Plan and CM Contingency agreed upon between the Agency and CM.

Pay Item Measurement: The CM shall propose how each Pay Items will be measured and reimbursed as (1) a fixed lump sum amount, or (2) a fixed unit price amount with an estimated quantity independently taken off by the CM, or (3) an actual cost reimbursable amount, or (4) an estimated allowance or provisional sum amount pending later bidding or further scope definition.

6.4.3 Good Faith Negotiations: The Agency and CM shall negotiate the fixed lump amounts, estimated quantities, fixed unit prices, estimated cost reimbursable amounts, and all other aspects of any Work Package in good faith and shall establish a set of assumptions upon which all Work and unit prices are based.

6.4.4 Early Work and GMP Amendment Pricing: Once all components of a Work Package are agreed upon by the Agency and CM, all Pay Item total costs (the Pay Item estimated quantity multiplied by the unit price) shall be rolled into one total amount, which becomes the Cost of the Construction Work for the Work Package. The CM Fee shall then be applied by multiplying the percentage stated on Exhibit "E" by the Cost of the Construction Work for the Work Package. The CM Fee then becomes a fixed amount for that Work Package, subject to adjustment by Change Order and in accordance with Article 12.2. Estimated General Conditions Costs and CM Contingency shall be added according to the following formula:

Cost of the Construction Work + CM Fee + General Conditions Costs + CM Contingency  
= Early Work Price or GMP

## **6.5 Determination of GMP**

6.5.1 Preliminary, Updated and Final GMP Milestones: All provisions of Article 6 apply to the determination of the GMP. The CM shall deliver to the Agency a proposed GMP and GMP Supporting Documents at the following milestones:

6.5.1.1 Milestone #1: *<Date to be determined>*: Preliminary GMP @ 60% Design with assumed risk strategy and assumptions;

6.5.1.2 Milestone #2: *<Date to be determined>*: Updated Preliminary GMP @ 90% Design with assumed risk strategy and assumptions;

6.5.1.3 Milestone #3: *<Date to be determined>*: Final, Firm GMP @ 100% Design, with Agency approved risk allocation and assumptions.

6.5.2 CM Contingency Allowance: The parties may agree to include within the GMP a risk/contingency allowance for the estimated cost of certain risk/contingency items. If the parties agree that the GMP will include a risk/contingency allowance, they will set forth their agreement in the GMP Amendment, including but not limited to their agreement on the amount and conditions under which the CM may use the risk/contingency allowance. These are amounts for risk related to Pay Items that are not included in the Cost of the Construction Work.

(a) Risk Management Plan: Certain risk cost items may be identified in the risk management plan, in accordance with CM Supplemental General Conditions, Section 1 that the parties agree to carry within the GMP, but not price as part of the Cost of the Construction Work when the Amendment for certain construction work is executed.

(b) Escalation/De-escalation and Risk of Changes: The parties may agree to identify and carry contingency to reflect potential escalation of material and commodity prices during the course of construction, as well as estimated risk costs for changes and differing site conditions. Reference is made to CM Supplemental General Conditions, Section 1 .

(c) Development of Plans and Specifications: As the Plans and Specifications may not be developed to 100% Final Design at the time when the GMP deliverables are prepared, the CM shall include, subject to Owner's approval, in the GMP deliverables a contingency amount to reflect costs for construction of final design details consistent with the Contract Documents on which the GMP deliverable is based and reasonably inferable therefrom. Contingency costs for such final design development is not intended to include changes in Work scope, kinds and quality of Materials or Equipment.

(d) Bid Risk: For scopes of Work that remain to be bid by Subcontractors, the parties may agree to identify a bid risk contingency amount.

6.5.3 GMP Supporting Documents: The CM shall include with each of its GMP proposals the GMP Supporting Documents identified in the Attachments to Exhibit "D." In accordance with Article 6.5.1, three GMP submittals are required: 1) Preliminary GMP, 2) Updated GMP, and 3) Final GMP. The "GMP Supporting Documents" shall include:

(a) A list of the Plans and Specifications, including all Addenda thereto and the conditions of the Contract, which were used in preparation of the GMP proposal;

(b) A list of the clarifications and assumptions made by the CM in the preparation of the GMP proposal to supplement the information contained in the Plans and Specifications;

(c) Risk Management Plan;

(d) Contracting Plan;

(e) Conduct of Construction Plan;

(f) Baseline Schedule;

(g) Site specific work plans related to each Work Package including foundations and all remaining Work;

(h) Plans related to Sustainable Practices and Debris Recycling, Quality Control, and Worker and Public Safety;

(i) The proposed Cost of the Construction Work including detailed cost breakdown and build-up of all Pay Items for Agency open-book review, with all costs organized by Pay Items and Early Work Packages. Cost breakdown of Pay Items unit prices shall show estimated labor, material, equipment, general conditions, quantities, and overhead costs. Estimated quantities and unit prices shall be rolled into a total lump sum amount;

(j) The proposed GMP shall then be established using the formula set forth in Article 6.1, and shall include the Cost of the Construction Work, the CM Fee (based on a percentage of the Cost of the Construction Work), CM Contingency and the General Conditions Fee, which shall become a fixed amount subject to adjustment by Change Order and in accordance with Article 12.2); and

(k) The Interim Contract Completion Date(s) and Contract Completion Date upon which the proposed GMP is based, and a schedule of the construction documents issuance dates upon which those dates are based.

6.5.4 GMP Open Book Review Process: The CM shall meet with the Agency and its consultants to review the GMP deliverables and its GMP Supporting Documents. The Contractor shall make available to designated Agency personnel including its Owner's Representative consultants, the complete cost estimate and supporting documents including but not limited to books, calculations, take-offs, productivity assumptions, internal equipment rates, contingency assumptions, exclusions, cost data in support of Construction General Conditions, quotations, allowances and provisions sums. The Agency will provide confidentiality assurances to the Contractor as is necessary to allow the Agency to perform its cost/price analysis and review. This "Open Book Process" will be repeated and required when the Contractor submits its cost estimate, Preliminary GMP, Updated GMP and Final GMP, in accordance with CM General Conditions, Section 1. If the Agency or its consultants discover any inconsistencies or inaccuracies in



the information presented, the Agency will promptly notify the CM, who shall make appropriate adjustments to the GMP proposal, its basis or both.

**6.5.5 Incurred Costs:** Prior to the Agency's acceptance of the CM's GMP proposal, execution of the GMP Amendment and issuance of a Notice to Proceed, the CM shall not incur any cost to be reimbursed as part of the Cost of the Work, except as specifically provided in an Early Work Amendment.

**6.5.6 GMP Plans and Specifications:** The Agency shall require the Contractor's A&E to revise the Plans and Specifications to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the GMP Amendment. Such revised Plans and Specifications shall be revised by the CM in accordance with schedules agreed to by the Agency, Contractor's A&E and CM. The CM shall promptly notify the Agency if such revised Plans and Specifications are inconsistent with the agreed-upon assumptions and clarifications. Additionally, the CM shall work with the Agency to identify and confirm any Work not specifically shown but required for a complete, fully functional Project.

**6.6 Failure to Furnish an Acceptable GMP:** If the CM does not furnish a GMP acceptable to the Agency, or if the Agency determines at any time in its sole discretion that the parties may fail to reach a timely agreement on a GMP acceptable to the Agency, the Agency may terminate the Contract without liability, and the CM shall not receive additional compensation beyond the amount due to the CM for Pre-construction Phase Services under the Contract, payable to the date of termination, together with amounts payable for Work completed and accepted by the Agency under an Early Work Amendment, if an Early Work Amendment has been executed, plus any applicable General Conditions Costs. Termination under this provision shall proceed under Section 42 of the CM General Conditions as if a termination for the Public's or Agency's convenience. The CM further agrees that the Agency shall not be liable for any damages whether actual, consequential or otherwise for termination of the Contract under this provision. The Agency may elect to complete the construction Work for this Project utilizing any alternative procurement method available.

**6.7 Acceptance of GMP:** Upon acceptance of the GMP by the Agency, the parties shall execute a GMP Amendment.

**6.8 Construction General Conditions:** Estimated Construction General Condition costs shall be negotiated. The CM shall propose estimated Construction General Conditions costs that are cost-effectively tailored to the needs of this Project.

**6.8.1** All costs related to construction equipment and vehicles shall be negotiated and based upon the CM's internal, actual cost rates, and may not be based upon or exceed industry Bluebook rates in any event. The CM's costs shall include maintenance, operations and fuel, based upon estimated utilization and standby time, as required in order to perform the Work.

6.8.2 Exception to 6.8.1: All costs related to specialized construction equipment and vehicles unique to this Project and the CM's approach to the Work, as accepted by the Agency, and for which the CM does not have internal, actual cost rates, and for which there are no Bluebook rates, shall be negotiated based upon actual costs as bid or estimated to perform the Work.

6.8.3 Actual Cost Reimbursables: All costs proposed by the CM for Construction General Conditions shall be based upon actual costs or, if actual cost is unknown, estimated costs. Unless agreed to as a fixed lump sum amount for a particular Construction General Conditions cost, such estimated General Conditions costs will be subject to later adjustment to reflect actual costs incurred by the CM for the particular item.

**6.9 CM's Sole Responsibility for Errors:** The CM agrees that review or approval by Agency or its agents of the CM's estimates, proposals, pricing, or any other information disclosed to Agency by CM during the negotiation of Work Packages, including those under Early Work Amendment(s) or the GMP Amendment, shall not relieve CM of its sole responsibility for any costs resulting from or arising out of defects or deficiencies in the CM's estimates, proposals, pricing, or any other information disclosed to Agency.

## **ARTICLE 7 – CHANGES IN THE WORK**

### **7.1 Adjustments to the Pre-construction Costs, Early Work Price, and GMP:**

Adjustments to the Pre-Construction Costs, Early Work Price, or GMP on account of changes in the Work shall be determined in accordance with the CM General Conditions. Notwithstanding any other provision of the Contract to the contrary, the CM agrees that no additional or different Work shall be allowed or compensated unless prior written approval is given by the Agency for the specific Work at issue.

**7.2 Execution by the Agency:** Notwithstanding any provision of the Contract to the contrary, the Agency's A&E has no authority to execute Change Orders or Amendments on behalf of the Agency, and only duly authorized personnel of the Agency may do so.

## **ARTICLE 8 – DISCOUNTS, REBATES AND REFUNDS**

**8.1 Discounts, Rebates and Refunds:** Assumptions regarding any cash discounts obtained on payments made by the CM shall be included in the pricing development for any Early Work Amendments and the GMP Amendment.

## **ARTICLE 9 – SUBCONTRACTS AND OTHER CONTRACTS**

**9.1 General Subcontracting Requirements:** The following specific minimum requirements apply to selection of Subcontractors performing Construction Phase Services for this Project:

(a) The CM must subcontract out a minimum of 70% of the Construction Phase Services Work. The CM shall propose in its Contracting Plan what elements of Work it intends to

self-perform. The Agency shall have final approval of the Contracting Plan, and may require the CM to revise its Plan.

(b) Reserved.

(c) The CM shall comply with the Agency-approved, Contracting Plan for subcontracting the Work. The CM shall identify in its Contracting Plan the method by which the CM proposes to select Subcontractors including evaluation criteria for best value selections. The CM may propose for Agency approval selection of Subcontractors to perform Construction Phase Services utilizing a competitive bidding process, best value selection process or negotiations. The CM shall share all Subcontractor proposals and related Project Records with the Agency who shall have final approval for the selection of the Subcontractor and the award of the Subcontract. Notwithstanding the Agency's final approval authority for subcontracts, the CM shall establish and manage the subcontractor procurement process including any protests. The CM's subcontracting records shall be considered public records. The Agency shall retain the right to monitor the CM's subcontractor procurement process to protect the Agency's interests and ensure procurement in accordance with the Agency's objectives.

(d) The Contractor's A/E certifies that, if it is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, it is authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law, and that it shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the Contract. The Contractor understands and agrees that the Owner may void this Contract if the Contractor fails to comply with these provisions.

## **9.2 CM's Obligations under Subcontracts:**

9.2.1 No use of a Subcontractor or Supplier shall relieve the CM of any of its obligations or liabilities under the Contract. Except as may expressly otherwise be provided in the Contract, the CM shall be fully responsible and liable for the acts or omissions of all Subcontractors and Suppliers including persons directly or indirectly employed by them. The CM shall have sole responsibility for managing and coordinating the operations of its Subcontractors and Suppliers, including the settlement of disputes with or between the CM and any such Subcontractor or Supplier.

9.2.2 The CM shall include in each subcontract and require each Subcontractor to include in any lower tier subcontract, all provisions necessary to make all of the provisions of the Contract Documents, including the Special Conditions, Supplemental General Conditions and General Conditions, fully effective as applied to Subcontractors. The CM shall indemnify the Agency for any additional cost based on a Subcontractor claim which results from the failure of the CM to incorporate the provisions of this CM Contract in

each subcontract. The CM shall provide all necessary Plans, Specifications, and instructions to its Suppliers and Subcontractors to enable them to properly perform their work.

### **9.3 Subcontractor Selection:**

9.3.1 The following minimum requirements apply to the Subcontractor selection process:

(a) All Subcontractors performing Work are, as legally required or appropriate for the Work they are performing, registered or licensed by the following before such Subcontractors commence Work and for the duration of the subcontract:

1. Board for Contractors in accordance with Code of Virginia § 54.1-1103;
2. Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects in accordance with Code of Virginia § 54.1-406, § 54.1-409 and 54.1-414

These registration and licensing requirements shall also apply to employees of the CM and it shall require and ensure that they are in compliance.

(b) Reserved.

(c) The CM shall review all bids and shall work with bidders to clarify submitted bids, reduce exclusions, verify scope and quantities, and seek to minimize work subsequently awarded via the Change Order process.

(d) The CM's subcontracting records shall be considered public records; provided, however, that the Agency and agencies of the State shall retain the right to audit and monitor the subcontracting process in order to protect the Agency's interests.

(e) The CM shall implement the Work in accordance with the "GMP Supporting Documents" listed in Article 6.5.3, and identified assumptions.

(f) All Work shall be competitively bid unless otherwise approved in writing in advance by Owner. Competitive bidding requires the following:

- (1) Contractor must receive (not only solicit) three bids from qualified bidders for all portions of the Work unless otherwise specified.
- (2) Contractor must receive (not only solicit) four bids for the mechanical portion of Work, the electrical portion of Work, the structural steel portion of Work, and any trade or bid package expected to exceed 3% of the value of the Work.
- (3) If Contractor wishes to self-perform a portion of the Work, it will receive (not only solicit) three additional bids for that portion of the Work.

(g) Work performed by Subcontractors shall be performed under subcontracts or by other appropriate agreements with the Contractor, pursuant to Section 9 of the General Conditions.

(h) Unless Owner approves another process under Section 10.2.6, Contractor will comply with the following process to solicit and award subcontracts:

Bids shall be solicited by a formal request for bids and bids shall be submitted in writing. The bidding period shall be as recommended by Contractor but shall in no event be less than 14 days unless Owner agrees in writing to a shorter period. Advertising shall be done in local publications. A list of publications and a plan center distribution list shall be submitted to Owner for approval prior to advertising for bids.

(g) If Contractor is not bidding to self-perform a portion of the Work, Contractor will comply with the following procedure for receiving and evaluating bids:

Contractor shall receive all bids in its main office and no bids will be accepted after the specified bid deadline. Written bids must be received by mail, electronic mail, hand delivery or facsimile transmission. If permitted by Owner, a telephone quote may be accepted by Contractor using a standard form, so long as written confirmation of the quote is obtained from the bidder. Bids shall not be opened until after the time for submitting bids has expired. Contractor will ensure a representative of Owner shall be present at bid opening and Contractor will log all bids on a bid tabulation sheet. Contractor shall retain copies of the bids; Owner shall retain the originals.

(i) Contractor shall evaluate the bids to determine if they are responsive. Each subcontract shall be awarded to the lowest responsive responsible bidder. Contractor shall issue a recommendation to Owner for each subcontract to be awarded. Upon written approval by Owner, Contractor shall enter into subcontracts with the approved Subcontractors.

(j) If Contractor has advised Owner that it will bid to self-perform a portion of the Work, the procedures of this Section 9.3 shall apply except that: (1) the bid shall be submitted to Owner, (2) the bid shall be opened by Owner in accordance with its written procedures for bid opening, and (3) Contractor shall not make a recommendation to Owner for award.

(k) Contractor shall provide quarterly usage reports showing Work performed by local businesses.

(l) Contractor may request that it self-perform a portion of the Work without seeking bids, or that Owner permit Contractor to award subcontracts using a process other than as set forth in this Section 9.3 when Contractor believes that such request is in the best interest of Owner. Owner shall grant such requests at its sole discretion.

## **ARTICLE 10 – ACCOUNTING RECORDS**

**10.1 Accounting; Audit Access:** The CM shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under the Contract; the accounting and control systems shall be approved by and satisfactory to the Agency. The Agency and the Agency's representatives shall be afforded reasonable and regular access to the CM's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and all other Project Records relating to the Contract, and the CM shall preserve these for a period of five (5) years after Final Acceptance, or until all disputes, if any, concerning the Contract or the Project have been resolved, whichever occurs later, or for such longer period as may be required by law.

The CM shall require each Subcontractor to retain its Project Records for a period of five (5) years and to provide equivalent access to all Project Records to Agency's representatives. The CM shall require each Subcontractor to include in lower-tier subcontracts the same Project Record retention and access requirements.

**10.2 Periodic and Final Audits:** The Agency may, at its discretion, perform periodic audits of the Project Records associated with the Project. The Agency intends to conduct a final audit of the Project Records prior to final payment. The CM shall cooperate fully with the Agency in the performance of such audits. Disputes over audit findings or conclusions shall be subject to the process set forth in Article 12.3.

## **ARTICLE 11 – CONTRACT AMOUNT; PAYMENTS**

**11.1 Contract Amount:** The Agency will pay the CM the Contract Amount for the performance of the Pre-construction Phase Services and Construction Phase Services. The Contract Amount is guaranteed by the CM not to exceed the GMP as adjusted by Change Orders. Costs incurred by the CM in performing the Pre-construction Phase Services and Construction Phase Services that would cause the GMP to be exceeded shall be paid by the CM without reimbursement by the Agency. In the event that the Contract Amount is less than the GMP, the savings shall accrue to the Agency. The Agency will pay the CM for the Pre-construction Phase Services and Construction Phase Services in accordance with the following.

**11.1.1 Pre-construction Phase Services:** The Agency will pay the CM for all Pre-construction Phase Services performed under the Contract based on (a) the reasonable and actual number of hours expended multiplied by the hourly rate for those items compensated on an hourly basis, plus (b) the reasonable and actual number of months or portion thereof multiplied by the monthly rate for those items compensated on a monthly basis, plus (c) the lump sum amounts for any items compensated on a lump sum basis, all of which are identified in Exhibit "C". The amount of the Pre-construction Costs represents the entire cost of completing the Pre-construction Phase Services in accordance with all Contract requirements and further includes all CM markup, including but not limited to overhead and profit. The CM Fee percentage is inapplicable to Pre-

construction Phase Services. Costs incurred by the CM in performing the Pre-construction Phase Services that would cause the maximum not-to-exceed (NTE) amount of Pre-construction Costs to be exceeded shall be paid by the CM without reimbursement by the Agency. In the event that the total amount payable to the CM for Pre-construction Phase Services is less than the Pre-construction Costs NTE amount, the savings shall accrue to the Agency. Except to the extent the parties may expressly agree to the contrary in the GMP Amendment, no additional compensation for Pre-construction Phase Services shall be payable to the CM for Pre-construction Phase Services performed after execution of the GMP Amendment.

**11.1.2 Construction Phase Services:** In accordance with CM General Conditions, Section 36, the Agency will pay the CM for all Construction Phase Services performed under the Contract based on (a) the Cost of the Construction Work, plus (b) General Conditions Fee, plus (c) the CM Fee as adjusted in accordance with Article 12.2. In the event that the Cost of the Construction Work includes Pay Items for which the CM will be compensated on a cost reimbursable basis, the amount payable shall be determined pursuant to CM General Conditions, Section 36, and subject to any restrictions or limitations the Agency places on such Pay Items, including but not limited to not-to-exceed amounts for discrete Pay Items.

**11.2 Progress Payments:** Progress payments shall be made in accordance with Article 11.3 for Pre-construction Phase Services and Article 11.4 for Construction Phase Services. A progress payment shall not be considered as acceptance or approval of any part of the Work, and shall not relieve the CM of responsibility for defective Materials or workmanship.

**11.3 Calculation of Pre-construction Phase Services Work Completed:** Applications for payment for Pre-construction Phase Services Work shall show the total hours worked for services that are paid on an hourly basis. Lump sum unit prices shall be paid based upon receipt of the required deliverable. Unit prices for hourly rates and deliverables shall be as identified in Exhibit "C".

**11.4 Calculation of Construction Phase Services Work Completed:**

(a) **Lump Sum Work:** In addition to the requirements set forth in the CM General Conditions, Section 36, applications for payment for lump sum priced Work shall show the percentage of completion of each portion of the Work at the end of the period covered by the application for payment. The percentage of completion shall be the share of the Early Work Price (for Early Work) or GMP allocated to that portion of the Work in the Agency-approved Schedule of Values. The amounts to be allowed for lump sum Pay Items in progress payments shall not exceed the reasonable value of the Work, as determined by the Agency.

(b) **Unit Priced Work:** Payment for all unit priced Work shall be measured and paid for according to the CM General Conditions, Section 36.

(c) Cost Reimbursable Work: Payment for all Work compensated on a cost reimbursable basis shall be based on the reasonable and actual costs incurred by the CM and in accordance with the provisions of CM General Conditions, Section 36, subject to any restrictions or limitations the Agency places on such Pay Items, including but not limited to not-to-exceed amounts for discrete Pay Items.

(d) Changes in the Work: The Agency will make payments for extra Work in accordance with the provisions of CM General Conditions, Section 38.

11.4.1 Calculation of Monthly Payment: Subject to other provisions of the Contract Documents, the amount of each progress payment for Construction Phase Services Work shall be computed by the Agency as follows:

(a) Take that portion of the Early Work Price or GMP properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work under the Schedule of Values by the share of the Early Work Amendment or GMP allocated to that portion of the Work in the Schedule of Values. Pending final determination of cost to the Agency of changes in the Work, amounts not in dispute shall be included.

(b) Add that portion of the Early Work Amendment or GMP properly allocable to Materials and Equipment delivered and suitably stored and otherwise in compliance with Section 36 of the CM General Conditions.

(c) Add the CM Fee. The portion of the CM Fee payable shall be an amount that bears the same ratio to CM Fee as sum of the amounts in the two preceding Clauses bears to the lump sum total for each Early Work Amendment and GMP Amendment, but in no event causing total CM Fee payments to exceed the total, previously fixed CM Fee identified in the Early Work Amendment or GMP Amendment.

(d) Add that portion of the General Conditions Fee.

(e) Subtract the aggregate of previous payments made by and retained by the Agency.

(f) Subtract the shortfall, if any, indicated by the documentation required substantiating prior applications for payment, or resulting from errors subsequently discovered by the Agency in such documentation.

(g) Subtract any amounts for which the Agency has withheld or denied payment as provided in the Contract Documents.

(h) Subtract 5% retainage on the entire progress payment.

**11.5 Deductions from Monies Due:** Without limiting the Agency's rights to withhold payment as set forth elsewhere in this CM Contract and CM General Conditions, the Agency may deduct from monies due or to become due the CM for: (a) amounts



representing price adjustments authorized under the provisions of the CM Supplemental General Conditions, Section 1, CM Contingency; (b) amounts representing recoupment of damages, including but not limited to liquidated damages; (c) amounts assessed by Authorities (e.g., fines and penalties) for which the CM is responsible under the terms or the Contract or by Law; (d) amounts the Agency is compelled by court order or other legal mandate to withhold and/or tender to Authorities or third parties; (e) amounts as reimbursement for Agency payments made on behalf of the CM or to meet the CM's obligations, as authorized under terms of the Contract; and (f) any other amounts authorized under the Contract or by Law to be deducted or withheld.

## **ARTICLE 12 – FINAL PAYMENT**

**12.1 Final Payment Accounting:** The CM shall submit to the Agency a final detailed accounting of the Cost of the Work together with the CM's final application for payment. The final detailed accounting shall include a reconciliation of: quantities for all variable quantity unit priced Pay Items; reimbursable actual costs for Pay Items based upon actual cost reimbursement; reimbursable bond and insurance costs; and the adjustment in the CM Fee as provided in Article 12.2.

12.1.1 All savings in CM Contingency Items within the GMP shall accrue to the Agency.

**12.2 Adjustment of the CM Fee Upon Final Payment:** In addition to adjustments to the CM Fee provided for under CM General Conditions, Section 36, the fixed amount of the CM Fee shall be subject to reduction if the Contract Amount is less than the GMP, as adjusted by Change Orders. At the time of final payment, if the Contract Amount is less than the GMP, the fixed amount of the CM Fee shall be decreased by an amount (the "Fee Reduction Amount") equal to the percentage set forth on Exhibit E applied to the difference between the GMP, as adjusted by Change Orders, and the Contract Amount minus the sum of (a) the fixed amount of the CM Fee, as adjusted by Change Orders, and (b) the total of all payments for Pre-Construction Phase Services. Stated as a formula:

Fee Reduction Amount = ((GMP-CA) – (Fixed CM Fee + PCPS)) x (Fee %)

For the purposes of this formula:

Fee Reduction Amount = Amount the CM Fee is reduced

GMP = GMP, as adjusted by Change Orders

CA = Contract Amount

Fixed CM Fee = Fixed CM Fee, as adjusted by Change Orders

PCPS Payments = Total of all payments for Pre-Construction Phase Services

Fee % = The percentage set forth on Exhibit E

The Fee Reduction Amount shall be deducted from final payment. If the amount of final payment is less than the Fee Reduction Amount, the CM shall pay the Agency the difference between the Fee Reduction Amount and the amount of final payment.

**12.3 Calculation of Final Payment:** The final payment shall be calculated as follows:

12.3.1 Take the sum of the CM Fee as adjusted in accordance with Article 12.2, plus amounts paid for Pre-construction Phase Services, plus General Conditions Costs, plus the Cost of the Construction Work substantiated by the CM's final accounting, which total amount shall not exceed the GMP.

12.3.2 Subtract amounts, if any, for which the Agency withholds, in whole or in part, approval of payment.

12.3.3 Subtract the aggregate of previous payments made by the Agency to the CM. If the aggregate of previous payments made by the Agency exceeds the amount due the CM, the CM shall reimburse the difference to the Agency within 30 Calendar Days with interest at the rate of one-percent (1%) per month.

**12.4 Payment Disputes:** If the Agency's accountants report the Cost of the Work as substantiated by the CM's final accounting to be less than claimed by the CM or if the Agency declines to approve any duly submitted payment request by the CM, the CM shall be entitled to demand a review by the Agency of the disputed amount per the provisions of the CM General Conditions, Section 47. Any request not submitted and supported by an itemized statement within the time frame defined in Section 47 will not be paid by the Agency and shall result in the substantiated amount reported by the Agency's accountants becoming binding on the CM.

In addition, if the Agency or any other agency performs a subsequent audit of the Cost of the Construction Work and determines any item therein to have been unsubstantiated or that the CM was otherwise overpaid, the CM shall have 30 Calendar Days after delivery of request for reimbursement by the Agency to demand additional review by the Agency. Failure to make such demand within this 30 Calendar Day period shall result in the requested reimbursement becoming unconditionally due and payable by the CM. If the CM timely submits a protest to the Agency, the CM's claim shall be subject to the claims review process in the CM General Conditions, Section 47. Pending a final resolution, the Agency shall pay the CM the amount of the application for payment approved by the Agency.

**12.5 Effect of Payment:** Neither approval of an application for payment, a progress payment, release of retainage, final payment, or partial or entire use or occupancy of the Project by the Agency shall constitute acceptance of work not conforming to the Contract Documents, or waiver of the right to assert overpayment.

## **ARTICLE 13 – TERMINATION OR SUSPENSION**

**13.1 Agency's Right to Terminate Prior to Execution of GMP Amendment:** Prior to execution by both parties of the GMP Amendment, the Agency may terminate the Contract at any time without cause. Upon such termination, the amount to be paid to the CM shall not exceed the Pre-construction Costs payable to the date of termination, together with amounts payable for Early Work if an Early Work Amendment has been executed, plus any applicable General Conditions Costs. In accordance with CM General Conditions, Section 42, if the Agency terminates under this Article 13.1 during the Pre-construction Phase, the Agency shall be entitled to copies of, and shall have the right to use, all Work Products of the CM and its Subcontractors performed to the date of termination, and the CM shall deliver copies of the same to the Agency on request.

**13.2 Agency's Termination for Public Convenience after GMP Amendment:** After the GMP Amendment is executed by both parties, and upon notice to the CM as provided in Section 42 of the CM General Conditions, the Contract may be terminated by the Agency without penalty for convenience, in which case the CM shall be entitled to payment of any earned but unpaid amounts provided for in Article 13.1, together with the Cost of the Construction Work completed under the GMP Amendment, plus the General Conditions Costs, plus the CM Fee prorated based on the Cost of the Construction Work completed prior to the date of termination, but in any event not in excess of the GMP.

**13.3 Agency's Termination for Default:** In the event of termination of this Agreement by the Agency for cause pursuant to Section 41 of the CM General Conditions, the CM may be liable for damages or losses suffered by the Agency because of the breach, and in any event, the amount, if any, to be paid to the CM after application of these provisions and the Agency's rights at law shall not exceed the amount provided in Section 41 of the CM General Conditions.

**13.4 Additional Defaults:** In addition to the acts listed in CM General Conditions, Section 41, the following shall also be considered defaults for which the Contract may be terminated:

13.4.1 The CM or subcontractors no longer hold the licenses or certificates required to perform the Work or any portion thereof.

13.4.2 The CM so fails to perform any agreed-upon portion of the Work as to endanger the CM's performance under the Contract in accordance with its terms, and such breach, default or failure is not cured within the time periods and requirements of CM General Conditions, Section 41.

13.4.3 The CM made knowing or reckless misrepresentations, concealed facts, or failed to disclose information in the CM's Proposal. Such shall constitute fraudulent inducements, and shall entitle the Agency to recover reliance damages, in addition to any other available remedies to which it may show itself entitled.

### **13.5 Agency's Termination of Contract / Non-availability of Funds**

13.5.1 Without limiting the Agency's rights under CM General Conditions, Section 42, the Agency may terminate the Contract, in whole or in part, immediately upon notice to the CM, or at such later date as the Agency may establish in such notice, upon the occurrence of any of the following events:

13.5.1.1 The Agency fails to receive funding, or appropriations, allotments, limitations or other expenditure authority at levels sufficient to pay for the CM's Work; or

13.5.1.2 Federal or State Laws are modified or interpreted in such a way that either the Pre-construction Phase Services or Construction Phase Services is prohibited, or the Agency is prohibited from paying for such services from the planned funding source.

13.5.2 The Agency reasonably believes that sufficient funds are anticipated to pay all amounts due hereunder, and hereby covenants and agrees that it will use its best efforts to obtain and properly request and pursue funds from which payments hereunder may be made, including making provisions for such payments to the extent necessary in the budget submitted for the purpose of obtaining funds, and will use its best efforts to have such budget approved. It is the Agency's intention to make all payments due hereunder if funds are legally available for such purpose.

If, despite the above, the Agency is not allotted sufficient funds for the next succeeding fiscal period by appropriation, limitation, grant, or other funds source lawfully available to it for such purposes to continue the Project and make payments hereunder, the Agency may terminate the Contract, by notice to the CM, without penalty, effective upon exhaustion of allocated funds, and such termination shall not constitute an event of default under any provision of the Contract. The Agency will give the CM notice of such non-availability of funds within 30 Calendar Days after it receives notice. The Parties shall perform their respective remaining obligations as delineated in CM General Conditions, Section 42.

**13.6 Quality of the Work:** In the event of the Agency's termination of the Contract, regardless of reason, the CM shall remain responsible for the quality of the Work performed through the date of termination.

**13.7 CM's Remedies:** In the event of dispute involving alleged Agency default, the CM shall be limited solely to pursuing remedies through those claims procedures set forth in CM General Conditions, Section 47.

**13.8 Litigation:** In the event of litigation instigated by the CM in accordance with CM General Conditions, Section 47, or by the Agency for breach of Contract, in addition to its other available remedies the Agency may pursue both recoupment and set-off.

## **ARTICLE 14 – REPRESENTATIONS, WARRANTIES AND CERTIFICATIONS**

**14.1 Representations and Warranties:** The CM represents and warrants to the Agency as of the effective date of the Contract:

14.1.1 It is qualified to do business as a licensed general contractor under the laws of the Commonwealth of Virginia, and has all requisite corporate power and corporate authority to carry on its business as now being conducted.

14.1.2 It has full corporate power and corporate authority to enter into and perform the Contract and to consummate the transactions contemplated hereby; the CM has duly and validly executed and delivered this CM Contract to the Agency and that the Contract constitutes the legal, valid and binding obligation of the CM, enforceable against the CM in accordance with its terms, except as enforceability may be limited or affected by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

14.1.3 The CM's execution and delivery of this CM Contract and the consummation of the transactions contemplated hereby will not conflict with or result in a material breach of any terms or provisions of, or constitute a material default under, (a) CM's Articles of Incorporation or Bylaws; (b) any note, bond, mortgage, indenture, license, lease, contract, commitment, agreement or other instrument or obligation to which the CM is a party or by which the CM may be bound; or (c) any statute, order, writ, injunction, decree, rule or regulation applicable to the CM.

14.1.4 No material consent, approval, authorization, declaration or other order of, or registration or filing with, any court or regulatory authority or any third person is required for the valid execution, delivery and performance of the Contract by the CM or its consummation of the transactions contemplated hereby.

14.1.5 There is no action, proceeding, suit, investigation or inquiry pending that questions the validity of the Contract or that would prevent or hinder the consummation of the transactions contemplated hereby.

14.1.6 The CM's Project Principal, Project Manager and Construction Manager identified in Article 4 are duly appointed representatives and each has the authority to bind the CM to any and all duties, obligations and liabilities under the Contract Documents and any Amendments thereto.

### **14.2 Tax Compliance Certification:**

The individual signing on behalf of the CM hereby certifies and swears under penalty of perjury that s/he is authorized to act on behalf of the CM, s/he has authority and knowledge regarding the CM's payment of taxes, and to the best of her/his knowledge,

the CM is not in violation of any Commonwealth of Virginia or Colonial Heights tax laws.

## **ARTICLE 15 – MISCELLANEOUS**

### **15.1 Reserved**

**15.2 Merger; No Limitations of Liability:** The Contract Documents constitute the entire Contract between the parties. No waiver, consent, modification or change of terms of the Contract shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding the Contract. The CM, by signature of its representative, hereby acknowledges that it has read the Contract, understands it and agrees to be bound by its terms and conditions. Any special terms or conditions proposed by the CM (including, but not limited to, any limitations of liability, waivers of consequential damages, limitations of remedy or disclaimers of liability or remedy) shall expressly not be part of the Contract and shall not otherwise apply to the Project even if such terms and conditions are attached as an exhibit or otherwise. Any inconsistency between this Contract and any exhibits or attachments shall be resolved in favor of this Contract, which means that, in the case of any limitations and disclaimers by the CM, no such limitations or disclaimers shall be allowed. This CM Contract may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

### **15.3 Reserved**

**15.4 Employee Drug Testing Program:** The CM certifies that:

It shall maintain a “drug-free workplace” as more particularly described in the CM General Conditions, Section 5.

**15.5 Nondiscrimination:** The CM certifies that:

It shall not discriminate on the basis of race, color, national origin or sex in the performance of the Contract and in the award of subcontracts as more particularly described in the General Conditions, Section 4.

### **15.6 Reserved**

### **15.7 Reserved**

**15.8 Joint Ventures and Partnerships:** If the CM is a joint venture or a partnership, each joint venture member or partner is executing this CM Contract on behalf of and thereby binds both itself and the CM, and each joint venture member or partner and the CM shall be jointly and severally liable under this CM Contract.

**15.9 Notices:** Notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to the CM or the Agency at the addresses or numbers set forth in Articles 4.6 and 4.8, or as either Party may hereafter indicate pursuant to this Section. Any notice so addressed and mailed shall be deemed to be received five (5) Calendar Days after the date of mailing. Any notice delivered by facsimile shall be deemed to be received when confirmation of successful transmission is generated by the transmitting machine. To be effective against the Agency, such facsimile transmission must be confirmed by telephone notice to the Agency for the Project. Any notice by personal delivery shall be effective as to the CM upon delivery into the possession of one of the CM's designated personnel, and as to the Agency, upon delivery to the Agency's designated Project Manager. Regular, day-to-day communications may be transmitted through one of the methods set forth above, in person, by e-mail, or by other similar electronic transmission.

**15.10 Disclosure of Tax Identification Number:** The CM shall provide its federal tax ID number to the Agency. The Tax Identification Number provided pursuant to this authority will be used for the administration of State, federal and local tax Laws.

**15.11 Severability:** The Parties agree that if any term or provision of this CM Contract is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

**15.12 No Waiver:** The failure of the Agency to enforce any provision of the Contract shall not constitute a waiver by the Agency of that provision or any other provision of the Contract.

**15.13 Media Contacts; Confidentiality:** Unless otherwise specifically authorized in writing, the CM shall provide no news release, press release, or any other statement to a member of the news media regarding this Project without the Agency's prior written authorization. Furthermore, except in the case where the Agency specifically authorizes disclosure of Agency's confidential information in writing, the CM shall maintain the confidentiality of the Agency's information pertaining to the Project, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the CM from establishing a claim or defense in an adjudicatory proceeding. The CM shall require of its Subcontractors similar agreements to maintain the confidentiality of Agency's information.

**15.14 Conflict of Interest:** The CM shall not engage in any activity that would constitute a "Conflict of Interest," within the meaning of the Code of Virginia and the RFP for this project.

**15.15 Ownership and Use of Work Product:** All Work Products of the CM arising from performance of the Contract shall be the exclusive property of Agency, as more particularly provided for under CM General Conditions, Section 36 (e) and the following:

Drawings, specifications and other documents, including those in electronic form, prepared by the Contractor are Instruments of Service. The Contractor shall be deemed the author and owner of the instruments until such time as payment is made therefore, at which time the City shall become the owner of the Instruments of Service. The Owner, upon completion or termination of this Contract, shall have full and exclusive rights to use the Instruments of Service in any manner not inconsistent with state law. The Contractor shall not use the Instruments of Service on any other work or release information about the Instruments of Service without the express written consent of the City.

**15.16 Sustainable Practices:** As approved by the Agency, the CM shall implement the Agency approved, sustainable practices into the Project.

## **ARTICLE 16 – BONDING AND INSURANCE**

**16.1 Insurance Requirements:** During the term of the Contract, the CM shall maintain in full force from insurers (a) having at least either an AA-/Aa3 rating by two (2) nationally-recognized rating agencies or an A-VII rating by A.M. Best and Company, and (b) holding a current certificate of authority to transact the business of insurance in the state of Virginia, all of the insurance coverages required in Exhibit I to this CM Contract.

16.1.1 Pre-construction Phase Services: Insurance types and amounts are shown in Exhibit I.

16.1.2 Construction Phase Services: for Early Work Amendments and GMP Amendment in addition to the coverages in 16.1.1, insurance types and amounts will be negotiated with each Construction Amendment.

**16.2 Bonding Requirements:** Prior to commencement of Construction Phase Services and in any event not later than execution of the GMP Amendment, the CM shall provide to the Agency full Performance and Payment Bonds in the amount of the GMP Amendment.

If an Early Work Amendment is executed, the CM shall provide Performance and Payment Bonds in the amount of the Early Work Amendment. The CM shall provide to the Agency additional or replacement bonds at the time of execution of any subsequent Early Work Amendment or GMP Amendment, in each case prior to execution of the Amendment and the supplying of labor or Materials for the prosecution of the Work covered by the Amendment, and in each case a sufficient amount so that the total bonded sum equals or exceeds the total Early Work Price or the GMP, as the case may be. In the event of a scope change that increased the GMP, the CM shall provide to the Agency an additional or supplemental bond in the amount of such increase prior to performance of the additional Work.

The CM shall maintain the Performance and Payment Bonds in full force from Sureties licensed to do business in the Commonwealth of Virginia. The Parties understand and



agree that the obligation of the CM's Surety for the faithful performance of the Contract pursuant to the requirements of the Code of Virginia § 2.2-4337.

The remainder of this page is intentionally blank.

DRAFT

THIS CM CONTRACT is executed in four (4) original copies of which one is to be delivered to the CM, and the other three to the Agency.

CM:

Name of Firm: \_\_\_\_\_

Address \_\_\_\_\_

CM's Federal Tax I.D. #: \_\_\_\_\_

Virginia Contractor's Board Registration No.:

\_\_\_\_\_

Signature of Authorized Representative of CM

Title \_\_\_\_\_

Date \_\_\_\_\_

If Proposer is a joint venture or a partnership, each joint venture member or partner of the Proposer shall sign, and by doing so is signing on behalf of and is therefore binding both itself and the Proposer, and each joint venture member or partner and Proposer shall be jointly and severally liable under the Contract.

\_\_\_\_\_

Joint Venture/Partner #1

By:

\_\_\_\_\_

Signature

\_\_\_\_\_

Printed Name (On behalf of itself and Proposer)

---

Title

---

Joint Venture/Partner FEIN ID# or SSN# (Required)

---

Joint Venture/Partner #2

By:

---

Signature

---

Printed Name (On behalf of itself and Proposer)

---

Title

---

Joint Venture/Partner FEIN ID# or SSN# (Required)

AN ORDINANCE NO. 11-FIN-22

To amend the General Fund Budget for the fiscal year beginning July 1, 2011, and ending June 30, 2012, to appropriate \$129,989, consisting of \$24,146 in highway grant funds to be used for overtime expenses for selective enforcement and checkpoints; \$5,843 coming from asset forfeiture funds to be used for public safety purposes; \$100,000 to be used to purchase two 15-passenger handicapped vans, of which \$80,000 is coming from a grant; and \$23,477 coming from Contingencies & Reserve to be transferred to certain individual departmental accounts for the purchase of computer equipment.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:

1. That Sections 1 and 2 of Ordinance No. 11-FIN-6, the General Fund Budget, be, and are hereby amended and reordained as follows:

1. That the budget designated the General Fund Budget for the fiscal year beginning July 1, 2011, and ending June 30, 2012, is hereby adopted; and that, subject to transfers by resolution pursuant to § 6.15 of the City Charter, funds hereby appropriated shall be used for the following purposes:

Legislative (City Council)	\$	<del>138,063</del>	141,423
Administrative (City Manager)		<del>293,723</del>	294,143
Legal (City Attorney)		<del>206,645</del>	207,065
Tax Collections		433,656	
Finance		<del>6,075,962</del>	6,076,382
Information Technologies		<del>467,877</del>	184,634
Board of Elections		129,062	
Judicial		4,393,966	
Public Safety		<del>7,654,264</del>	7,685,093
Public Works		<del>2,896,144</del>	2,896,564
Health and Social Services		647,559	
Parks and Recreation		<del>1,347,305</del>	1,447,725
Cultural Enrichment		84,867	
Library		588,433	
Community Development		<del>469,914</del>	470,334
Human Services		286,600	
Nondepartmental		<del>524,171</del>	500,694
Debt Service		2,843,192	
Operating Transfers Out		<u>19,043,934</u>	
TOTAL		<del>\$48,225,337</del>	48,355,326

2. That the foregoing appropriation is based upon the following revenue estimates for the fiscal year beginning July 1, 2011:

General Property Taxes	\$21,283,149	
Other Local Taxes	14,996,861	
Licenses, Permits & Fees	3,368,705	
Fines and Forfeitures	693,000	
Use of Money & Property	158,000	
Intergovernmental Revenues	<del>6,135,106</del>	6,239,252
Charges for Current Services	1,227,954	
Miscellaneous	315,663	
Restricted Fund Balance – After School Program	400	
Restricted Fund Balance – Violet Bank	11,500	
Restricted Fund Balance – Asset Forfeiture	12,341	
Restricted Fund Balance – Police	1,175	

Restricted Fund Balance – Fire	21,483
<i>Restricted Fund Balance – Senior Citizen</i>	
<i>Transportation</i>	20,000
<i>Fund Balance</i>	<u>5,843</u>
TOTAL	<del>\$48,225,337</del> 48,355,326

2. That this ordinance shall be in full force and effect upon its passage on second reading.

Approved:  
  
\_\_\_\_\_  
Mayor

Attest:  
  
\_\_\_\_\_  
City Clerk

\*\*\*\*\*

I certify that the above ordinance was:

Adopted on its first reading on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Milton E. Freeland, Jr., Councilman: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_.

The Honorable W. Joe Green, Jr., Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Vice Mayor: \_\_\_\_\_.

The Honorable John T. Wood, Councilman: \_\_\_\_\_.

The Honorable Diane H. Yates, Councilwoman: \_\_\_\_\_.

The Honorable C. Scott Davis, Mayor: \_\_\_\_\_.

Adopted on its second reading on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Milton E. Freeland, Jr., Councilman: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_.

The Honorable W. Joe Green, Jr., Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Vice Mayor: \_\_\_\_\_.

The Honorable John T. Wood, Councilman: \_\_\_\_\_.

The Honorable Diane H. Yates, Councilwoman: \_\_\_\_\_.

The Honorable C. Scott Davis, Mayor: \_\_\_\_\_.

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

Approved as to form:

---

City Attorney



# CITY OF COLONIAL HEIGHTS

## DEPARTMENT OF FINANCE

William E. Johnson  
Director

City Hall · 201 James Avenue · P.O. Box 3401  
Colonial Heights, Virginia 23834

Kathy L. Sparks  
Deputy Director

**To:** Thomas L. Mattis, City Manager  
**From:** William E. Johnson, Director of Finance  
**Date:** 9/30/2011

### **RE: Budget Revision Requests**

#### **IPads**

City Council authorized during the July 19<sup>th</sup> work session the utilization and purchase of 17 iPads for City administration use in updating current processes to a more mobile, efficient and paperless work environment. Two units were purchased, configured and tested for suitability before the remaining units were acquired. The remaining 15 units have been set-up and distributed to City Council and Staff. The units were purchased and equipped at an average cost of \$921 with an additional monthly data charge of \$45 per month.

At this time it would be appropriate to transfer the budgetary requirements to the effected departments for the initial purchase and monthly maintenance from contingencies. These costs will be departmentally budgeted in upcoming fiscal years. A worksheet of requested Departmental transfers is attached for your consideration.

#### **Police Asset Forfeiture Funds**

Last November \$33,043, in State Asset Forfeiture funds, were appropriated for the purchase of various police equipment. The actual purchase prices of a crime scene trailer, unmarked vehicle and fake detection devices were lower than the estimated cost. This resulted in these funds being returned to fund balance at the end of the fiscal year.

These restricted funds are required to be spent for public safety purposes, so it is my request that these funds be reappropriated to the police department at this time. We have set up a new account for their use in accounting for future forfeiture expenditures.

I am available to discuss at your convenience.

City of Colonial Heights  
iPads Allocation

	Number	Unit Cost	Total
Hardware Purchases	17	836	\$14,212
Applications	17	60	1,020
Activation Fees	17	35	595
Data Service 10 month	17	450	<u>7,650</u>
Total Cost			<u><u>23,477</u></u>

Breakdown:

Data Charges - Eight (8) months & Applications

City Council	2,940
City Clerk	420
City Manager	420
City Attorney	420
Finance	420
Information Technologies	420
Police	420
Fire	420
Engineering	420
Recreation & Parks	420
Planning	<u>420</u>
Total	<u><u>7,140</u></u>

Initial Purchase Charges

Information Technologies	
Hardware Purchases	14,212
Activation Fees	595
Data Service Two (2) months	<u>1,530</u>
Total	<u><u>16,337</u></u>

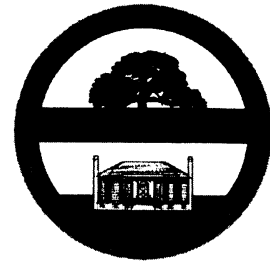
Total to be Allocated from Contingencies	<u><u>\$23,477</u></u>
--	------------------------



Ordinance/Resolution Recap Worksheet  
10/1/11

	Police Highway Safety Grant	Police Asset Foreiture Funds	Agency on Aging Bus Grant	iPaads Technology Transfer	Total
<b>GENERAL FUND</b>					
<b><u>REVENUE:</u></b>					
Intergovernmental	\$24,146		\$80,000		\$104,146
Fund Balance		5,843			5,843
Restricted Fund Balance - Sr Citizen Transporation			20,000		20,000
Total	24,146	5,843	100,000		129,989
<b><u>EXPENDITURES:</u></b>					
Legistalative				3,360	3,360
Administrative				420	420
Legal				420	420
Finance				420	420
Information Technologies				16,757	16,757
Public Safety	24,146	5,843		840	30,829
Public Works				420	420
Parks and Recreation			100,000	420	100,420
Community Development				420	420
Non-departmental				(23,477)	(23,477)
Total	\$24,146	\$5,843	\$100,000	\$0	\$129,989

# Memorandum



**To:** Mr. Thomas Mattis, City Manager

**From:** Craig Skalak, Director of Recreation & Parks

**Date:** September 16, 2011

**Re:** October Council Agenda Item/Crater Area Agency on Aging Grant

The Recreation & Parks Department's Senior Transportation Division has been awarded an 80/20 grant through the Crater Area Agency on Aging of up to \$100,000.00 to purchase two 2012 15-passenger handicap vans. The new vans will replace our 2000 and 2003 vans and will be used to transport Colonial Heights senior citizens for medical, business, and personal reasons.

I request that City Council approve the transfer of \$20,000.00 from our reserve Senior Citizens Transportation donation account, 10-3210, to the general fund account 1601-5501.



# CITY OF COLONIAL HEIGHTS

## POLICE DEPARTMENT

Col. Jeffrey W. Faries  
Chief of Police

100-A Highland Avenue • P. O. Box 3401  
Colonial Heights, Virginia 23834

Babette B. Hansen  
Administrative Assistant

September 7, 2011

Mr. Thomas L. Mattis, City Manager  
201 James Avenue  
Colonial Heights, VA 23834

**RE: DMV FEDERAL HIGHWAY SAFETY GRANT for 2011-12**  
**[Through the National Highway Traffic Safety Administration]**

Dear Tom:

The Colonial Heights Police Department has been awarded a ***Federal Highway Safety Grant*** (**#154AL-2012-52156-4534-20.607**) in the amount of **\$24,146.00** from the Virginia Department of Motor Vehicles. Our department will be using these funds to cover overtime expenses for selective enforcement and checkpoints; patrols during *Click It or Ticket*, *National Stop on Red* and *Checkpoint Strike Force*; the purchase of traffic enforcement equipment; and DUI-related travel and training. The above total includes a 20% City in-kind match, or \$4,066.00, and covers the period October 1, 2011 through September 30, 2012. Another stipulation of the grant requires us to spend the allotted funds, after which time our locality will be reimbursed in the aforementioned amount.

Once the grant acceptance is approved by Council after two readings by members, we would ask that the reimbursement be transferred into the Police Department's **Account #1401-5263 (Grant Funds)**.

We would appreciate your placing this item on the next City Council agenda so that it may be reviewed at that time.

Many thanks for your attention to this matter.

Sincerely,

Colonel Jeffrey W. Faries  
Chief of Police

JWF:bbh

Cc: Mr. Bill Johnson, Director of Finance  
Ms. Kathy Sparks, Assistant Director of Finance  
Capt. W. Keith Early, Patrol Division Commander  
Capt. Wayne T. Newsome, Law Enforcement Services Division Commander  
Sgt. Robert L. Ruxer, Law Enforcement Services Division (Grants Coordinator)  
Mrs. Joy Moore, Treasurer



# COMMONWEALTH of VIRGINIA

Department of Motor Vehicles  
2300 West Broad Street

Post Office Box 27412  
Richmond, VA 23269-0001

Richard D. Holcomb  
Commissioner

August 5, 2011

Mr. Robert Ruxer  
Sergeant  
Colonial Heights City  
100-A Highland Avenue  
Colonial Heights, VA 23834

Dear Mr. Ruxer:

Safety has been and will continue to be a high priority in Virginia's overall transportation system. The McDonnell administration is committed to ensuring that safety is the highest priority in the development of the Commonwealth's multi-modal transportation system.

I am pleased to inform you that the highway safety project proposal(s) listed below has been approved for pass-through grant funding from the National Highway Traffic Safety Administration for Federal Fiscal Year (FFY) 2012.

<u>Program Project ID# - CFDA#</u>	<u>Project Title</u>	<u>Amount Approved</u>
154AL-2012-52156-4534-20.607	Selective Enforcement	\$20,080.00

The availability of funds under this grant is contingent upon two conditions: (1) the project director and the fiscal contact responsible for the financial management of your grant must attend a grantee workshop and (2) the release of federal funds to the Commonwealth. Your assigned program manager will be contacting you to provide the dates and locations for this mandatory training.

You will receive the project agreement(s), the scope of work, and special conditions during the training session. As the recipient of a FFY 2012 grant award, it is important that you read and follow the information carefully. If you have any questions regarding the conditions, please contact the program manager assigned to your grant.

Thank you for your commitment and participation in improving highway safety. We look forward to the positive impact that your project will have on making our roadways safer.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Holcomb".

Richard D. Holcomb

RDH/sb



**Purpose:** Virginia's Highway Safety Program Subgrantees use this form to certify and assure that they will fully comply with all terms of the Highway Safety Grant Agreement.

**Instructions:** Subgrantees must read the contract, complete all applicable information on the first page, initial the subsequent pages, and return all pages to the Department of Motor Vehicles.

This Highway Safety Grant Agreement is entered into between the Virginia Department of Motor Vehicles (hereinafter "Department"), 2300 West Broad Street, Richmond, Virginia 23220, and the following:

Subgrantee:	<b>Colonial Heights City</b>
Project Title:	<b>Selective Enforcement</b>
Project Number/CFDA Number:	<b>154AL-2012-52156-4534-20.607</b>
Grant Award Amount	<b>\$20,080.00</b>

Source of funds obligated to this award: U.S. Department of Transportation National Highway Traffic Safety Administration

Period of Performance for this project (hereinafter "Grant Period"): From October 1, 2011, or the date the Highway Safety Grant Agreement is signed by the Director, Virginia Highway Safety Office (whichever is later) through September 30, 2012. Allow 21 days for the Department to complete its review and signature. **FINAL VOUCHER IS DUE ON OR BEFORE NOVEMBER 5, 2012.**

In performing its responsibilities under this Highway Safety Grant Agreement, the Subgrantee certifies and assures that it will fully comply with the following:

- Applicable Department regulations and policies and state and federal laws, regulations, and policies
- Statement of Work and Special Conditions and an Approved Budget, included with this Highway Safety Grant Agreement
- General Terms and Conditions, also included with this Highway Safety Grant Agreement

Subgrantee's signature below indicates that the Subgrantee has read, understands and agrees to fully comply with all terms and conditions of this Highway Safety Grant Agreement without alteration. This Highway Safety Grant Agreement (hereinafter "Grant Agreement"), consisting of this certification; the attached Statement of Work and Special Conditions; the attached General Terms and Conditions; the attached Project Budget; the Subgrantee's proposal; and the letter awarding the grant to the Subgrantee constitutes the entire agreement between the Department and the Subgrantee, supersedes any prior oral or written agreement between the parties and may not be modified except by written agreement as provided herein. Where any conflict arises between terms, the following is the order of governance of one term over another: (1) applicable Department regulations and policies, except where superseded by federal laws, regulations, or policies; (2) applicable state laws, regulations, and policies, except where superseded by federal laws, regulations, or policies; (3) applicable federal laws, regulations, and policies; (4) Statement of Work and Special Conditions; (5) General Terms and Conditions; (6) Project Budget; (7) Subgrantee's proposal; and (8) grant award letter.

**SIGNATURES OF AUTHORIZED APPROVING OFFICIALS**

**For Subgrantee:**

Sergeant Robert Ruxer  
Name and Title of Project Director (print)

[Signature] 9/1/11  
Signature Date

Thomas L Morris City Manager  
Name and Title of Authorized Approving Official (print)

Subgrantee's DUNS Number 010043683  
[Signature] 9/6/11  
Signature Date

**For Virginia Department of Motor Vehicles:**

John Saunders  
Director, Virginia Highway Safety Office (print)

\_\_\_\_\_  
Signature Date



Department of Motor Vehicles  
Grant Budget Lines

Date Run: 01-AUG-2011

154AL-2012 - 52156 - 4534 - Colonial Heights City

Project Director Initials \_\_\_\_\_

Date \_\_\_\_\_

Category	Line Item Desc	Qty	Individual Cost	Total Cost	Fed Fund Amount	Matching Funds
Personnel	Overtime Hours	410	29.00	11,890.00	11,890.00	0.00
Training / Travel	Attend a VAHSO approved 2012 Mid-Atlantic DUI Conference in Virginia Beach, VA.	1	350.00	350.00	350.00	0.00
Other Direct Costs	Match - Fuel, oil and vehicle maintenance.	1	4,066.00	4,066.00	0.00	4,066.00
Equipment	Dual Antenna Kit for pro-1000 radar unit	2	610.00	1,220.00	1,220.00	0.00
Equipment	Radar Unit and accessories	1	1,600.00	1,600.00	1,600.00	0.00
Equipment	Watchguard in-car camera system and accessories	1	5,020.00	5,020.00	5,020.00	0.00
			<b>Total:</b>	<b>24,146.00</b>	<b>20,080.00</b>	<b>4,066.00</b>

# Memorandum

**Date:** September 29, 2011

**To:** Department Heads

**Subject:** 2012 Five-Year Capital Program



Development the *2012 City of Colonial Heights Five-Year Capital Program* will provide an essential component to the City's desire to create a strategic long-term financial plan to guide appropriate future capital investment in city-owned assets and operations,.

The Five-Year Capital Program (*5YRCP*) will be a comprehensive document describing all currently proposed capital expenditures and projects for all city departments and operations for each of the next five years ensuing. The *5YRCP* will be designed to provide operations managers with the opportunity to look beyond the standard 12-month governmental funding cycle; while also providing City Council and the administration with information necessary to achieve effective long-term financial planning.

While the *2012-5YRCP* will ultimately be presented for formal adoption by the City Council, its approval will not constitute an authorization of appropriations. The *5YRCP* will be utilized as a guide to future capital needs, but will not, in itself, approve any expenditure of funds. To achieve maximum effectiveness, however, it is important that both Council and staff view the *5YRCP* as a "statement of clear intentions", as it relates to both operations and funding. It should provide Council and the administration with a reasonable forecast of capital needs and costs for the ensuing five years - while, at the same time, providing Department Heads with a certain level of confidence about funding for anticipated future capital equipment and projects.

Obviously, unforeseen circumstances can create unanticipated capital needs and/or funding shortfalls, which is why in the future, the *5YRCP* will be reviewed and considered for amendment on an annual basis. In most cases, however, the staff should be able to forecast capital needs based upon certain assumptions as to maintaining (or even upgrading) existing service levels.

Absent of any major service and/or personnel increase, it is reasonable to anticipate that each department's Operating-Capital Outlay will be of a comparable amount for each year. While it is not reasonable to anticipate major, arbitrary increases in future operating capital, it is reasonable to assume a comparable level of funding each year, if overall financial conditions remain generally the same.

The *2012-5YRCP* will be organized into two basic sections:

- I. **Operations** – representing operational fixed assets such as vehicles, equipment, furniture, and fixtures (what has typically in the recent past been referred to as annual Capital Outlay); and,
- II. **Capital Improvements** – representing major capital improvement and/or construction projects, including various street, water, wastewater, and stormwater infrastructure projects; as well as any anticipated building construction or major renovations

Following is the basic information required of your submission for the *2012-5YRCP - Operations*:

- 1) A list of all fixed asset capital items within your department proposed for funding in each of the next five years (FY2012-13 through FY2017-18).
- 2) Whether or not the items proposed for funding are *replacement* or *new* items



- 3) A brief justification or explanation of the need for such expenditures. In the case of replacement items, comments as to age of existing equipment and maintenance history can provide necessary support. For new equipment or projects, an explanation should be provided to describe increased services or quality of service.
- 4) An estimate of the annual cost of operating and/or maintaining for each the capital item being proposed for funding.
- 5) A recommendation on the “funding source”, which in nearly all cases should be the annual operating budget. In some cases, however, funding may come from other sources (cash reserves, grant funds, or debt proceeds).
- 6) If no capital expenditures are anticipated or planned for a particular year, the form should be marked as such.

It is assumed that all submissions proposed for inclusion in the *Capital Improvements* section of the *2012-5YRCP* will come from the Public Works, Utilities, and/or Parks departments (with the exception of the new Municipal Courthouse). If you have a major capital/construction project you would like to propose that would be within these departments or categories, contact me directly for further discussion.

Attached to this memorandum are some examples of departmental pages as they might appear in the *5YRCP*. Subsequently, you will be provided with electronic copies of these pages in Excel format for you to utilize as templates for your own departmental submission. No later than **November 1**, each department is asked to submit (a) a hard copy of its submission under the signature of the Department Head and (b) an electronic copy of same.

Your submission should also include a brief statement/report on capital expenditures for your department for the current year (FY11-12); detailing (a) what you have spent or will spend on capital expenditures through the end of the fiscal year and (b) how those expenditures compare to the amount and/or items approved in the annual budget.

It should be noted that another part of this exercise is to provide for preliminary analysis and specific discussion of proposed capital expenditures for the coming fiscal year, which will be formally approved in next year’s budget development process. While it is understood that planning beyond next year is subject to change, Department Heads should be able to be fairly specific as to their outlook for the next 12-18 months. As such, the capital expenditures proposed for inclusion in *5YRCP* for FY2012-13 should be identical to those which will be included in the departmental submission for the *FY12-13 Operating Budget*.

Please let me know if you have any questions or comments; or need additional information relative to this project.



Thomas L. Mattis  
City Manager



# Memorandum

**Date:** October 4, 2011

**To:** Mayor and City Council

**Subject:** Update – Municipal Solid Waste  
Collection Services Agreement



The staff is proceeding as previously discussed with the process for consideration of proposals and recommendation on a contract award for municipal solid waste (MSW) collection services beyond July, 2012, the expiration date of our current contract. The staff is working on this project in conjunction with the Central Virginia Waste Management Authority (CVWMA)

A total of four (4) responses to our Request for Proposals (RFP) were received by the September 23 deadline.

One of these proposals, from SDI/County Waste and/or Kerkim LLC of West Point, Virginia, was disqualified as it was deemed to be non-responsive. Their proposal was based on a five-day per week collection. The RFP specified that all proposals provide a response for the current method (entire city collected in one day) and provide other collection options if they would like.

As such, there are three (3) qualifying bidders that will be reviewed and evaluated by the Selection Committee:

- Waste Management Inc. of Richmond, Virginia
- Container First Services of Petersburg, Virginia
- Allied Waste Services of Richmond, Virginia

As part of the evaluation process, the Selection Committee will be conducting personal interviews on **Monday, October 17**, with representatives of each of the three companies listed above.

Subsequent to these interviews, the Selection Committee will complete its evaluation and finalize its recommendation to both the City Council and the CVWMA Board of Directors on the award of a contract.

As part of an Executive Session at the **November 15** Regular Meeting of the City Council, city staff will brief the Council on the pending recommendation on the award of the contract. CVWMA staff will then subsequently brief its Board at its **November 18** meeting and recommend the award of a contract.

After which, city staff and CVWMA staff, working in conjunction their respective legal counsels, will develop a mutually-acceptable Service Agreement with the successful contractor; and it would be our current goal to have that Service Agreement on the Council's agenda for the **December 13** Regular Meeting of the City Council for formal/final approval.

For a variety of reasons, some of the dates of this schedule are slightly different from what was discussed with Council at our “kick-off presentation” on August 16. The end date is essentially the same, however, and we should be able to meet our primary goal of having a decision made on this matter by the end of the calendar year.

It is important to note that this schedule does **not** anticipate an additional, detailed review of the various bid proposals by the City Council prior to consideration of an award. Our currently anticipated meeting schedule for the months of November and December does not include Work Sessions in either month. The planned discussion of this particular business matter will be accomplished as part of Regular Meeting agendas; and, as such, would not typically include an in-depth *re*-review of all elements pertaining to the issue.

If the consensus of the City Council is that an additional detailed review of the issues pertaining to our MSW Services Agreement and the awarding of same is desired or expected (beyond what is already described/scheduled), it is important that we know that as soon as possible so that the format can be adjusted.

Please let me know if you have any questions or comments; or would like additional information.

A handwritten signature in blue ink, appearing to be 'T. Mattis', with a vertical line drawn through the middle of the signature.

Thomas L. Mattis  
City Manager

cc: Chuck E. Henley, P.E., Director of Public Works/City Engineer  
Hugh (Chip) Fisher, City Attorney  
Kim Hynes, Central Virginia Waste Management Authority



# CITY OF COLONIAL HEIGHTS

## DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

City Hall · 201 James Avenue · P.O. Box 3401  
Colonial Heights, Virginia 23834

George W. Schanzenbacher,  
A.I.C.P., Director

### MEMORANDUM

To: Honorable Mayor and Members of City Council  
Mr. Thomas L. Mattis, City Manager

From: George W. Schanzenbacher, Director

Date: October 5, 2011

### **Subject: Planning Commission Actions at October 4, 2011 meeting**

At the October 4, 2011 meeting of the Commission the following actions were taken:

1. Approved minutes of the August 2, 2011 meeting (enclosed).
2. Held a public hearing on the proposed rezoning of 231 Chesterfield Ave for the courthouse and recommended rezoning the property from RL Low Density Residential District to BB Boulevard Business District. (Please see enclosed resolution that was unanimously approved).
3. Held a public hearing on amending the Comprehensive Plan for the courthouse. This matter was tabled to the November 1, 2011 meeting.
4. Gave preliminary approval of the subdivision plat of Roslyn Farm Corporation for the parcel of former RR property located at the Appomattox River that would be deeded to the City for the Appomattox River Greenway Trail as specified in the agreement between the City and Roslyn Farm Corporation.
5. Gave Conditional Site Plan approval for an expansion of the parking lot and driveway for the Colonial Heights Health Care Center located at 831 E. Ellerslie Ave.
6. Gave approval to a revised landscaping plan for the proposed WAWA at the North Riverview Commercial Center located on Temple Ave.
7. Set the next Planning Commission meeting date as Tuesday November 1, 2011.

**CITY OF COLONIAL HEIGHTS, VIRGINIA**  
**Minutes of the Regular Meeting**  
**of the Planning Commission**  
**Tuesday, August 2, 2011**

**I. Call to Order**

Chairman Hargis called the meeting to order at 7:00 p.m.

**II. Roll Call/Determination of Quorum**

Mr. Schanzenbacher, Director of Planning and Community Development, called the roll.

Present: Mr. Hargis  
Mrs. Hamilton  
Mr. Hartson  
Mr. Townes  
Mr. Kollman  
Mr. O'Connell

Mr. Schanzenbacher stated there was a quorum.

**Also Present:** City Manager Thomas L. Mattis, City Attorney Hugh P. Fisher, III, Planning Director George W. Schanzenbacher, Jamie Sherry, Neighborhood Revitalization Planner and Director of Public Works Chuck Henley.

**III. Approval of Minutes of June 2011**

The minutes were approved on a roll call vote with no changes.

**IV. Approval of Agenda**

There were no changes to the agenda.

**V. Hearing of Citizens Generally**

There were no citizens in the audience that wanted to be heard.

**VI. Public Hearings**

There were no public hearings on the agenda.

**VII. Plans of Development/Subdivisions – PD-11-2 – Old Town Creek Center – phase 2- grading plan – AB Cook Farm tracts 2 & 3**

Mr. Schanzenbacher stated the plan under consideration was a grading plan for Phase 2 of the A. B. Cook Farm tracts 2 and 3 that is located along the Boulevard. He stated that phase 2 is located directly to the west of Phase 1 which has been approved for 2 small retail buildings and related improvements and that this plan calls for .8 acres to be graded.

Mr. Richard Baird, of C & T Land LLC, presented the grading plan. He stated that 1.8 or 1.9 acres of the overall site the site had already cleared. He also stated that there had been a stock pile of fill dirt previously on the property, but had been cleared up.

When asked if the tree line on the south side of the site was going to be removed, Mr. Baird stated that they were not. It was noted that the grading plan indicated that the trees were going to be removed. Mr. Schanzenbacher asked Mr. Baird to identify where the plants will be located on the plan prior to submitting the erosion plan and he agreed.

When asked what would be developed on the site, Mr. Baird stated he did not know. The property owners were also in attendance and stated that they were not sure how the property would be developed, but stated that there would be a landscape buffer of 8-15 feet.

It was also asked if an erosion and sediment plan would be required prior to grading. Mr. Schanzenbacher stated that an E & S plan would be required, but not before the grading.

Ms. Betty Estes, a resident that lives adjacent to the site, spoke to the Commission. She stated that the landscaping in the picture was on her property. She had planted the row of Leland cypresses because the property owner had removed landscaping that was not supposed to be removed.

After some discussion, it was determined that any new development would have to meet minimum landscaping requirements and the grading plan was approved on a roll call vote.

## **VIII. Old Business**

### **Comprehensive Plan- report on first meeting of Citizen Planning Committee**

Ms. Sherry presented the results of the Citywide Visioning meeting held on June 6<sup>th</sup>. Ms. Sherry briefly reviewed the visioning exercise and read the results aloud. There were a few themes that emerged, but she stated that additional input from the community was necessary before a vision could be drafted.

She stated that she worked with the Citizen Planning Committee to develop a citizen survey that will be made available to the public in a number of ways. Hardcopies will be available at City Hall, the library and the Senior Center. A hardcopy will also be included in the August Focus newsletter. An electronic copy of the survey will be placed on the City's website and a link to that website will be sent out in the City's electronic newsletter, *e-news!* Citizens will be given a couple of weeks to complete the survey. Once the survey closes and the results are tallied it will be place on the website for review.

## **IX. New Business**

### **Courthouse Project – Preliminary building design and landscaping**

Mr. Mattis gave a presentation on the preliminary building design and the site and landscape plan. He stated that City Council had approved these plans; however, he stated

that the some of the specifics, such as of the types of plantings, would be determined at a later date.

He stated that the floor plan shows more detail than the plans he previously showed the Commission. He stated that although the design was largely based around security needs, the first floor will have a 40x40 public space that could serve as location for community meetings. He said there might be an opportunity to show local art or historic artifacts in this area. He also stated that there is approximately 2000 square feet of space that is currently uncommitted.

Mr. Mattis stated that this building will be a landmark facility for the City. The copper colored dome will be approximately 85 feet high. The Commission had some questions about the placement of the building, and the location and amount of parking. Mr. Mattis stated that the building orientation was discussed with the committee. It was decided that it was important to have street frontage on the Boulevard and in order for this to be achieved, a majority of the parking was located in the rear of the building. The Commission asked if there was enough parking to accommodate this facility. He stated that the parking meets the city requirements, but he can't promise people won't park on the street. He also stated that there will be business opportunities, in the future, on the corner of Dupuy and the Boulevard.

## **X. Committee Reports**

Chairman Hargis asked if there were any committee reports. There were no reports from the Commission members.

Mr. Mattis stated a list of all the public works projects that were underway and thanked Mr. Henley, and his staff, for all the in-house work that was done on these projects, including the new courthouse.

## **XI. Adjournment**

Meeting adjourned at 8:30 p.m.

Respectfully,

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George W. Schanzenbacher  
Director, Department of Planning and Community Development

APPROVAL:

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Harry B. Hargis Jr.  
Chairman

## RESOLUTION NO. 11-4 (PC)

To recommend to City Council that Chapter 286, Zoning, of the City Code, and the Zoning District Map, be amended by changing the zoning classification of certain property presently zoned RL Low Density Residential District to BB Boulevard Business District. Such property is located at 231 Chesterfield Avenue and consists of one parcel of 4.77 acres and one parcel of .65 acre.

WHEREAS, the City of Colonial Heights has filed an application to have rezoned all of parcel identification number 3000010E037, which is 4.77 acres, and .65 acre of parcel identification number 30000200001; and

WHEREAS, the application requests that the zoning classification of these parcels, which are located at 231 Chesterfield Avenue, be changed from RL Low Density Residential District to BB Boulevard Business District; and

WHEREAS, the Planning Commission held a public hearing on October 4, 2011, after duly advertising a public hearing in *The Progress-Index* on September 20 and September 27, 2011; and

WHEREAS, the Planning Commission has determined that the public necessity, convenience, general welfare, and good zoning practice require that this rezoning change be made to the area shown on the map attached hereto as an Exhibit; NOW, THEREFORE,

BE IT RESOLVED BY THE COLONIAL HEIGHTS PLANNING COMMISSION:

1. That the Planning Commission recommends to City Council that Chapter 286, Zoning, of the City Code, and the Zoning District Map, be amended by changing the zoning classification of the property located at 231 Chesterfield Avenue that is more specifically described above from RL Low Density Residential District to BB Boulevard Business District.

2. That an Exhibit showing the property to be rezoned is attached hereto and made a part hereof.

3. That the Planning Commission approves Ordinance No. 11-22, attached hereto, and recommends that City Council approve the ordinance, or an ordinance that is substantially similar thereto.

Approved this 4th day of October 2011.

APPROVED:

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Chairman

ATTEST:

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Secretary