

# **OCTOBER EMPLOYEE OF THE MONTH**



**NAME:** **TRACY R. ABERNATHY**

**POSITION:** **EMS/FIREFIGHTER - INTERMEDIATE**

## **EMPLOYMENT**

**HISTORY:** Tracy was hired in April, 2006, as an Firefighter/EMT.

**NARRATIVE:** After Tracy was hired, she quickly became qualified to operate all of the department's equipment. She continued her medical training by successfully completing an EMT-Enhanced class followed by an EMT-Intermediate class, from which she became state and nationally certified. She has also taken the initiative to attend numerous fire fighting and leadership classes as well. These include officer development courses, firefighter safety classes, and courses in vehicle extrication, trench, rope, and structural collapse rescue. She is an active member of the Crater Technical Rescue Team.

Tracy is a positive element in the fire station. She maintains an upbeat disposition and exemplary work ethic. She exhibits positive leadership traits by motivating other employees through the day. Customer service is her highest priority. She strives to resolve the concerns of the department's customers whether on the fire ground, at an emergency medical incident, or during the routine day-to-day interactions via car seat installations, public educations and numerous public service requests.

Her character was best summed in an observation from the City Manager after the annual Fire vs. Police Charity Softball Game sent to Tracy via email:

“I saw a great deal of fine examples of leadership and sportsmanship during Sunday’s softball game, but none more impressive than one I saw from you. At the end of the first game, when I know some of your teammates would have been a bit down from the tough loss, I saw you rally some of them out of the dugout to go shake hands and congratulate the cops. I didn’t even notice who came out of the dugout, but you took charge of the situation and moved probably more senior and maybe even higher ranking folks out to do the sportsmanlike thing. They were slow getting up, but you wouldn’t let them hang back and display anything less than the teamwork you played so hard for that afternoon. That impressed me – and you have my respect and commendation for doing the right thing. I know you didn’t even think twice about it, and that showed me the depth of your character.”

It is rare to find an employee of such quality and potential, making this city a safer and better place to live.

AN ORDINANCE NO. 09-18

To amend and reordain §§187-3, 187-9, 286-2, 286-77, and 286-99 of the Colonial Heights City Code to define "Itinerant Merchant" and regulate the licensure and operation thereof.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:

1. That §187-3 of Chapter 187, Licenses, of the Colonial Heights City Code, be and is hereby, amended and reordained as follows:

**§ 187-3. License requirement.**

A. Every person engaging in the City in any business, trade, profession, occupation or calling (collectively hereinafter, "a business") as defined in this article, unless otherwise exempted by law, shall apply for a license for each such business if:

- (1) Such person maintains a definite place of business in the city;
- (2) Such person does not maintain a definite office anywhere but does maintain an abode in the city, which abode for the purposes of this article shall be deemed a definite place of business; or
- (3) There is no definite place of business but such person operates amusement machines, is engaged as a peddler, or *an* itinerant merchant *as defined in §286-2 of this Code*, a carnival or circus as specified in the Code of Virginia, §58.1-3717, 3718 or 3728, respectively, or is a contractor subject to the Code of Virginia, §58.1-3715 or is a public service corporation subject to the Code of Virginia, §58.1-3731. *An itinerant merchant shall not be issued a license that is valid for more than 30 consecutive days, and each itinerant merchant shall comply with the standards specified in §§286-77 and 286-99 of this Code.*

2. That §187-9 of Chapter 187, Licenses, of the Colonial Heights City Code, be and is hereby, amended and reordained as follows:

**§187-9. License fee and tax.**

Every person or business subject to licensure under this section shall be assessed and required to pay annually:

A. A fee in the amount of \$30 for a person or business included in Subsection B(1), (2), (3) and (4) of this section, whose gross receipts are less than \$15,000 in a license year, for the issuance of such license; and

B. Except as may be otherwise provided in Virginia code §§ 58.1-3712, 58.1-3712.1 and 58.1-3713 and Subsection C of this section, every such person or business shall be assessed and required to pay annually a license tax on all the gross receipts of such persons includable as provided in this chapter at a rate set forth below for the class of enterprise listed:

- (1) For contractors and persons constructing for their own account for sale, \$0.15 per \$100 of gross receipts;
- (2) For retailers, \$0.20 per \$100 of gross receipts;
- (3) For financial, real estate and professional services, \$0.57 per \$100 of gross receipts;
- (4) For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this chapter or otherwise by law, \$0.35 per \$100 of gross receipts;
- (5) For wholesalers, \$0.05 per \$100 of purchases;
- (6) For carnivals, circuses and speedways, \$500 for each performance held in the city; except no license tax shall be imposed on any activity conducted or sponsored by a department of the City government or for charitable purposes;
- (7) For fortune tellers, clairvoyants and practitioners of palmistry, \$500 per year, subject to the provisions of §187-17 herein;
- (8) For itinerant merchants, \$500 per year, except as otherwise provided herein:
  - (a) No license tax shall be imposed on any itinerant merchant who sells or offers for sale in person or by his employees only the following items, or any of them, if such items were grown or produced by him or by his employees and were not purchased by them for sale: ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm, domestic or nursery products.
  - (b) A license tax of \$50 **\$500** for each location used during the tax year shall be

be imposed on any itinerant merchant who sells or offers for sale in person or by his employees only the following items, or any of them, if such items were not grown or produced by him or his employees: wood, meats, milk, butter, eggs, poultry, fish, oysters, seafood, game, vegetables, fruits or other edible family supplies of a perishable nature.

(c) A license tax of \$50 **\$500** for each location used during the tax year shall be imposed on any itinerant merchant who sells or offers for sale Christmas trees or Christmas greens not grown or produced by him.

(d) An itinerant merchant whose activities are conducted solely for charitable purposes and who is not paid for his services shall not be required to pay any license tax hereunder.

(e) No license tax shall be imposed on an itinerant merchant whose activities are conducted as part of an event conducted or sponsored by any department of the City government.

(9) For peddlers, \$500 per year, except as otherwise provided herein:

(a) Any person who sells or offers to sell goods, wares or merchandise to licensed dealers, other than at a definite place of business operated by the seller, and at the time of such sale or exposure for sale delivers or offers to deliver the goods, wares or merchandise to the buyer is a "peddler at wholesale." Any delivery on the day of sale shall be construed as a delivery at the time of sale. Each peddler at wholesale shall pay a license tax for the tax year. The license tax rate for each peddler at wholesale shall be the same as the license tax rate applicable to a wholesale merchant selling similar goods, wares or merchandise at one definite place of business.

(b) No license tax shall be imposed on any peddler who sells or offers for sale in person or by his employees only the following items, or any of them, if such items were grown or produced by him or by his employees and were not purchased by them for sale: ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm, domestic or nursery products.

(c) A license tax of \$50 for the tax year shall be imposed on any peddler who sells or offers for sale in person or by his employees only the following items, or any of them, if such items were not grown or produced by him or his employees: wood, meats, milk, butter, eggs, poultry, fish, oysters, seafood, game, vegetables, fruit or other edible family supplies of a perishable nature.

(d) A license tax of \$50 for the tax year shall be imposed on any peddler who sells or offers for sale Christmas trees or Christmas greens not grown or produced by him.

(e) A peddler whose activities are conducted solely for charitable purposes and who is not paid for his services shall not be required to pay any license tax hereunder.

(f) No license tax shall be imposed on any peddler whose activities are conducted or sponsored by a department of the City government.

(10) For direct sellers as defined in Virginia Code §58.1-3719.1 with total annual sales in excess of \$4,000, \$0.20 per \$100 of total annual retail sales or \$0.05 per \$100 of total annual wholesale sales, whichever is applicable.

C. No license tax imposed pursuant to the provisions of this section upon gross receipts shall be imposed on any person whose gross receipts from a business, profession or occupation subject to licensure are less than \$15,000 in a license year. This limitation shall not be applicable to license taxes on wholesalers, carnivals, circuses and speedways, fortune tellers, clairvoyants and practitioners of palmistry, itinerant merchants or peddlers and direct sellers.

3. That §286-2 of Chapter 286, Zoning, of the Colonial Heights City Code, be and is hereby, amended and reordained as follows:

**§ 286-2 Definitions and word usage.**

A. For the purpose of this chapter, certain words and terms are herein defined. Words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word "building" shall include the word "structure"; the word "shall" is mandatory, not directory; "lot" includes the words "plot," "tract" and "parcel."

B. The following terms, unless a contrary meaning is required by the context or specifically otherwise prescribed, shall have the following meanings:

**ACCESSORY BUILDING** -- A detached subordinate building located on the same lot with the main building or use, the use of which is customarily incidental to that of the main building or to that of the use of the land. Where an accessory building is structurally attached to the main building, such accessory building shall be counted as a part of the main building. A swimming pool shall be deemed an "accessory building."

**ITINERANT MERCHANT** – *A merchant who transports an inventory of new merchandise to a building, vacant lot, or other location and who, at that location, displays, sells or offers to sell the new merchandise to the public. Itinerant merchant shall not include a merchant with an established store, regularly open to the public; a licensed merchant with a regularly serviced supply route or location; or a merchant who purchases merchandise directly from a manufacturer. An itinerant merchant is also known as a transient merchant.*

4. That §286-77 of Chapter 286, Zoning, of the Colonial Heights City Code, be and is hereby, amended and reordained as follows:

**§ 286-77 Permitted uses.**

The following uses shall be permitted in any B-1 General Business District.

A. One-family dwellings.

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Y. ***Itinerant Merchants, subject to the following standards:***

- (1) ***The property owner shall grant written permission for the itinerant merchant to conduct business on his property;***
- (2) ***Only one itinerant merchant per property is allowed at any one time;***
- (3) ***The Commissioner of the Revenue shall issue each itinerant merchant only one business license per calendar year pursuant to §187-3 of this Code, and 30 consecutive days shall be the maximum time for each transient use per calendar year;***

- (4) ***Any time period for which a merchant receives a business license shall be counted in consecutive days;***
- (5) ***Temporary offices, trailers, tents, or trucks are permitted, provided they do not disrupt traffic flow on the property or interfere with visibility for vehicle access to the site or vehicle movements on the site;***
- (6) ***All business activities shall take place on private property;***
- (7) ***Signage and lighting shall comply with the provisions of this Chapter;***
- (8) ***A concept plan showing the location of all activities shall be submitted to and approved by the Zoning Administrator before a business license is issued; and***
- (9) ***All fixtures, equipment or any other structural elements of the business shall be immediately removed from the site once the license expires.***

5. That §286-99 of Chapter 286, Zoning, of the Colonial Heights City Code, be and is hereby, amended and reordained as follows:

#### **§ 286-99 Permitted uses.**

The following uses shall be permitted in any B-3 General Business (High Density) District:

A. Antique shops; appliance stores; art shops; automobile parking lots, public or private; bakeries; banks or savings and/or building and loan associations; barbershops; baths, Turkish or massage clinics; beauty shops; bicycle sales and repairs; book or stationery stores; business and private schools, operated as a business enterprise; business or professional offices; cleaning collection or pickup stations; clothing stores; confectionery or dairy products stores; custom dressmaking, millinery or tailor shops; delicatessen stores; dental clinics; department stores; drapery shops; drugstores; dry goods, notion or variety stores; florist shops; fruit or vegetable stores; furniture and floor covering shops; gasoline supply stations; grocery stores or supermarkets; haberdashery stores; hardware stores; interior decorating shops; jewelry stores; job printing shops; launderettes and/or hand laundries; marine supplies, including pleasure craft sales; meat, seafood or poultry markets; medical clinics; newsstands; pet shops; photographic studios; restaurants, lunchrooms or cafes; drive-ins; small loan offices; shoe stores or shoe repair shops; tailor, clothing or wearing apparel shops; taxicab offices; telegraph offices; theaters; United States post offices; Virginia ABC package stores; accessory buildings and uses; and cleaning and pressing establishments.

J. ***Itinerant Merchants, subject to the following standards:***

- (1) ***The property owner shall grant written permission for the itinerant merchant to conduct business on his property;***
- (2) ***Only one itinerant merchant per property is allowed at any one time;***
- (3) ***The Commissioner of the Revenue shall issue each itinerant merchant only one business license per calendar year pursuant to §187-3 of this Code, and 30 consecutive days shall be the maximum time for each transient use per calendar year;***
- (4) ***Any time period for which a merchant receives a business license shall be counted in consecutive days;***
- (5) ***Temporary offices, trailers, tents, or trucks are permitted, provided they do not disrupt traffic flow on the property or interfere with visibility for vehicle access to the site or vehicle movements on the site;***
- (6) ***All business activities shall take place on private property;***
- (7) ***Signage and lighting shall comply with the provisions of this Chapter;***
- (8) ***A concept plan showing the location of all activities shall be submitted to and approved by the Zoning Administrator before a business license is issued; and***
- (9) ***All fixtures, equipment or any other structural elements of the business shall be immediately removed from the site once the license expires.***

6. That this Ordinance shall be in full force and effect on and after January 1, 2010.

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Approved:

\_\_\_\_\_  
Mayor

Attest:

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

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I certify that the above ordinance was:

Adopted on its first reading on October 13, 2009.

Ayes: 7 . Nays: 0 . Absent: 0 . Abstain: 0 .

The Honorable Milton E. Freeland, Jr., Councilman: aye.

The Honorable Kenneth B. Frenier, Councilman: aye.

The Honorable W. Joe Green, Jr., Councilman: aye.

The Honorable Elizabeth G. Luck, Vice Mayor: aye.

The Honorable John T. Wood, Councilman: aye.

The Honorable Diane H. Yates, Councilwoman: aye.

The Honorable C. Scott Davis, Mayor: aye.

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:

Hugh P. Trotter, III  
City Attorney

AN ORDINANCE NO. 09-FIN-18

To amend the General Fund Budget for the fiscal year beginning July 1, 2009, and ending June 30, 2010, to appropriate \$156,730, consisting of \$1,598 in grant funding to Public Safety for purchase of a new scanner in Records Division; \$2,700 in grant funding to Public Safety for purchase of surgical masks to be used during a state declared pandemic event; \$11,234 to City Assessor from Contingencies for replacement of server equipment; and \$152,432 in grant funding and restricted fund balance for a Community Block Grant.

And to amend the Capital Projects Fund Budget for the fiscal year beginning July 1, 2008, and ending June 30, 2009, to appropriate \$332,548, consisting of \$322,548 in VDOT Funding for Safe Routes to School projects and \$10,000 in donated funding for the Appomattox River Trail project.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:

1. That Sections 1, 2 and 3 of Ordinance No. 09-FIN-4, 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, 2009, and ending June 30, 2010, 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)	\$ 147,397
Administrative (City Manager)	310,461
Legal (City Attorney)	203,878
Tax Collections & Assessments	607,032 618,266
Finance	5,847,320
Information Technologies	187,249
Board of Elections	130,159
Judicial	4,280,731
Public Safety	7,631,333 7,635,631
Public Works	2,890,262
Health and Social Services	643,750
Parks and Recreation	1,403,819
Cultural Enrichment	91,787
Library	598,942
Community Development	535,209
Grant Programs	368,542 520,974
Nondepartmental	557,282 546,048
Debt Service	3,217,341
Operating Transfers Out	19,037,766

2. That the sum of \$48,690,260 48,846,990 is appropriated for the fiscal year beginning July 1, 2009.

3. That the foregoing appropriation is based upon the following revenue estimates for the fiscal year beginning July 1, 2009:

General Property Taxes	\$ 21,216,669
Other Local Taxes	14,403,852
Licenses, Permits & Fees	3,409,794
Fines and Forfeitures	556,500
Use of Money & Property	427,000
Intergovernmental Revenues	6,243,667 6,358,986
Charges for Current Services	1,149,401
Miscellaneous	1,257,648
Restricted Fund Balance – Fire/EMS	5,000
Reserve – Fire/EMS Donations	1,350
Restricted Fund Balance –	
Civic Organizations	450
Restricted Fund Balance –	
Police Assets	18,929
<i>Restricted Fund Balance – CDBG</i>	<i>41,411</i>
<b>TOTAL</b>	<b>\$ 48,690,260 48,846,990</b>

2. That Sections 2 and 3 of Ordinance No. 06-FIN-4, the Capital Projects Fund Budget, be, and is hereby amended and reordained as follows:

2. That there shall be appropriated from the resources and revenues available to the City of Colonial Heights (City) in its Capital Projects Fund, until such appropriations are amended by the City Council or the subject projects are completed or abandoned, the following sums for the purposes stated:

#### GENERAL GOVERNMENT

Senior Citizen/Youth Center Addition	682,007
Beautification Committee/Tourism	
Jamestown 2007	89,122
Courts Building Renovation/A & E	481,610
Library Renovation/Addition/A & E	1,349,716
Emergency Shelter—Power Modification	70,722
Boulevard Redevelopment	333,927
Fire Apparatus	<u>205,926</u>
<b>SUBTOTAL</b>	<b>\$ 3,213,030</b>

#### RECREATIONAL FACILITIES

Vocational School Sports Complex	9,246
Shepherd Stadium	70,000
Violet Bank Museum	63,759
Facilities Masterplan/Improvements	205,000
Appomattox River Greenway	<u>206,352</u> 216,352
<b>SUBTOTAL</b>	<b>\$ 554,357</b>
	<b>564,357</b>

#### EDUCATIONAL FACILITIES

Asbestos Abatement/	
Renovation High School	\$ 95,575
<b>SUBTOTAL</b>	<b>\$ 95,575</b>

### STREETS AND BRIDGES

Highway Construction Fund (Local Share)	12,561
Access Road—Transfer Station	100,000
Conduit Road Drainage Improvements	863
Bruce Avenue Drainage	2,740,671
I-95 Northbound Ramp—Temple Avenue	563,000
Lynchburg Avenue Reconstruction	162,305
Longhorn Drive Drainage	182,719
Boulevard Widening—North End	670,825
Boulevard Enhancement Project	275,000
Lafayette Avenue Paving	68,500
Yacht Basin Drive Storm Sewer	14,235
Lexington Drive Storm Sewer	33,172
Dupuy Boulevard Intersection	5,376,898
Signal Coordination –	
Temple/Sherwood	331,000
<i>Safe Routes to School</i>	<u>322,548</u>
SUBTOTAL	\$ 10,531,749
	10,854,297

### UTILITY IMPROVEMENTS

Sanitary Sewer Rehabilitation	\$ 319,926
Waterline Rehabilitation	84,061
Utility System Line Testing	<u>108,417</u>
SUBTOTAL	<u>\$ 512,404</u>

### TRANSFERS

Transfer to School CIP Program	\$ 7,500,000
SUBTOTAL	<u>\$ 7,500,000</u>
 TOTAL	 <u>\$22,407,115</u>
	\$22,739,663

3. That the foregoing appropriations are to be made from resources and revenues available for these projects, and anticipated as follows:

### TRANSFERS

Transfer from General Fund	\$ 2,614,257
Transfer from Recreation Activity Fund	1,700
SUBTOTAL	\$ 2,615,957

### MISCELLANEOUS

Restricted Fund Balance – Fire Apparatus	\$ 141,585
Grants	\$ 401,503
Donations	<u>7,860</u>
SUBTOTAL	17,860
SUBTOTAL	\$ 550,948
	560,948

REVENUES

Intergovernmental	4,982,898	5,305,446
Future Bond Issues:		
General Fund	7,500,000	
Schools	2,500,000	
SUBTOTAL		\$ 14,982,898
		15,305,446

CONTINUING APPROPRIATED PROJECTS

General Fund	\$ 3,696,927
Water and Sewer Fund	560,385
SUBTOTAL	\$ 4,257,312
 TOTAL	 \$22,407,115
	22,739,663

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

Approved:

\_\_\_\_\_  
Mayor

Attest:

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

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I certify that the above ordinance was:

Adopted on its first reading on October 13, 2009.

Ayes: 7 Nays: 0 Absent: 0 Abstain: 0.

The Honorable Milton E. Freeland, Jr., Councilman: aye.

The Honorable Kenneth B. Frenier, Councilman: aye.

The Honorable W. Joe Green, Jr., Councilman: aye.

The Honorable Elizabeth G. Luck, Vice Mayor: aye.

The Honorable John T. Wood, Councilman: aye.

The Honorable Diane H. Yates, Councilwoman: aye.

The Honorable C. Scott Davis, Mayor: aye.

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: \_\_\_\_\_.

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City Clerk

Approved as to form:

John P. Shaffer, III  
City Attorney

AN ORDINANCE NO. 09-FIN-19

To amend the General Fund Budget for the fiscal year beginning July 1, 2009, and ending June 30, 2010, to reduce appropriations \$115,225 due to State Funding reductions.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:

1. That Sections 1, 2 and 3 of Ordinance No. 09-FIN-4, 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, 2009, and ending June 30, 2010, 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)	\$ 147,397
Administrative (City Manager)	310,461
Legal (City Attorney)	203,878
Tax Collections & Assessments	607,032
Finance	5,847,320
Information Technologies	187,249
Board of Elections	130,159
Judicial	4,280,731
Public Safety	7,631,333
Public Works	2,890,262
Health and Social Services	643,750
Parks and Recreation	1,403,819
Cultural Enrichment	91,787
Library	598,942
Community Development	535,209
Grant Programs	368,542
Nondepartmental	557,282 442,058
Debt Service	3,217,341
Operating Transfers Out	19,037,766

2. That the sum of \$48,690,260 48,575,036 is appropriated for the fiscal year beginning July 1, 2009.

3. That the foregoing appropriation is based upon the following revenue estimates for the fiscal year beginning July 1, 2009:

General Property Taxes	\$ 21,216,669
Other Local Taxes	14,403,852
Licenses, Permits & Fees	3,409,794
Fines and Forfeitures	556,500
Use of Money & Property	427,000
Intergovernmental Revenues	6,243,667 6,128,443
Charges for Current Services	1,149,401
Miscellaneous	1,257,648

Restricted Fund Balance -- Fire/EMS	5,000
Reserve – Fire/EMS Donations	1,350
Restricted Fund Balance –	
Civic Organizations	450
Restricted Fund Balance –	
Police Assets	18,929
<b>TOTAL</b>	<b>\$ 48,690,260 48,575,036</b>

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

Approved:

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

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

\*\*\*\*\*

I certify that the above ordinance was:

Adopted on its first reading on October 13, 2009

Ayes: 7 Nays: 0 Absent: 0 Abstain: 0

The Honorable Milton E. Freeland, Jr., Councilman: aye

The Honorable Kenneth B. Frenier, Councilman: aye

The Honorable W. Joe Green, Jr., Councilman: aye

The Honorable Elizabeth G. Luck, Vice Mayor: aye

The Honorable John T. Wood, Councilman: aye

The Honorable Diane H. Yates, Councilwoman: aye

The Honorable C. Scott Davis, Mayor: aye

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:

Hugh P. Shuler, III  
City Attorney



CITY OF COLONIAL HEIGHTS  
201 JAMES AVENUE  
P. O. BOX 3401  
COLONIAL HEIGHTS, VIRGINIA 23834-9001  
(804) 520-9316 / FAX 520-9398

HUGH P. FISHER, III  
CITY ATTORNEY  
TAMARA L. DRAPER  
LEGAL ASSISTANT

OFFICE OF THE  
CITY ATTORNEY

October 27, 2009

**VIA FAXSIMILE 861-9452**

The Progress-Index  
15 Franklin Street  
Petersburg, VA 23803

**RECEIVED**

OCT 28 2009

**CITY CLERK'S OFFICE**

Attention: Legal Advertisements

Dear Madam or Sir:

I have enclosed for publication in the legal advertisements section of your newspaper a notice of City Council holding a public hearing to accept public comments on and consider the adoption of Ordinance Nos. 09-24 and 09-25.

You are requested to publish the notice on **November 2, 2009**.

Please send a certificate of publication to the Office of the City Clerk in City Hall so that we may have evidence that legal requirements have been met.

If there is any problem in publishing the notice on the date requested, please notify this Office immediately so that we may make other arrangements for publication.

Thank you for your assistance.

Very truly yours,

Hugh P. Fisher, III  
City Attorney

Enclosure

cc: The Honorable C. Scott Davis, Mayor  
Richard A. Anzolut, Jr., City Manager  
✓Kimberly J. Rollinson, City Clerk

**NOTICE OF PUBLIC HEARINGS  
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 **Wednesday, November 18, 2009, at 7:00 P.M.**, in Council Chambers of City Hall, 201 James Avenue, Colonial Heights, Virginia, the City Council shall hold public hearings to accept comments on the following:

**AN ORDINANCE NO. 09-24**

Adopting and implementing local guidelines pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 for the City of Colonial Heights, Virginia.

The guidelines will provide the City with increased flexibility in its procurement practices for qualified projects and are intended to meet the City's needs for certain projects by improving the delivery schedule, lowering the cost, and providing other public benefits. Also, the guidelines will facilitate the City's ability to enter into partnerships with private entities to develop qualifying projects.

**AN ORDINANCE NO. 09-25**

To amend and reordain §258-16.2 of Chapter 258, Taxation, of the Colonial Heights City Code, to specify that any real estate tax exemption for property in the Southpark Commercial Structure Tax Exemption District shall be contingent on a minimum \$100,000 expenditure.

Copies of the proposed ordinances are 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 hearings 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.

Hugh P. Fisher, III  
City Attorney

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.

**AN ORDINANCE NO. 09-24**

Adopting and implementing local guidelines pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 for the City of Colonial Heights, Virginia.

**WHEREAS**, the Virginia General Assembly, pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002, Va. Code § 56-575.1 *et seq.*, and all amendments thereto (PPEA), has determined that there is a public need for timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, or installation of education facilities, technology infrastructure and other public infrastructure and government facilities within the Commonwealth that serve a public need and purpose; and

**WHEREAS**, such public need may not be wholly satisfied by existing methods of procurement in which qualifying projects are acquired, designed, constructed, improved, renovated, expanded, equipped, maintained, operated, implemented, or installed; and

**WHEREAS**, there are inadequate resources to develop new education facilities, technology infrastructure and other public infrastructure and government facilities for the benefit of citizens of the Commonwealth, and there is demonstrated evidence that public-private partnerships can meet these needs by improving the schedule for delivery, lowering the cost, and providing other benefits to the public; and

**WHEREAS**, financial incentives exist under state and federal tax provisions that promote public entities to enter into partnerships with private entities to develop qualifying projects; and

**WHEREAS**, authorizing private entities to develop or operate one or more qualifying projects may result in the availability of such projects to the public in a more timely or less costly fashion, thereby serving the public safety, benefit, and welfare; and

**WHEREAS**, the intent of the PPEA has been declared to, among other things, encourage investment in the Commonwealth by private entities and facilitate the bond financing provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 or other similar financing mechanisms, private capital and other funding sources that support the development or operation of qualifying projects, to the end that financing for qualifying projects be expanded and accelerated to improve and add to the convenience of the public, and such that public and private entities may have the greatest possible flexibility in contracting with each other for the provision of the public services that are the subject of the PPEA; and

**WHEREAS**, prior to requesting or considering a proposal for a qualifying project under the PPEA, the City must adopt and make publically available guidelines that are sufficient to enable the City to comply with the PPEA, which guidelines shall be reasonable, encourage competition, and guide the selection of projects under the purview of the City; and

**WHEREAS**, the following guidelines fulfill the purposes of, and meet the requirements of, the PPEA.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLONIAL HEIGHTS** that the following guidelines are hereby adopted and implemented pursuant to the PPEA:

**City of Colonial Heights, Virginia**

**Guidelines for the Implementation of the Public-Private Education Facilities and  
Infrastructure Act of 2002**

**City of Colonial Heights, Virginia  
Guidelines for the Implementation of the  
Public-Private Education Facilities and Infrastructure Act of 2002**

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## **I. Introduction**

The Public-Private Education Facilities and Infrastructure Act of 2002 (the "PPEA") grants the City of Colonial Heights (the "City"), a responsible public entity as defined in the PPEA, the authority to enter into public-private partnership agreements for the development of a wide range of projects for public use if the City determines that there is a public need for the project and that private involvement may provide the project to the public in a timely or cost-effective fashion. For the purposes of these guidelines, the term "City" includes its School Board in the case of education facilities. Individually negotiated interim and comprehensive agreements between a private entity, as defined in the PPEA, and the City will define the respective rights and obligations of the City and the private entity. Although guidance with regard to the application of the PPEA is provided herein, it will be incumbent upon the City and all private entities to comply with the provisions of the PPEA.

In order for a project to come under the PPEA, it must meet the definition of a "qualifying project." The City may consider utilizing PPEA procedures if:

1. There is a public need for or benefit derived from the qualifying project of the type the private entity proposes;
2. The estimated cost of the project is reasonable in relation to similar facilities; and
3. The private entity's plans will result in the timely development or operation of the project.

The PPEA contains a broad definition of qualifying projects that include public buildings and facilities of all types, for example:

1. An education facility, including, but not limited to, a school building (including any stadium or other facility primarily used for school events), any functionally related and subordinate facility and land to a school building and any depreciable property provided for use in a school facility that is operated as part of the public school system or as an institution of higher education;
2. A building or facility that meets a public purpose and is developed or operated by or for any public entity;
3. Improvements, together with equipment, necessary to enhance public safety and security of buildings to be principally used by a public entity;
4. Utility and telecommunications and other communications infrastructure;
5. A recreational facility;
6. Technology infrastructure and services, including but not limited to telecommunications, automated data processing, word processing and management information systems, and related information, equipment, goods and services;
7. Technology, equipment, or infrastructure designed to deploy wireless broadband services to schools, businesses, or residential areas, or
8. Any improvements necessary or desirable to any unimproved locally- or state-owned real estate.

The PPEA establishes requirements to which the City must adhere when reviewing and approving proposals received pursuant to the PPEA. In addition, the PPEA specifies the criteria that must be used to select a proposal and the contents of the interim or comprehensive agreement detailing the relationship between the City and the private entity.

The Colonial Heights City Council (the "City Council") adopted these guidelines on \_\_\_\_\_ to implement the PPEA in the City. The City Manager will follow these guidelines in receiving and evaluating any proposal submitted to the City under the provisions of the PPEA. The City Council must adopt any amendments to these guidelines.

These guidelines shall govern all City PPEA projects, including education facilities, and shall be applicable to all City agencies, boards, commissions, and committees. The City Manager may designate a working group (the "Working Group") to assist the City Manager in evaluating proposals and negotiating any interim or comprehensive agreement. The City Manager shall implement these guidelines, receive proposals submitted under the PPEA, and respond to inquiries regarding the PPEA or these guidelines, but the City Manager may specifically designate one or more persons to perform one or more of these duties.

## **II. General Provisions**

### **A. Proposal Submission**

A proposal may be either solicited by the City or delivered by a private entity on an unsolicited basis. In either case, the proposal shall be clearly identified as a "PPEA PROPOSAL." To be considered, one original and nine (9) copies of any unsolicited proposal must be submitted along with the applicable fee to the City Manager, or his designee as set forth above, by certified mail or express mail to P.O. Box 3401, Colonial Heights, Virginia 23834 or by hand delivery to 201 James Avenue, Colonial Heights, Virginia 23834. Proposers may be required to follow a two-part proposal submission process consisting of an initial conceptual phase and a detailed phase, as described herein. The City may discontinue its evaluation of any proposal at any time during the conceptual or detailed phase.

The PPEA allows private entities to include innovative financing methods, including the imposition of user fees or service payments, in a proposal. Such financing arrangements may include the issuance of debt instruments, equity or other securities or obligations. Proposals may include, if applicable, the portion of the tax-exempt private activity bond limitation amount to be allocated annually to the Commonwealth of Virginia pursuant to the Economic Growth and Tax Relief Reconciliation Act of 2001 for the development of education facilities using public-private partnerships, and to provide for carryovers of any unused limitation amount.

Proposals should be prepared simply and economically, providing a concise description of the proposer's capabilities to complete the proposed qualifying project and the benefits to be derived from the project by the City. Project benefits to be considered are those occurring during the construction, renovation, expansion or improvement phase and during the life cycle of the project. Proposals also should include a scope of work and a financial plan for the project, containing enough detail to allow an analysis by the City of the financial feasibility of the proposed project. Any facility, building, infrastructure, or improvement included in a proposal shall be identified specifically or conceptually. The cost analysis of a proposal should not be linked solely to any proposed financing plan, as the City may determine to finance the project through other available means. The City Manager or his designee may request, in writing, clarification of the submission.

The PPEA is intended to encourage proposals from the private sector that offer the provision of private financing in support of the proposed public project and the assumption of commensurate risk by the private operator, but also benefits to the private entity through innovative approaches to project financing, development and use. However, while substantial private sector involvement is encouraged, qualifying facilities will still be devoted primarily to public use and typically involve facilities critical to the public health, safety and welfare. Accordingly, the City shall continue to exercise full and proper due diligence in the evaluation and selection of private entities for these projects. Prospective private entities proposing projects shall be held strictly accountable for their representations or other information provided regarding their

qualifications, experience, or other contents of their proposals, including all specific aspects of proposed plans to be performed by the private entity.

## **B. Proposal Review Fees**

The PPEA authorizes the City to charge fees to cover the costs of processing, reviewing, and evaluating proposals.

1. A fee in accordance with the fee schedule below, paid with certified funds, shall accompany any initial proposal to cover the cost of determining whether it is a qualifying project with a reasonable expectation of satisfying the criteria of Va. Code § 56-575.4 (C) of the PPEA of public need or benefit, reasonable estimated cost, and timely acquisition of the project. The fee shall be based on the total cost of the proposal.
2. If the proposal is advanced to the detailed stage of review, an additional fee in accordance with the fee schedule below shall be due. The fee, paid in certified funds, shall accompany the proposer's submission at the detailed stage.

<b>Review Stage</b>	<b>Fee</b>	<b>Minimum</b>	<b>Maximum</b>
Conceptual/Initial	1%	\$2,500.00	\$5,000.00
Detail	1%	\$5,000.00	\$50,000.00

## **C. Reservation of Rights**

In connection with any proposal or qualifying project, the City shall have all rights available to it by law in administering these guidelines, including without limitation, the right in its sole and unfettered discretion to:

1. Reject any or all proposals at any time, for any reason, solely within the discretion of the City. Proposers shall have no recourse against the City for such rejection. Proposers will be notified in writing of such rejection in accordance with these guidelines.
2. Terminate evaluation of any and all proposals at any time.
3. Suspend, discontinue or terminate interim and comprehensive agreement negotiations with any proposer at any time before the actual authorized execution of an interim or comprehensive agreement by all parties.
4. Negotiate with a proposer without being bound by any provision in its proposal.
5. Request or obtain additional information about any proposal.
6. Issue addenda to or cancel any request for proposals ("RFP") or invitation for bids ("IFB").
7. Revise, supplement or withdraw all or any part of these guidelines at any time and from time to time.
8. Modify any standard fee schedule as stated herein for a specific proposal or for all future proposals.
9. Decline to return any and all fees required to be paid by proposers hereunder, except for fees paid with an unsolicited proposal that is not accepted for conceptual – stage consideration.
10. Request revisions to conceptual or detailed proposals.
11. Submit a proposal for review by outside consultants or advisors selected by the City without notice to the proposer. Such consultants or advisors

shall be advised of, and required to maintain, the confidentiality of information that has been designated as confidential, and to refer all requests for such information to the City.

Under no circumstances shall the City be liable for, or reimburse, the costs incurred by proposers, whether or not selected for negotiations, in developing proposals or in negotiating agreements. Any and all information the City makes available to proposers shall be as a convenience to the proposer and without representation or warranty of any kind. Proposers may not rely upon any oral responses to inquiries. If a proposer has a question regarding application of these guidelines, the proposer must submit the question in writing and the City will respond in writing as it determines appropriate.

#### **D. Virginia Freedom of Information Act**

##### **1. General applicability of disclosure provisions**

Proposal documents submitted by private entities are generally subject to the Virginia Freedom of Information Act ("FOIA") except that Va. Code § 2.2-3705.6 (11) exempts certain documents from public disclosure. FOIA exemptions, however, are discretionary, and the City may elect to release some or all of documents except to the extent the documents are:

- a. Trade secrets of the private entity as defined in the Uniform Trade Secrets Act (Va. Code § 59.1-336 *et seq.*);
- b. Financial records of the private entity that are not generally available to the public through regulatory disclosure or otherwise, including but not limited to, balance sheets and financial statements; or
- c. Other information submitted by a private entity, where if the record or document were made public prior to the execution of an interim or comprehensive agreement the financial interest or bargaining position of the public or private entity would be adversely affected.

Additionally, to the extent access to proposal documents submitted by private entities are compelled or protected from disclosure by a court order, the City will comply with the provisions of such order.

##### **2. Protection from mandatory disclosure for certain documents submitted by a private entity**

Before a document of a private entity may be withheld from disclosure, the private entity must make a written request to the City at the time the documents are submitted, designating with specificity the documents for which the protection is being sought and a clear statement of the reasons for invoking the protection with reference to one or more of three classes of records listed in Section I.D.1.

Upon the receipt of a written request for protection of documents, the City shall determine whether the documents contain (i) trade secrets, (ii) financial records, or (iii) other information that would adversely affect the financial interest or bargaining position of the City or private entity in accordance with Section I.D.1. The City will make a written determination of the nature and scope of the protection to be afforded by the City under this subdivision. If the written determination provides less protection than requested by the private entity, the private entity will be accorded an opportunity to withdraw its proposal. Nothing shall prohibit further negotiations of the documents to be accorded protection from release although what may be protected must be limited to the categories of records identified in Section I.D.1.

Once a written determination has been made by the City, the documents afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of the City or any affected jurisdiction to which such documents are provided.

If a private entity fails to designate trade secrets, financial records, or other confidential or proprietary information for protection from disclosure, such information, records or documents shall be subject to disclosure under FOIA.

3. Protection from mandatory disclosure for certain documents produced by the City

The City may withhold from disclosure memoranda, staff evaluations, or other records prepared by the City, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals where (i) if such records were made public prior to or after the execution of an interim or a comprehensive agreement, the financial interest or bargaining position of the City would be adversely affected, and (ii) the basis for the determination required in clause (i) is documented in writing by the City.

Cost estimates relating to a proposed procurement transaction prepared by or for the City shall not be open to public inspection.

4. The City may not withhold from public access:

- a. Procurement records other than those subject to the written determination of the City;
- b. Information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the City and the private entity;
- c. Information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or
- d. Information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

However, to the extent that access to any procurement record or other document or information is compelled or protected by a court order, the City will comply with such order.

**E. Use of Public Funds**

Virginia constitutional and statutory requirements and City ordinances and policies as they apply to appropriation and expenditure of public funds apply to any interim or comprehensive agreement entered into under the PPEA. Accordingly, the processes and procedural requirements associated with the expenditure or obligation of public funds shall be incorporated into planning for any PPEA project or projects.

**F. Applicability of Other Laws**

Nothing in the PPEA shall affect the duty of the City to comply with all other applicable law not in conflict with the PPEA.

**III. Solicited Proposals**

The City may issue Requests for Proposals (RFPs) or Invitations for Bids (IFBs), inviting proposals from private entities to develop or operate qualifying projects. The City may use a two-part proposal process consisting of an initial conceptual phase and

a detailed phase. An RFP shall invite proposers to submit proposals on individual projects identified by the City. The City will set forth in the RFP the format and supporting information that is required to be submitted, consistent with the provisions of the PPEA. The City may establish suggested timelines for selecting proposals for the review and selection of solicited proposals.

The RFP will specify, but not necessarily be limited to, information and documents that must accompany each proposal and the factors that will be used in evaluating the submitted proposals. The RFP will also contain or incorporate by reference other applicable terms and conditions, including any unique capabilities or qualifications that will be required of the private entities submitting proposals. Public notice of the RFP shall be posted in such public areas as are normally used for posting of the City's notices, including the City's website and published in a newspaper or newspapers of general circulation in the City. In addition, solicited proposals shall be posted pursuant to Section IV. B. Pre-proposal conferences may be held as deemed appropriate by the City.

#### **IV. Unsolicited Proposals**

The PPEA permits the City to receive, evaluate and select for negotiations unsolicited proposals from private entities to develop or operate a qualifying project.

The City may publicize its needs and may encourage interested parties to submit proposals subject to the terms and conditions of the PPEA. When such a proposal is received without issuance of an RFP, the proposal shall be treated as an unsolicited proposal. The City may establish suggested timelines for the review and selection of unsolicited proposals.

##### **A. Decision to Accept and Consider Unsolicited Proposal; Notice**

1. Upon receipt of any unsolicited proposal or group of proposals and payment of the required fee or fees by the proposer or proposers, the City Council shall, after receiving the recommendation of the City Manager, determine whether to reject the unsolicited proposal or accept the unsolicited proposal for publication and further conceptual-stage consideration. If the proposal is for an education facility, the City Manager shall consult with the Superintendent of Schools ("Superintendent"), who may receive the recommendation of the School Board regarding the proposal.
2. If City Council chooses to accept an unsolicited proposal for publication and conceptual-stage consideration, the City shall post a notice in a public area regularly used by the City for posting of public notices and on the City's website for a period of not less than 45 days. The City may also publish the same notice in one or more newspapers or periodicals of general circulation in the City to notify any parties that may be interested in submitting competing unsolicited proposals. Interested parties shall have adequate time as specified in the notice to submit competing unsolicited proposals. The notice shall state that the City (i) has received an unsolicited proposal under the PPEA, (ii) intends to evaluate the proposal, (iii) may negotiate an interim or comprehensive agreement with the proposer based on the proposal, and (iv) will receive for simultaneous consideration any competing proposals that comply with the guidelines adopted by the City and pursuant to the PPEA. The notice also shall summarize the proposed qualifying project or projects, and identify their proposed locations. If such unsolicited proposal is accepted and is to be evaluated using "competitive negotiation" procedures as described in Section IV. C. 1, the City shall make the written determination described in Section IV. C. 1 prior to such evaluation.

To ensure that sufficient information is available upon which to base the development of a serious competing proposal, representatives of the City familiar with the unsolicited proposal and the guidelines established by

the City shall be made available to respond to inquiries and meet with private entities that are considering the submission of a competing proposal. The City shall conduct an analysis of the information pertaining to the proposal included in the notice to ensure that such information sufficiently encourages competing proposals. Further, the City shall establish criteria, including key decision points and approvals to ensure proper consideration of the extent of competition from available private entities prior to selection.

3. Any proposal not accepted for conceptual-stage consideration will be returned, together with all fees and accompanying documentation, to the proposer.

**B. Posting Requirements**

1. Conceptual proposals accepted for review and further evaluation, whether solicited or unsolicited, shall be posted by the City within 10 working days after acceptance of such proposals.

Posting shall be on the City's website or by publication, in a newspaper of general circulation in the area in which the contract is to be performed, of a summary of the proposals and the location where copies of the proposals are available for public inspection.
2. Nothing shall be construed to prohibit the posting of the conceptual proposals by additional means deemed appropriate by the City so as to provide maximum notice to the public of the opportunity to inspect the proposals.
3. In addition to the posting requirements, at least one copy of the proposals shall be made available for public inspection. Trade secrets, financial records, or other records of the private entity excluded from disclosure under the provisions Va. Code § 2.2-3705.6 (11) shall not be required to be posted, except as otherwise agreed to by the City and the private entity. Any inspection of procurement transaction records shall be subject to reasonable restrictions to ensure the security and integrity of the records.

**C. Review at Conceptual Stage**

1. When one or more proposals are received, the City will determine at this initial stage of review whether it will proceed with the evaluation of the proposals using standard procurement procedures consistent with the Virginia Public Procurement Act or procedures normally used by the City that are consistent with procurement of other than professional services through "competitive negotiation" as the term is defined in Va. Code § 2.2-4301. The City may proceed using such guidelines only if it makes a written determination that doing so is likely to be advantageous to the City and the public based upon either (i) the probable scope, complexity or priority of need; (ii) the risk sharing, including guaranteed cost or completion guarantees, added value or debt, or equity investments proposed by the private entity; or (iii) the increase in funding, dedicated revenue or other economic benefit that would otherwise not be available. The City may reject any or all proposals.
2. After reviewing the original proposal and any competing proposals submitted during the notice period, the City may determine:
  - a. not to proceed further with any proposal;
  - b. to proceed to the detailed stage of review with the original proposal;
  - c. to proceed to the detailed stage with a competing proposal;

- d. to proceed to the detailed stage with multiple proposals; or
- e. to request modifications or amendments to any proposal.

In the event that more than one proposal will be considered in the detailed phase of review, the City shall consider whether the unsuccessful proposer should be reimbursed for costs incurred in the detailed phase of review, and such reasonable costs may be assessed to the successful proposer in the comprehensive agreement.

- 3. Discussions between the City and private entities about the need for infrastructure improvements shall not limit the ability of the City to later determine to use standard procurement procedures to meet its infrastructure needs. The City retains the right to reject any proposal at any time prior to the execution of an interim or comprehensive agreement.

## **V. Proposal Preparation and Submission**

### **A. Format for Submissions at Conceptual Stage**

At the conceptual stage, all proposals, whether solicited or unsolicited, shall contain information in the following areas: (i) qualifications and experience; (ii) project characteristics; (iii) project financing; (iv) project benefit and compatibility; and (v) any additional information that the City may request to comply with the requirements of the PPEA. Suggestions for formatting information to be included in proposals at this stage include the items listed below, as well as any additional information or documents that the City may request:

- 1. Qualifications and Experience
  - a. Identify the legal structure or type of private entity making the proposal. Identify the organizational structure for the project, the management approach and how each partner and major subcontractor (\$1 million or more) in the structure fits into the overall team. All members of the operator/offeror's team, including major subcontractors known to the proposer, must be identified at the time a proposal is submitted for the conceptual stage. Identified team members, including major subcontractors (over \$1 million), may not be substituted or replaced once a project is approved and comprehensive agreement entered into, without the written approval of the City. Include the status of the Virginia license of each partner, proposer, contractor, and major subcontractor.
  - b. Describe the experience of the private entity making the proposal and the key principals involved in the proposed project including experience with projects of comparable size and complexity, including prior experience bringing similar projects to completion on budget and in compliance with design, land use, service and other standards. Describe the length of time in business, business experience, public sector experience and other engagements of the private entity. Describe the past safety performance record and current safety capabilities of the private entity. Describe the past technical performance history on recent projects of comparable size and complexity, including disclosure of any legal claims by or against the private entity. Include the identity of any private entity that will provide design, construction and completion guarantees and warranties and a description of such guarantees and warranties.
  - c. For each private entity or major subcontractor (\$1 million or more) that will be utilized in the project, provide a statement listing all of

the private entity's prior projects and clients for the past five years and contact information for same (names/addresses/telephone numbers). If a private entity has worked on more than ten (10) projects during this period, it may limit its prior project list to ten (10), but shall first include all projects similar in scope and size to the proposed project and, second, it shall include as many of its most recent projects as possible. Each private entity or major subcontractor shall be required to submit all performance evaluation reports or other documents which are in its possession evaluating the private entity's performance during the preceding three years in terms of cost, quality, schedule maintenance, safety and other matters relevant to the successful project development, operation, and completion.

- d. Provide the names, addresses, and telephone numbers of persons within the private entity who may be contacted for further information.
- e. Provide a current or most recently audited financial statement of the private entity and each partner with an equity interest of ten percent or greater.
- f. Identify any persons known to the proposer who would be obligated to disqualify themselves from participation in any transaction arising from or in connection to the project pursuant to the Virginia State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2.
- g. Identify the proposed plan for obtaining sufficient numbers of qualified workers in all trades or crafts required for the project.
- h. For each private entity or major subcontractor that will perform construction or design activities, provide the following information:
  - (1) A sworn certification by an authorized representative of the private entity attesting to the fact that the private entity is not currently debarred or suspended by any federal, state or local government entity.
  - (2) A completed qualification statement that reviews all relevant information regarding technical qualifications and capabilities, private entity resources and business integrity of the private entity, including but not limited to, bonding capacities, insurance coverage and private entity equipment. This statement shall also include a mandatory disclosure by the private entity for the past five years of any of the following conduct:
    - (A) bankruptcy filings
    - (B) liquidated damages
    - (C) fines, assessments or penalties
    - (D) judgments or awards in contract disputes
    - (E) contract defaults, contract terminations
    - (F) license revocations, suspensions, other disciplinary actions
    - (G) prior debarments or suspensions by a governmental entity
    - (H) denials of prequalification, findings of non-responsibility
    - (I) past safety performance data, including fatality incidents, "Experience Modification Rating," "Total Recordable Injury Rate" and "Total Lost Workday Incidence Rate"

- (J) violations of any federal, state or local criminal or civil law
- (K) criminal indictments or investigations
- (L) claims filed by or against the firm

- i. Worker Safety Programs: Describe worker safety training programs, job-site safety programs, accident prevention programs, and written safety and health plans, including incident investigation and reporting procedures.

2. Project Characteristics
  - a. Provide a description of the proposed project, including the conceptual design, in sufficient detail so that type and intent of the project, its location, and the communities that may be affected are clearly identified.
  - b. Identify and fully describe any work to be performed by the City.
  - c. Include a list of all federal, state and local permits and approvals required for the project and a schedule for obtaining such permits and approvals.
  - d. Identify any anticipated adverse social, economic and environmental impacts of the project. Specify the strategies or actions to mitigate known or anticipated impacts of the project. Indicate if any environmental or archaeological assessment has been completed.
  - e. Identify the projected positive social, economic and environmental impacts of the project.
  - f. Identify the proposed schedule for the work on the project, including sufficient time for the City to review, and the estimated time for completion.
  - g. Identify contingency plans for addressing public needs in the event that all or some of the project is not completed according to the projected schedule.
  - h. Propose allocation of risk and liability for work completed beyond the Comprehensive Agreement's completion date, and assurances for timely completion of the project.
  - i. State assumptions related to ownership, legal liability, law enforcement and operation of the project and the existence of any restrictions on the City's use of the project.
  - j. Provide information relative to phased or partial openings of the proposed project prior to completion of the entire work.
  - k. List any other contingencies and assumptions relied on or that must occur for the project to be successful.
3. Project Financing
  - a. Provide a preliminary estimate and estimating methodology of the cost of the work by phase, segment, or both.
  - b. Submit a plan for the development, financing and operation of the project showing the anticipated schedule on which funds will be required. Describe the anticipated costs of and proposed sources and uses for such funds, including any anticipated debt service costs. The operational plan shall include appropriate staffing

levels and associated costs. Include any supporting due diligence studies, analyses or reports.

- c. Include a list and discussion of assumptions underlying all major elements of the plan. Assumptions should include all significant fees associated with financing given the recommended financing approach. In addition, complete disclosure of interest rate assumptions should be included. Any ongoing operational fees, if applicable, should also be disclosed, as well as any assumptions with regard to increases in such fees.
- d. Identify the proposed risk factors and methods for dealing with these factors.
- e. Identify any local, state or federal resources that the proposer contemplates requesting for the project. Describe the total commitment, if any, expected from governmental sources and the timing of any anticipated commitment, both one-time and on-going. Such disclosure should include any direct or indirect guarantees or pledges of the City's credit or revenue.
- f. Identify the amounts and the terms and conditions for any revenue sources.
- g. Identify any aspect of the project that could disqualify the project from obtaining tax-exempt financing.

4. Project Benefit and Compatibility

- a. Identify community benefits, including the economic impact the project will have on the Commonwealth and the City in terms of amount of tax revenue to be generated for the Commonwealth and the City, the number of jobs generated for Virginia residents and level of pay and fringe benefits of such jobs, the training opportunities for apprenticeships and other training programs generated by the project, and the number and value of subcontracts generated for Virginia subcontractors.
- b. Identify any anticipated public support or opposition, as well as any anticipated government support or opposition, for the project.
- c. Explain the strategy and plan that will be carried out to involve and inform the general public, business community, local governments, and governmental agencies in areas affected by the project.
- d. Describe the compatibility of the project with local, regional, and state economic development efforts.
- e. Describe the compatibility with the City's comprehensive plan, infrastructure development plans, and capital improvements plan.

## B. Format for Submissions at Detailed Stage

If the City decides to proceed to the detailed stage of review with one or more proposals, the following information must be provided by the proposer unless specifically waived in writing by the City:

1. A topographical map (1:2,000 or other appropriate scale) depicting the location of the proposed project.
2. Conceptual site plan indicating proposed location and configuration of the project on the proposed site.

3. Conceptual (single line) plans and elevations depicting the general scope, appearance and configuration of the proposed project.
4. Detailed description of the proposed participation of, use by, and financial involvement of the City.
5. A list of public utility facilities, if any, that will be crossed by the qualifying project and a statement of the plans of the proposer to accommodate such crossings.
6. A list of public facilities or other public improvements that will be required by the City to complete the project.
7. A statement and strategy setting out the plans for securing all necessary property interests required for the project. The statement must include the names and addresses, if known, of the current owners of the subject property interests, as well as a list of any property the proposer intends to request the City to condemn.
8. A detailed listing of all firms that will provide specific design, construction and completion guarantees and warranties, and a brief description of such guarantees and warranties.
9. A total life-cycle cost specifying methodology and assumptions of the project or projects and the proposed project start date. Include anticipated commitment of all parties; equity, debt, and other financing mechanisms; and a schedule of project revenues and project costs. The life-cycle cost analysis should include, but not be limited to, a detailed analysis of the projected return, rate of return, or both, expected useful life of facility and estimated annual operating expenses.
10. A detailed discussion of assumptions about user fees or rates and usage of the project.
11. Identification of any known government support or opposition, or general public support or opposition for the project. Government or public support should be demonstrated through resolutions of official bodies, minutes of meetings, letters, or other official communications.
12. Demonstration of consistency with appropriate City comprehensive or infrastructure development plans or indication of the steps required for acceptance into such plans.
13. Explanation of how the proposed project would affect the City's development plans.
14. Description of an ongoing performance evaluation system or database to track key performance criteria, including but not limited to, schedule, cash management, quality, worker safety, change orders, and legal compliance.
15. Identification of the executive management and the officers and directors of the firm or firms submitting the proposal. In addition, identification of any known conflicts of interest or other disabilities that may impact consideration of the proposal, including the identification of any persons known to the proposer who would be obligated to disqualify themselves from participation in any transaction arising from or in connection to the project pursuant to the Virginia State and Local Government Conflict of Interests Act, Chapter 31 (Va. Code § 2.2-3100 *et seq.*) of Title 2.2 of the Code of Virginia.
16. Additional material and information as the City may request.

## **VI. Proposal Evaluation and Selection Criteria**

In reviewing any PPEA proposal accepted for consideration, the City shall engage the services of qualified professionals, which may include an architect, professional engineer, or certified public accountant, not otherwise employed by the City, to provide independent analysis regarding the specifics, advantages, disadvantages and the long- and short-term costs of any request by a private entity for approval of a qualifying project, unless City Council determines that such analysis shall be performed by City employees. Also, the City may establish criteria to trigger the establishment of an oversight advisory committee consisting of representatives of the City to review the terms of a proposed interim or comprehensive agreement. The criteria should include, but not be limited to, the scope, total cost and duration of the proposed project, and whether the project involves or impacts multiple public entities. Timelines for the work of the committee should be developed and made available to proposers.

The following items, along with the information that may be required under Sections V.A. and V.B. above, are some of the factors that the City may consider in the evaluation and selection of a PPEA proposal. The City reserves the right at all times to reject any proposal at any time for any reason.

### **A. Qualifications and Experience**

Factors to be considered in either phase of the review to determine whether the proposer possesses the requisite qualifications and experience will include at a minimum:

1. Professional qualifications and experience with similar projects;
2. Demonstration of ability to perform the work;
3. Demonstrated record of successful past performance, including timeliness of project delivery, compliance with plans and specifications, quality of workmanship, cost-control and project safety;
4. Demonstrated conformance with applicable laws, codes, standards, regulations, and agreements on past projects;
5. Leadership structure;
6. Project manager's experience;
7. Management approach;
8. Project staffing plans, the skill levels of the proposed workforce, and the proposed safety plans for the project;
9. Financial condition of the proposer; and
10. Project ownership.

### **B. Project Characteristics**

Factors to be considered in determining the project characteristics include, along with the specified information required under V.A. and V.B. above, the following:

1. Project definition;
2. Proposed project schedule;
3. Operation of the project;
4. Technology and technical feasibility;
5. Conformity to State and City laws, regulations, and standards;

6. Environmental impacts;
7. Condemnation impacts;
8. State and local permits; and
9. Maintenance of the project.

#### **C. Project Financing**

Factors considered in determining whether the proposed project financing allows adequate access to the necessary capital to finance the project include the following:

1. Cost and cost benefit to the City;
2. Financing, including debt source, and its impact on the debt or debt burden of the City;
3. Financial plan, including overall feasibility and reliability of plan; default implications; the proposer's past performance with similar plans and similar projects; degree to which the proposer has conducted due diligence investigation and analysis of the proposed financial plan and the results of any such inquiries or studies;
4. Life-cycle cost analysis;
5. Opportunity costs assessment;
6. Estimated cost;
7. The identity, credit history and past performance of any third party that will provide financing for the project, and the nature and timing of its commitment, as applicable; and
8. Any other factors the City deems appropriate for analysis.

In the event that any project is financed through the issuance of obligations that are deemed by the City to be tax-supported debt of the City, or if financing such a project may impact the City's debt rating or financial position, the City may select its own finance team, source, and financing vehicle.

#### **D. Project Benefit and Compatibility**

Factors considered in determining the proposed project's compatibility with the City's comprehensive or development plans include the following:

1. Community benefits, including the economic impact the project will have on the City in terms of amount of tax revenue generated for the City, the number of jobs generated for area residents and the level of pay and fringe benefits of such jobs, and the number and value of subcontracts generated for area subcontractors;
2. Community support or opposition, or both;
3. Public involvement strategy;
4. Compatibility with existing and planned facilities;
5. Compatibility with City, regional, and state economic development efforts; and
6. Compatibility with the City's land use and transportation plans.

## **E. Other Factors**

Other factors that may be considered by the City in the evaluation and selection of PPEA proposals include:

1. The proposed cost of the qualifying project;
2. The general reputation, industry experience, and financial capacity of the private entity;
3. The proposed design of the qualifying project;
4. The eligibility of the project for accelerated documentation, review, and selection;
5. Local citizen and government comments;
6. Benefits to the public, including financial and nonfinancial;
7. The private entity's compliance with a minority business enterprise participation plan or good faith effort to comply with the goals of such plan;
8. The private entity's plans to employ local contractors and residents;
9. The recommendation of a committee of representatives of the City which may be established to provide advisory oversight for the project; and
10. Any other factors the City deems appropriate.

## **VII. Interim and Comprehensive Agreements**

Prior to developing or operating the qualifying project, the selected private entity shall enter into a comprehensive agreement with the City. Prior to entering a comprehensive agreement, an interim agreement may be entered into that permits a private entity to perform compensable activities related to the project. Any interim or comprehensive agreement shall define the rights and obligations of the City and the selected proposer with regard to the project.

### **A. Interim Agreement Terms**

The scope of an interim agreement may include but is not limited to:

1. Project planning and development;
2. Design and engineering;
3. Environmental analysis and mitigation;
4. Survey;
5. Availability of financing for the proposed facility through financial and revenue analysis;
6. The process to negotiate, and the timing of the negotiation of, the comprehensive agreement; and
7. Any other provisions related to any aspect of the development or operation of a qualifying project that the parties may deem appropriate prior to the execution of a comprehensive agreement.

## **B. Comprehensive Agreement Terms**

The scope of the comprehensive agreement shall include but not be limited to:

1. The delivery of maintenance, performance and payment bonds or letters of credit in connection with the development or operation of the qualifying project;
2. The review of plans and specifications for the qualifying project by the City;
3. The rights of the City to inspect the qualifying project to ensure compliance with the comprehensive agreement;
4. The maintenance of a policy or policies of liability insurance or self-insurance reasonably sufficient to insure coverage of the project and the tort liability to the public and employees and to enable the continued operation of the qualifying project;
5. The monitoring of the practices of the private entity by the City to ensure proper maintenance of the project;
6. The terms under which the private entity will reimburse the City for services provided;
7. The policy and procedures that will govern the rights and responsibilities of the City and the private entity in the event that the comprehensive agreement is terminated or there is a material default by the private entity including the conditions governing assumption of the duties and responsibilities of the private entity, by the City and the transfer or purchase of property or other interests of the private entity by the City;
8. The terms under which the private entity will file appropriate financial statements on a periodic basis;
9. The mechanism by which user fees, lease payments, or service payments, if any, may be established from time to time upon agreement of the parties. Any payments or fees shall be set at a level that is the same for persons using the facility under like conditions and that will not materially discourage use of the qualifying project;
  - a. A copy of any service contract shall be filed with the City.
  - b. A schedule of the current user fees or lease payments shall be made available by the private entity to any member of the public upon request.
  - c. Classifications according to reasonable categories for assessment of user fees may be made.
10. The terms and conditions under which the City may contribute financial resources, if any, for the qualifying project;
11. The terms and conditions under which existing site conditions will be assessed and addressed, including identification of the responsible party for conducting the assessment and taking necessary remedial action;
12. The terms and conditions under which the City will be required to pay money to the private entity and the amount of any such payments for the project;
13. Other requirements of the PPEA or other applicable law; and
14. Such other terms and conditions as the City may deem appropriate.

Any changes in the terms of the interim or comprehensive agreement as may be agreed upon by the parties from time to time shall be added to the interim or comprehensive agreement by written amendment.

The comprehensive agreement may provide for the development or operation of phases or segments of a qualifying project.

Parties submitting proposals understand that representations, information and data supplied in support of, or in connection with, proposals play a critical role in the competitive evaluation process and in the ultimate selection of a proposal by the City. Accordingly, as part of the interim or comprehensive agreement, the proposer and its team members shall certify that all material representations, information and data provided in support of, or in connection with, a proposal is true and correct. Such certifications shall be made by authorized individuals who have knowledge of the information provided in the proposal. In the event that material changes occur with respect to any representations, information or data provided for a proposal, the proposer shall immediately notify the City of same. Any violation of this section of the interim or comprehensive agreement shall give the City the right to terminate the agreement, withhold payment or other consideration due, and seek any other remedy available under the law.

### **C. Notice and Public Hearing Requirements**

1. In addition to the posting requirements of Section IV. B, 30 days prior to entering into an interim or comprehensive agreement, the City shall hold a public hearing on the proposals. After the public hearing is held, no additional posting shall be required.
2. Once the negotiation phase for the development of an interim or a comprehensive agreement is complete and a decision to award has been made by the City, the City shall post the proposed agreement on the City's website or post a summary thereof by publication, in a newspaper of general circulation in the City.
3. In addition to the posting requirements, at least one copy of the proposals shall be made available for public inspection. Trade secrets, financial records, or other records of the private entity excluded from disclosure under the provisions of subdivision Va. Code § 2.2-3705.6 (11) shall not be required to be posted, except as otherwise agreed to by the City and the private entity.
4. Any studies and analyses considered by the City in its review of a proposal shall be disclosed to City Council at some point prior to the execution of an interim or comprehensive agreement.
5. Once an interim agreement or a comprehensive agreement has been entered into, the City shall make procurement records available for public inspection, upon request.
  - a. Such procurement records shall include documents protected from disclosure during the negotiation phase on the basis that the release of such documents would have had an adverse affect on the financial interest or bargaining position of the City or private entity in accordance with Section II.D.3.
  - b. Such procurement records shall not include (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (Va. Code § 59.1-336 *et seq.*); (ii) financial records, including balance sheets or financial statements of the private entity that are not generally available to the public through regulatory disclosure or otherwise; or (iii) cost estimates prepared by or for the City.

To the extent access to procurement records is compelled or protected by a court order, the City will comply with such order.

6. A copy of any comprehensive agreement shall be submitted by the City to the Auditor of Public Accounts within 30 days after execution.

## **VIII. Governing Provisions**

In the event of any conflict between these guidelines and the requirements of the PPEA or other applicable law, the terms of the PPEA or other applicable law shall control.

## **IX. Terms and Definitions**

**“Comprehensive agreement”** means the comprehensive agreement between the private entity and the City that is required prior to the development or operation of a qualifying project.

**“Conceptual stage”** means the initial phase of project evaluation when the City makes a determination whether the proposed project serves a public purpose and meets the criteria for a qualifying project; assesses the qualifications and experience of a private entity proposer; reviews the project for financial feasibility; and determines whether the project warrants further pursuit.

**“Cost-benefit analysis”** means an analysis that weighs expected costs against expected benefits in order to choose the best option. For example, the City Manager may compare the costs and benefits of constructing a new office building to those of renovating and maintaining an existing structure in order to select the most financially advantageous option.

**“Detailed stage”** means the second phase of project evaluation where the public entity has completed the conceptual stage and accepted the proposal and may request additional information regarding a proposed project prior to entering into competitive negotiations with one or more private entities to develop an interim or comprehensive agreement.

**“Develop” or “Development”** means to plan, design, develop, finance, lease, acquire, install, construct, or expand.

**“Interim agreement”** means an agreement between a private entity and the City that provides for phasing of the development or operation, or both, of a qualifying project. Such phases may include, but are not limited to, design, planning, engineering, environmental analysis and mitigation, financial and revenue analysis, or any other phase of the project that constitutes activity on any part of the qualifying project.

**“Lease payment”** means any form of payment, including a land lease, by the City to the private entity for the use of a qualifying project.

**“Lifecycle cost analysis”** means an analysis that calculates cost of an asset over its entire life span and includes the cost of planning, constructing, operating, maintaining, replacing, and when applicable, salvaging the asset. Although one proposal may have a lower initial construction cost, it may not have the lowest lifecycle cost once maintenance, replacement, and salvage value is considered.

**“Material default”** means any default by the private entity in the performance of its duties that jeopardizes adequate service to the public from a qualifying project.

**“Operate”** means to finance, maintain, improve, equip, modify, repair, or operate.

**“Opportunity cost”** means the cost of passing up another choice when making a decision or the increase in costs due to delays in making a decision.

**“Private entity”** means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other business entity.

**"Public entity"** means the Commonwealth and any agency or authority thereof, any county, city or town and any other political subdivision of the Commonwealth, any public body politic and corporate, or any regional entity that serves a public purpose.

**"Qualifying project"** means (i) any education facility, including, but not limited to a school building, any functionally related and subordinate facility and land to a school building (including any stadium or other facility primarily used for school events), and any depreciable property provided for use in a school facility that is operated as part of the public school system or as an institution of higher education; (ii) any building or facility that meets a public purpose and is developed or operated by or for any public entity; (iii) any improvements, together with equipment, necessary to enhance public safety and security of buildings to be principally used by a public entity; (iv) utility and telecommunications and other communications infrastructure; (v) a recreational facility; (vi) technology infrastructure and services, including, but not limited to, telecommunications, automated data processing, word processing and management information systems, and related information, equipment, goods and services; (vii) any technology, equipment, or infrastructure designed to deploy wireless broadband services to schools, businesses, or residential areas; or (viii) any improvements necessary or desirable to any unimproved locally- or state-owned real estate.

**"Responsible public entity"** means a public entity that has the power to develop or operate the applicable qualifying project, including the City.

**"Revenues"** means all revenues, income, earnings, user fees, lease payments, or other service payments arising out of or in connection with supporting the development or operation of a qualifying project, including without limitation, money received as grants or otherwise from the United States of America, from any public entity, or from any agency or instrumentality of the foregoing in aid of such facility.

**"Service contract"** means a contract entered into between a public entity and the private entity pursuant to Va. Code § 56-575.5.

**"Service payments"** means payments to the private entity of a qualifying project pursuant to a service contract.

**"State"** means the Commonwealth of Virginia

**"User fees"** means the rates, fees, or other charges imposed by the private entity of a qualifying project for use of all or a portion of such qualifying project pursuant to the comprehensive agreement pursuant to Va. Code § 56-575.9.

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. 09-25

To amend and reordain §258-16.2 of Chapter 258, Taxation, of the Colonial Heights City Code, to specify that any real estate tax exemption for property in the Southpark Commercial Structure Tax Exemption District shall be contingent on a minimum \$100,000 expenditure.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:

1. That §258-16.2 of Chapter 258, Taxation, of the Colonial Heights City Code, be and is hereby, amended and reordained as follows:

**§ 258-16.2. Partial exemption from taxation for certain rehabilitated, renovated, or replaced commercial structures.**

A. The Boulevard District. There is hereby created a Boulevard Commercial Structure Tax Exemption District (the "Boulevard District"), as depicted on an exhibit maintained by the Assessor, which shall consist of all commercial structures fronting on the Boulevard (Route 1) within the Colonial Heights City limits or contained within the Boulevard Overlay District as provided in Chapter 286 of this Code. Any commercial structure at least twenty years old within the Boulevard District whose base assessed value is increased by at least twenty-five percent due to rehabilitation, renovation, or replacement shall be eligible for an exemption from real estate tax equal to the increase in assessed value attributable to the rehabilitation, renovation, or replacement. Such exemption shall commence on January 1 of the year following completion of the rehabilitation, renovation, or replacement, and shall run with the real estate for five years.

B. The Southpark District. There is hereby created a Southpark Commercial Structure Tax Exemption District (the "Southpark District"), which shall consist of all commercial structures within the geographic boundaries depicted on an exhibit maintained by the Assessor entitled "The Southpark Commercial Structure Tax Exemption District". Payment of the real estate tax attributable to any structure at least twenty years old within the Southpark District may be exempted by an amount up to fifty percent of the cost of the structure's rehabilitation, renovation, or replacement *as long as such cost is at least \$100,000*. Such exemption shall commence on January 1 of the year following completion of the rehabilitation, renovation, or replacement, and shall run with the real estate for five years.

2. That this Ordinance shall be in full force and effect on and after January 1, 2010.

Approved:

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Mayor

Attest:

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

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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:

Hugh P. Foster, III  
City Attorney

RECEIVED

NOV 10 2009

CITY CLERK'S OFFICE



**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

**MEMORANDUM**

TO: Richard A. Anzolut Jr. City Manager

FROM: George W. Schanzenbacher, AICP, Director *gws*

DATE: Nov 10, 2009

**SUBJECT: Grant Application for Appomattox River Greenway Trail-Phase 4**

As you are aware Phase 1 of the trail is now complete and Phases 2 & 3 are now under design, having received a grant of \$294,000 and preliminary approval of a grant for \$248,000 under the VDOT Enhancement Program.

The public hearing on the Councils agenda is to authorize filing an Enhancement grant application for Phase 4, which is due December 1, 2009. Phase 4 is the last section of the trail and is approximately 2,300LF, being located from Rt. 1/301 the Boulevard, west through Appamatuck Park.

The total preliminary estimated cost of this project is \$275,000, with the grant application being approximately \$220,000. Final cost figures are being updated by our engineers, LPDA.

PI 11/4/09

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

Notice is hereby given to all persons affected or interested that the Colonial Heights City Council has scheduled a public hearing as part of its regular meeting on Wednesday, **November 18, 2009, at 7:00 P.M.**, in Council Chambers of City Hall, 201 James Avenue, Colonial Heights, Virginia, to accept comments on, and consider the adoption of, the following:

**A RESOLUTION NO. 09-50**  
**Requesting the Commonwealth Transportation Board to fund the design and construction of a pedestrian and bikeway trail along the Appomattox River, as depicted in the Colonial Heights Appomattox River Greenway Plan.**

A copy of the proposed Resolution is on file for public examination during regular business hours in the City Clerks 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 Managers Office at 520-9265 at least six days in advance.

A RESOLUTION NO. 09-50

Requesting the Commonwealth Transportation Board to fund the design and construction of a pedestrian and bikeway trail along the Appomattox River, as depicted in the Colonial Heights Appomattox River Greenway Plan.

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government in order that the Virginia Department of Transportation schedule a transportation 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 hereby requests the Commonwealth Transportation Board to fund the design and construction of a pedestrian and bikeway trail along the Appomattox River, as depicted in the Colonial Heights Appomattox River Greenway Plan.

2. That the City of Colonial Heights hereby agrees to pay a minimum twenty percent (20%) of the total cost for planning and design, right of way, and construction of this project, and that, if the City subsequently elects to cancel this project, the City hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

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

Approved:

Attest:

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Mayor

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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: \_\_\_\_\_.

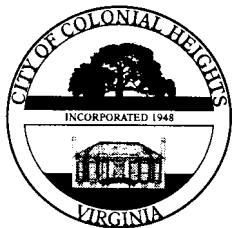
The Honorable C. Scott Davis, Mayor: \_\_\_\_\_.

---

City Clerk

Approved as to form:

Hugh P. Foster, III  
City Attorney



# CITY OF COLONIAL HEIGHTS

P.O. Box 3401  
COLONIAL HEIGHTS, VA 23834-9001  
[www.colonial-heights.com](http://www.colonial-heights.com)

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## Office of the City Manager

**TO:** The Honorable Mayor and Members of City Council  
**FR:** Richard A. Anzolut, Jr. *[Signature]* City Manager  
**DATE:** November 13, 2009  
**SUBJ:** November 2009 Budget Amendment

The FY10 Budget Amendment for November 2009 is summarized as follows:

1. The City Sheriff is reporting a \$200 donation from our local VFW Post toward expenses incurred in association with the annual *Halloween in the Park* event. Council is generally familiar with numerous donations each year from community agencies and individuals toward the support of this event. This year's *Halloween in the Park* is reported as an overwhelming success once again. Therefore, it is recommended that Council appropriate this \$200 donation from the VFW when it considers the November 2009 Budget Amendment.
2. The Director of Youth and Human Services is reporting a \$268 donation from the Colonial Heights Presbyterian Church toward support of the Kids After School Program (KAP). As Council will recall, the Cameron Foundation funded the KAP Program for its last four years. Beginning in FY10, City budget funds from local revenue sources now support the program. Any donation toward the program is a welcome addition. Staff appreciates the contribution from the church and recommends that Council appropriate it when considering this Budget Amendment.
3. The Chief of Police is reporting a \$200 donation from Carolyn Carter and her family in support of the City's crime prevention efforts. The Chief of Police is requesting appropriation of this donation to support supplies related to crime prevention information. It is recommended that Council appropriate this donation when it considers the November 2009 Budget Amendment.

4. The Chief of Police is reporting the award of a Federal Highway Safety Grant in the amount of \$20,025 through the Virginia Department of Motor Vehicles. Federal Highway Safety Grants are usually provided for speed and DUI enforcement efforts. The Police Department intends to use these funds to purchase lidar equipment and another in car video camera as part of its local traffic safety efforts. In addition, Council is generally familiar with our deployment of local check points and selective enforcement. The Police Department would also use some of the grant funds toward these special enforcement check points. The 20% local match can easily be accommodated in the Police Department's existing personnel budget. Therefore, it is recommended that Council appropriate this Highway Safety Grant when it considers the Budget Amendment.
5. The Fire Chief is reporting a correction in the annual appropriation to the City from the Virginia Department of Fire Programs. Council is generally familiar with the fact that the City gets an annual allocation from the Fire Program's Fund. The Fire Chief has been informed that the budget estimate for this appropriation is \$1,000 less than the actual appropriation. Staff is therefore requesting the addition of this \$1,000 to the FY10 Budget. The funds will be used toward our annual replacement of turnout gear for fire fighters.
6. The Fire Chief is reporting a grant from the Virginia Office of Emergency Medical Services proposed to replace five mobile data terminals currently being used in our ambulances. Mobile data terminals are simply specially configured lap top computers that emergency medical technicians use to record their activities throughout their working day. A great deal of information is exchanged between units and the department through the use of this technology. In order to keep these units current, it is recommended that Council accept the grant of \$18,250 when it considers the November 2009 Budget Amendment.

Attached is Ordinance 09-FIN-20 that would appropriate a total of \$39,943 to the FY10 General Fund Budget for the City. This total reflects the individual items mentioned above. As always, Staff associated with these Budget Amendments will be present during the Council Meeting of November 18, 2009, to assist with this matter.

If any questions arise prior to the Council Meeting, please do not hesitate to contact me.

#### Attachments

cc: Hugh P. Fisher, III, City Attorney  
William E. Johnson, Director of Finance  
Sheriff Todd Wilson  
Eileen M. Brown, Director of Office on Youth & Human Services  
Jeffrey W. Faries, Chief of Police  
A. G. Moore, Jr., Chief of Fire & EMS



# OFFICE OF THE SHERIFF

City of Colonial Heights

**TODD B. WILSON**

**SHERIFF**

**CITY MANAGER'S OFFICE**

401 Temple Avenue  
P.O. Box 3401  
Colonial Heights, Virginia 23834  
Email: [sheriff@colonial-heights.com](mailto:sheriff@colonial-heights.com)

Phone: 804 520-9352  
Fax: 804 520-9248

cc Bill Johnson  
Tammy Draper



Nov. BA  
please  
RA  
10/22

TO: Richard A. Anzolut, Jr.  
City Manager

FROM: Sheriff Todd Wilson

RE: Donation

DATE: October 22, 2009

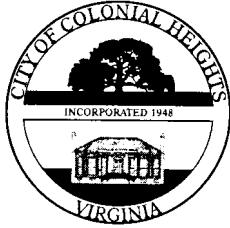
The Sheriff's Office has received a donation from the V. F. W. Post for \$200.00.

This amount has been deposited in the City Treasurer's Office, city account 10-4812.

Mr. Anzolute, will you please have the following request placed on the next available City Council docket to appropriate \$200.00 into Sheriff's account 1356-5242, fund deriving from donation. This donation will be used to purchase items for the Sheriff's Office annual "Halloween in the Park" event.

Your attention to this matter is greatly appreciated and should you require additional information to process this request, please do not hesitate to contact me.

TBW:sam



# CITY OF COLONIAL HEIGHTS

P.O. Box 3401  
COLONIAL HEIGHTS, VA 23834-9001  
www.colonial-heights.com

cc: Bill Johnson  
Tammy Drayer

Nov. 09 B.A.  
please.  
RAT  
10/9

Office on Youth & Human Services  
520-9286

## MEMORANDUM

TO: Richard Anzolut, City Manager

FROM: Eileen M. Brown, Director *E.M. Brown*  
Office on Youth

SUBJECT: Kids' After-School Program Donation

DATE: October 7, 2009

Colonial Heights Presbyterian Church has made a donation to the Kids' After-School Program in the amount of \$268.28.

This check has been deposited in Reserve Account 10-4812. Following approval of this donation, it should be transferred to Account 1807-5242 to be used for KAP programming needs.

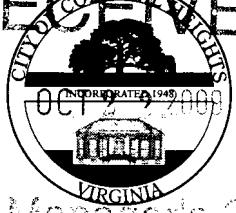
Thank you for your assistance. If you have questions, please feel to contact me.

EMB/pc

Enclosure

cc: William Johnson, Finance Director

RECEIVED



# CITY OF COLONIAL HEIGHTS

P.O. Box 3401  
COLONIAL HEIGHTS, VA 23834-9001  
www.colonial-heights.com

City Manager's Office

cc: Bill Johnson  
Tammy Draper  
Nov. B.A.  
please.  
RFA  
10/22

## COLONIAL HEIGHTS POLICE DEPARTMENT

October 21, 2009

Mr. Richard A. Anzolut, Jr.  
City Manager  
201 James Avenue  
Colonial Heights, VA 23834

**RE: DONATED FUNDS FROM CITIZEN**

Dear Rick:

We have received a check in the amount of **\$200.00** from a Carolyn Carter and Family of Colonial Heights. The donation has been deposited in the City's **Donations Account #10-4812**. These funds will be used toward the purchase of items directly related to crime prevention.

It is our understanding that this request must undergo two readings by City Council. If approved, we further request that the funds be transferred from **Account #10-4812** to **Account #1401-5242 (Office Supplies)**. Therefore, I would appreciate your placing this on the next agenda for review by City Council.

Thank you for your prompt attention to this request.

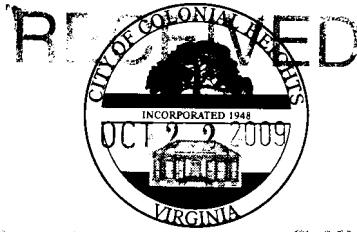
Sincerely,

A handwritten signature in black ink that appears to read "Col. Jeffrey W. Faries".

Colonel Jeffrey W. Faries  
Chief of Police

JWF:bbh

Cc: William Johnson, Director of Finance  
Kathy Sparks, Deputy Director of Finance  
Capt. Wayne T. Newsome, Administrative Services Division Commander  
Capt. W. Keith Early, Patrol Division Commander  
Sgt. Thomas C. Kifer, Administrative Services



# RECEIVED CITY OF COLONIAL HEIGHTS

P.O. Box 3401  
COLONIAL HEIGHTS, VA 23834-9001  
www.colonial-heights.com

CC: cover only

Bill Johnson

Tammy Draper

Nov 3.A.

Please

AA 10/22

City Manager's Office

## COLONIAL HEIGHTS POLICE DEPARTMENT

October 21, 2009

Mr. Richard A. Anzolut, Jr.  
City Manager  
201 James Avenue  
Colonial Heights, VA 23834

**RE: DMV FEDERAL HIGHWAY SAFETY GRANT for 2009-10**

Dear Rick:

The Colonial Heights Police Department has been awarded a **Federal Highway Safety Grant** (#154AL-2010-50229-3849-20.607) in the amount of **\$20,025.00** from the Virginia Department of Motor Vehicles. Our department intends to use the funds to purchase LIDAR equipment and in-car video camera; provide overtime funds for selective enforcement and checkpoints; and training. This grant requires a 20% City in-kind match and covers the period October 1, 2009 through September 30, 2010.

Once the grant acceptance is approved by Council after two readings by members, we would ask that the funds be transferred into the Police Department's **Grant Funds Account #1401-5263**, making it available for spending.

Therefore, 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,

A handwritten signature in black ink that reads "Col. Jeffrey W. Faries".

Colonel Jeffrey W. Faries  
Chief of Police

JWF:bbh

Cc: Mr. William Johnson, Director of Finance  
Ms. Kathy Sparks, Assistant Director of Finance  
Capt. Wayne T. Newsome, Law Enforcement Services Division Commander  
Capt. W. Keith Early, Patrol Division Commander  
Sgt. Thomas C. Kifer, Law Enforcement Services Division

**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, 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, Room 709, Richmond, Virginia 23220, and the following:

Subgrantee:

Colonial Heights City

Project Title:

Colonial Heights Highway Safety Project

Project Number/CFDA Number:

154AL-2010-50229-3849-20.607

Grant Award Amount:

\$20,025.00

Source of funds obligated to this award:

U.S. Department of Transportation Federal Highway Safety Funds

Period of Performance for this project  
(hereinafter "Grant Period"):

From October 1, 2009, or the date the Department receives this signed/dated Highway Safety Grant Agreement (whichever is later) through September 30, 2010. **FINAL VOUCHER IS DUE ON OR BEFORE NOVEMBER 5, 2010.**

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, attached as page 2, and an Approved Budget on page 3 of this Highway Safety Grant Agreement
- General Terms and Conditions, attached as pages 4 through 16 of 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, supercedes 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 superceded by federal laws, regulations, or policies (2) applicable state laws, regulations, and policies, except where superceded 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:**

Jeffrey W. Fairies, Chief of Police

Name and Title of Project Director (print)

Col. Jeffrey W. Fairies

Signature

8/6/09  
Date

Richard A. Anzalut, Jr., City Manager

Name and Title of Authorized Approving Official (print)

Richard A. Anzalut, Jr.

Signature

8/7/09  
Date

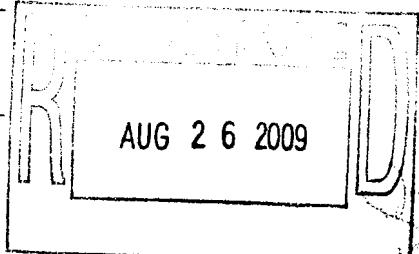
John Saunders

Director, Virginia Highway Safety Office (print)

John Saunders

Signature

9/14/09  
Date



2009  
SEP 10 2010

**STATEMENT OF WORK AND SPECIAL CONDITIONS**

1. Goals and Specific Program Elements. The goals and specific program elements of the Subgrantee's proposal are incorporated as the first item in this Statement of Work and Special Conditions.

a. List Specific Program Elements:

Estimated 80 number of Overtime hours to be used from October 1, 2009 through December 31, 2009.

Estimated 20 number of Overtime hours to be used from January 1, 2010 through March 31, 2010.

Estimated 158 number of Overtime hours to be used from April 1, 2010 through June 30, 2010.

Estimated 143 number of Overtime hours to be used from July 1, 2010 through September 31, 2010.

Estimated 0 number of checkpoints from October 1, 2009 through December 31, 2009.

Estimated 0 number of checkpoints from January 1, 2010 through March 31, 2010.

Estimated 3 number of checkpoints from April 1, 2010 through June 30, 2010.

Estimated 1 number of checkpoints from July 1, 2010 through September 31, 2010.

Estimated 16 number of saturation patrols from October 1, 2009 through December 31, 2009.

Estimated 4 number of saturation patrols from January 1, 2010 through March 31, 2010.

Estimated 18 number of saturation patrols from April 1, 2010 through June 30, 2010.

Estimated 20 number of saturation patrols from July 1, 2010 through September 31, 2010.

b. To conduct a minimum of 3 checkpoints and/or 14 saturation patrols for the mandatory Click it or Ticket Mobilization in May 2010.

c. To conduct a minimum of 1 checkpoints and/or 9 saturation patrols for the Over the Limit Under Arrest Checkpoint Strike Force Campaign.

d. To have 1 number of sworn officers attend 1 number DMV approved traffic safety related training events (i.g. ACTS, NHTSA Safety Summit, Field Sobriety Testing).

e. Increase from number of radar units in active use from 27 to 28. (If approved, all units must be ordered by March 31, 2010).

f. Increase from number of breath testing units in active use from N/A to \_\_\_\_\_. (If approved, all units must be ordered by March 31, 2010).

g. Increase from number of in-car camera units in active use from 11 to 12. (If approved, all units must be ordered by March 31, 2010).

Project Director

Initial

8/6/19

Date

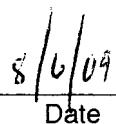
Grantee Name: Colonial Heights CityProject Number#: 154AL-2010-50229-3849

2. State any special programmatic requirements here; e.g., Click It Or Ticket Mobilizations must be conducted during a specified time period during the grant year.

- a. Must participate in the Click It or Ticket Campaign's pre and post seat belt survey during the period of the May 2010 mobilization.
- b. Must participate in the Click It or Ticket Enforcement Campaign during the May 2010 mobilization.
- c. Must participate in the Checkpoint Strike Force Campaign and sustained enforcement during the period of October 1, 2009 through September 30, 2010.
- d. Must attend all required DMV Grant mandated training.

Project Director

Initial

  
Date

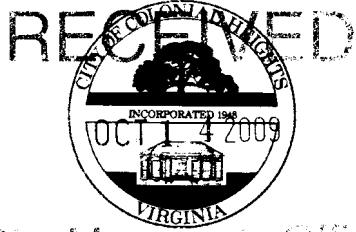


Department of Motor Vehicles  
Grant Budget Lines

Date Run: 24-JUN-09

Grant ID: 3849 - Colonial Heights City

Category	Line Item Desc	Individual		Fed Fund	Matching	
		Qty	Cost	Total Cost	Amount	Funds
Personnel	Overtime for officers to conduct checkpoints and selective enforcement.	410	28.00	11,480.00	11,480.00	0.00
Training / Travel	Hotel and tuition fees for 1 officers to attend the 2010 Mid-Atlantic DUI Conference in Virginia Beach.	1	250.00	250.00	250.00	0.00
Other Direct Costs	Vehicle operational costs, to include costs of motor oils, fuel, and maintenance.	1	5,074.00	5,074.00	0.00	5,074.00
Equipment	Purchase two (1) in-car video systems and accessories to increase total number of department systems from seven (7) to nine (9).	1	4,995.00	4,995.00	4,995.00	0.00
Equipment	Purchase one (1) LIDAR unit and accessories for directed speed enforcement in areas to include school zones, and heavily congested areas where conventional RADAR is ineffective.	1	3,300.00	3,300.00	3,300.00	0.00
		<b>Total:</b>	<b>25,099.00</b>	<b>20,025.00</b>	<b>5,074.00</b>	



RECEIVED

# CITY OF COLONIAL HEIGHTS

P.O. Box 3401  
COLONIAL HEIGHTS, VA 23834-9001  
www.colonial-heights.com

cc: Bill Johnson  
Tammy Draper

Nov. 3.A  
Please.

AAA  
10/16

City Manager's Office

## Department of Fire, EMS & Emergency Management

### MEMORANDUM

TO : Richard Anzolut, Jr., City Manager

FROM : A. G. Moore, Jr., Fire Chief *AM*

SUBJECT : Council Agenda

DATE : October 13, 2009

Please have the following item placed on the next available City Council agenda:

Amend the FY 09-10 Fire & EMS operating budget to reflect an increase of \$1,000. The initial budget appropriation from the Virginia Department of Fire Programs Aid to Localities Entitlements Program (ATL) was \$25,000. We have now been notified the actual amount of the aid will be \$26,000.

These funds will be used to purchase fire equipment such as turnout gear.

If you should have any questions, please contact me at extension 319.



**CITY OF COLONIAL HEIGHTS**  
P.O. Box 3401  
COLONIAL HEIGHTS, VA 23834-9001  
[www.colonial-heights.com](http://www.colonial-heights.com)

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**Department of Fire, EMS & Emergency Management**

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**MEMORANDUM**

---

TO : Richard Anzolut, Jr., City Manager

FROM : A. G. Moore, Jr., Fire Chief *AGM*

SUBJECT : Council Agenda

DATE : October 20, 2009

Please have the following item placed on the next available City Council agenda:

Amend the FY 09-10 Fire & EMS operating budget to reflect an increase of \$18,250. Said funds have been awarded from the Virginia Office of EMS Financial Assistance for Emergency Medical Services (FAEMS) Grant. These funds will be used to replace five (5) mobile data terminals (MDCs) being used on our Medic units. There is no match required by the City.

If you should have any questions, please contact me at extension 319.

AN ORDINANCE NO. 09-FIN-20

To amend the General Fund Budget for the fiscal year beginning July 1, 2009, and ending June 30, 2010, to appropriate \$39,943, consisting of \$200 in donated funds to Judicial in support of the Sheriff's Office annual Halloween in the Park festival; \$268 in donated funds to the Office on Youth in support of the Kids' After-School Program; and \$39,475 in donated funds and grant funding to Public Safety for the purchase of LIDAR equipment, in-car video camera and items related to crime prevention for the Police Department and the replacement of five (5) mobile data terminals and the purchase of miscellaneous fire equipment for the Fire & EMS Department.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:

1. That Sections 1, 2 and 3 of Ordinance No. 09-FIN-4, 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, 2009, and ending June 30, 2010, 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)	\$ 148,167
Administrative (City Manager)	310,589
Legal (City Attorney)	207,578
Tax Collections & Assessments	607,842
Finance	5,873,655
Information Technologies	207,867
Board of Elections	130,159
Judicial	4,288,458 4,288,658
Public Safety	7,726,429 7,765,904
Public Works	3,044,162
Health and Social Services	717,750
Parks and Recreation	1,427,880
Cultural Enrichment	92,257
Library	613,213
Community Development	542,204
Grant Programs	375,783 376,051
Nondepartmental	560,275
Debt Service	3,217,341
Operating Transfers Out	19,037,766

2. That the sum of \$49,129,375 49,169,318 is appropriated for the fiscal year beginning July 1, 2009.

3. That the foregoing appropriation is based upon the following revenue estimates for the fiscal year beginning July 1, 2009:

General Property Taxes	\$ 21,216,669
Other Local Taxes	14,403,852
Licenses, Permits & Fees	3,409,794

Fines and Forfeitures	556,500
Use of Money & Property	427,000
Intergovernmental Revenues	6,243,867
Charges for Current Services	1,149,401
Miscellaneous	1,259,058
Reserve – Fire/EMS Donations	1,350
Restricted Fund Balance Fire/EMS	5,000
Restricted Fund Balance –	
Civic Organizations	450
Restricted Fund Balance –	
Police Assets	18,929
Restricted Fund Balance – Streets	132,000
Fund Balance	305,505
<b>TOTAL</b>	<b>\$ 49,129,375 49,169,318</b>

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

Approved:

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
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:

Hugh P. Foster, III  
City Attorney



# CITY OF COLONIAL HEIGHTS

P.O. Box 3401  
COLONIAL HEIGHTS, VA 23834-9001  
[www.colonial-heights.com](http://www.colonial-heights.com)

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## Office of the City Manager

**TO:** The Honorable Mayor and Members of City Council

**FR:** Richard A. Anzolut, Jr., City Manager

**DATE:** November 13, 2009

**SUBJ:** Waterline Easement Vacation – Lots 1-14 of Block P, AB Cook Farm

On January 13, 2009, City Council adopted Ordinance No. 08-29 that vacated a 5 foot portion of a 10 foot alley and sold it to C&T Land as part of their development parcel fronting the Boulevard along Cedar Lane and the Old Town Creek. As some members of Council may recall, this undeveloped 10 foot alley ran behind Lots 1 through 14 of Cedar Lane. C&T Land is represented by Joe Tyler and the ordinance actually vacated the property and agreed to sell it to Mr. Tyler. At the time of staff's review of this matter, the Engineering Office proposed the reservation of a 5 foot easement for a future waterline. That 5 foot easement was contained in the requirements of Ordinance No. 08-29 and therefore included as part of the conditions of the sale.

Throughout the development review, the reservation of this easement and the possible installation of a waterline in this location seemed more and more impractical. It has now been determined that this easement is not necessary. If the City were to provide water service through a new line built to serve C&T's commercial development, it is not likely that this would be the best location. Therefore, in response to Mr. Tyler's request, the City Manager and staff are proposing that this easement be vacated so the property can formally convey as planned. The City Attorney has prepared Ordinance No. 09-26 that would provide for City Council's authorization of the abandonment of this easement concept. It is much more likely that any looping of the water system to serve future development would be provided nearer to the intersection of Wakefield Avenue and Brame Avenue, rather than a half-block down Brame from Cedar Lane.

The Honorable Mayor and City Council

November 13, 2009

Page 2

Council's consideration of this matter has been scheduled for the Council Meeting of November 18, 2009. It is recommended that Council provide first reading to Ordinance No. 09-26 at that time. Staff associated with this matter will be present during the Council Meeting to assist.

Should any questions arise prior to the Council Meeting, please do not hesitate to contact me.

Attachments

cc: Hugh P. Fisher, III, City Attorney  
William E. Johnson, Director of Finance  
William E. Henley, Director of Public Works and Engineering

**AN ORDINANCE NO. 09-26**

To amend Ordinance No. 08-29 by deleting the requirement therein for Harold Joseph Tyler to convey to the City a 5 foot waterline easement.

WHEREAS, Ordinance No. 08-29 provided that the City vacate, abandon, and discontinue the use of an approximate 1750 square foot portion of a certain public alley situated behind Lots 1-14 of Block P of A.B. Cook Farm, and that such alley portion be conveyed to Harold Joseph Tyler upon Mr. Tyler conveying to the City a 5 foot waterline easement; and

WHEREAS, the City Manager now believes that the requirement for Mr. Tyler to convey to the City a 5 foot waterline easement is unnecessary and inappropriate, and that such requirement should be eliminated; NOW THEREFORE,

**THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:**

1. That Ordinance No. 08-29 is hereby amended by eliminating the requirement for Harold Joseph Tyler to convey to the City a 5 foot waterline easement.
2. That all other provisions of Ordinance No. 08-29 remain in full force and effect.
3. 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 Patricia L. Cox, Councilwoman: \_\_\_\_\_.

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

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

The Honorable T. Gregory Kochuba, Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Councilwoman: \_\_\_\_\_.

The Honorable David A. Salot, Vice Mayor: \_\_\_\_\_.

The Honorable John T. Wood, 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:

Hugh P. Stalter III  
\_\_\_\_\_  
City Attorney



# CITY OF COLONIAL HEIGHTS

P.O. Box 3401  
COLONIAL HEIGHTS, VA 23834-9001  
[www.colonial-heights.com](http://www.colonial-heights.com)

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## Office of the City Manager

**TO:** The Honorable Mayor and Members of City Council  
**FR:** Richard A. Anzolut, Jr., *AM*, City Manager  
**DATE:** November 13, 2009  
**SUBJ:** Refunding Bond Resolution

At the conclusion of the Work Session of October 20, 2009, the City Manager made Council aware that the Director of Finance and the City's Financial Advisor were working on refunding debt to generate budget savings over the next six years. To summarize this matter, the City still has remaining principal balances on bonds issued in 1996, 1998, 2000 and 2002. During this time frame, the City issued bonds to finance elements in its Capital Improvement Program. By 2005, the City Manager and Director of Finance had determined that this biennial bond process to fund capital improvements was no longer practical due to limited new revenues being generated to pay for new debt service. We shifted our Capital Improvement Programming focus toward a "pay as you go approach" and used fund balance for capital project advancement. We were no longer able to obligate future revenue growth toward future debt service.

The Director of Finance and City's Financial Advisor see favorable interest rates late in calendar year 2009 as providing the potential to save about \$300,000 over the remaining six years in the life of these bonds, all of which we previously refinanced. For Council's information, the original bond issues funded the following:

1996 Issue – \$2.2 million for Middle School Renovation Phase II and Infiltration Reduction.

The Honorable Mayor and City Council

November 13, 2009

Page 2

1998 Issue - \$4 million in Capital Improvement Projects including Flora M. Hill Park, Public Safety Building, parks improvements, renovation of the Community Building, street and drainage improvements, water and sewer line improvements, and street improvements.

2000 Issue - \$6 million to include the new City Hall, the Fleet Building, the radio communication system, a fire truck, the Middle School roof and water line improvements.

2002 Issue - \$6.5 million for the communication system, Landfill closure, highway improvement funding, an ambulance, other street, water and sewer line improvements, drainage improvements and the refurbishment of the Southpark water tank.

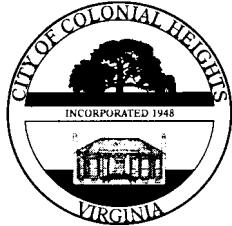
This matter is scheduled for presentation and discussion during the Council Meeting of November 18, 2009. Director of Finance and the City's Financial Advisor will overview this matter to Council. It is very common for your financial team to work on this bond issue with your authorization up to the bond closing without any further involvement from Council. It is very common for Council to adopt a Bond Resolution well in advance of the actual closing and issuance of these bonds. Therefore, it is recommended that Council adopt Resolution 09-51 following its discussion on November 18, 2009. Staff will work over the next four to five weeks to position the City to sell this debt on the most advantageous day prior to the end of the calendar year. Staff will report on the success of the sale as soon as that information is available. If for some reason interest rates move in an unfavorable direction, Staff would abandon the process if reasonable savings would not result.

If any questions arise on this matter prior to the November 18<sup>th</sup> Council Meeting, please do not hesitate to contact me.

Attachments

cc: Hugh P. Fisher, III, City Attorney

William E. Johnson, Director of Finance



# CITY OF COLONIAL HEIGHTS

P.O. Box 3401  
COLONIAL HEIGHTS, VA 23834-9001  
[www.colonial-heights.com](http://www.colonial-heights.com)

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## FINANCIAL ADMINISTRATION

**To:** Richard A. Anzolut, Jr., City Manager  
**From:** William E. Johnson, Director of Finance *WEJ*  
**Date:** 10/9/2009  
**RE:** 2009 Bond Refunding

As part of the continuing relationship with our financial advisors, Bassett Financial Management, our current debt position is reviewed to determine any advantages in restructuring our current debt. As part of this review, the market currently presents an advantage to combine and refund the current General Obligation Bonds Issues from 1996 to possibly 2002. Normally we try to combine this with new authorized and unissued bonds, but with the delay in the anticipation sale date of any new issues, we feel it is more prudent to go with a stand-alone issue at this time.

While the amount of savings is dependent on the bond market on the day of the sale, we are currently looking at a total savings of approximately \$300,000 over the remaining 6 year life of the bonds after all expenses are incurred. I would like authorization to prepare a RFP to bring in an underwriter to explore the best method, i.e. public sale or private placement at this point to conduct a sale, and to preliminary start the Official Statement phase.

I can have bond counsel give the appropriate authorization documents to the City Attorney for his approval and presentation to City Council by the October 20<sup>th</sup> work session. This would give us authorization for the issue, and give the ability to quickly access the market, if it appears the market is changing.

If you have any questions or need additional clarification, please advise.

**A RESOLUTION NO. 09-51**

**A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF COLONIAL HEIGHTS, VIRGINIA  
AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION  
REFUNDING BONDS**

WHEREAS, the City Council of the City of Colonial Heights, Virginia ("City") has determined that it is advisable to authorize the issuance and sale of general obligation refunding bonds of the City to refund in advance of their maturities certain bonds previously issued by the City in order to achieve debt service savings.

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

**1. Authorization of Bonds; Refunding of Prior Bonds.** The City Council hereby determines that it is advisable to contract a debt and to issue and sell general obligation refunding bonds (the "Bonds") on the terms determined in the manner set forth in this Resolution. The issuance and sale of the Bonds are hereby authorized. The proceeds from the issuance and sale of the Bonds shall be used to refund, redeem and/or defease certain outstanding bonds issued by the City (the "Refunded Bonds") which bonds shall be determined by the City Manager pursuant to the criteria set forth in this paragraph. The City Manager is authorized to determine the series, maturities and amounts of the Refunded Bonds as such officer determines to be in the best interest of the City as long as the minimum savings achieved by the issuance of the Refunded Bonds on a present value basis is not less than 3% of the refunded principal amount. The City Manager is authorized to enter into an escrow agreement providing for the deposit of proceeds of the Bonds and the refunding and redemption of the Refunded Bonds with such escrow agent as the City Manager may select.

**2. Pledge of Full Faith and Credit.** The full faith and credit of the City are hereby irrevocably pledged for the payment of the principal of, premium, if any, and interest on the Bonds as the same become due and payable. The City Council shall levy an annual ad valorem tax upon all property in the City, subject to local taxation, sufficient to pay the principal of, premium, if any, and interest on the Bonds as the same shall become due for payment unless other funds are lawfully available and appropriated for the timely payment thereof.

**3. Details and Sale of Bonds.** The Bonds shall be issued upon the terms established pursuant to this Resolution and upon such other terms as may be determined in the manner set forth in this Resolution. The Bonds shall be issued in one or more series, in fully registered form and shall be dated such date or dates as the City Manager may approve. The Bonds shall mature on such dates and in such amounts and shall be issued in such principal amount as the City Manager may approve, provided that the final maturity of the Bonds is not later than one year after the final maturity of the Refunded Bonds and the aggregate principal amount of the Bonds is not more than the amount needed to pay principal of and premium, if any, and interest on the Refunded Bonds and to pay the costs of issuing the Bonds. The Bonds may be sold pursuant to a public sale or private placement and may be sold on a negotiated or competitive bid basis all as may be determined by the City Manager. The City Manager is authorized and directed to accept a bid or bids or a proposal for the purchase of the Bonds at such interest rate or rates and such price which such officer determines to be in the best interest of the City, subject to the debt service savings criteria set forth in paragraph 1 above. The City Manager is authorized to enter into a bond purchase agreement with the purchaser of the Bonds if required in connection with the sale of the Bonds. The City Manager and the Director of Finance, or either of them, is authorized and directed to approve such optional redemption provisions for the Bonds as such officer or officers determine to be in the best interest of the City.

**4. Form of Bonds.** The Bonds shall be in substantially the form attached to this Resolution as Exhibit A, with such appropriate variations, omissions and insertions as are permitted or required by this Resolution. There may be endorsed on the Bonds such legend or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

**5. Book-Entry-Only-Form.** If the Bonds are sold publicly, the Bonds shall be issued in book-entry-only form as set forth in this paragraph. The Bonds shall be issued in fully-registered form and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC") as registered owner of the Bonds, and immobilized in the custody of DTC. One fully-registered Bond in typewritten or printed form for the principal amount of each maturity of the Bonds shall be registered to Cede & Co. Beneficial owners of the Bonds shall not receive physical delivery of the Bonds. Principal, premium, if any, and interest payments on the Bonds shall be made to DTC or its nominee as registered owner of the Bonds on the applicable payment date.

Transfer of ownership interest in the Bonds shall be made by DTC and its participants (the "Participants"), acting as nominees of the beneficial owners of the Bonds in accordance with rules specified by DTC and its Participants. The City shall notify DTC of any notice required to be given pursuant to this Resolution or the Bonds not less than fifteen (15) calendar days prior to the date upon which such notice is required to be given. The City shall also comply with the agreements set forth in the City's Letter of Representations to DTC.

Replacement Bonds (the "Replacement Bonds") may be issued directly to beneficial owners of the Bonds rather than to DTC or its nominee but only in the event that:

- (i) DTC determines not to continue to act as securities depository for the Bonds; or
- (ii) The City has advised DTC of its determination not to use DTC as a securities depository; or
- (iii) The City has determined that it is in the best interest of the beneficial owners of the Bonds or the City not to continue the book-entry system of transfer.

Upon occurrence of the event described in (i) or (ii) above, the City shall attempt to locate another qualified securities depository. If the City fails to locate another qualified securities depository to replace DTC, the City Council shall execute and deliver Replacement Bonds substantially in the form set forth in Exhibit A to this Resolution to the Participants. In the event the City Council, in its discretion, makes the determination noted in (iii) above and has made provisions to notify the beneficial owners of the Bonds by mailing an appropriate notice to DTC, the appropriate officers and agents of the City shall execute and deliver Replacement Bonds substantially in the form set forth in Exhibit A to this Resolution to any Participants requesting such Replacement Bonds. Principal of and interest on the Replacement Bonds shall be payable as provided in this Resolution and in the Bonds and Replacement Bonds will be transferable in accordance with the provisions of paragraphs 9 and 10 of this Resolution and the Bonds.

**6. Appointment of Bond Registrar and Paying Agent.** The City Manager is authorized and directed to appoint a Bond Registrar and Paying Agent for the Bonds and as long as the Bonds are in book-entry form, either the City Manager or the Director of Finance may serve as Paying Agent.

The City Manager may appoint a subsequent registrar and/or one or more paying agents for the Bonds upon giving written notice to the owners of the Bonds specifying the name and location of the principal office of any such registrar or paying agent.

**7. Execution of Bonds.** The City Manager and the Clerk of the City Council are authorized and directed to execute appropriate negotiable Bonds and to affix the seal of the City thereto and to deliver the Bonds to the purchaser thereof upon payment of the purchase price. The manner of execution and affixation of the seal may be by facsimile, provided, however, that if the signatures of the Mayor and the Clerk are both by facsimile, the Bonds shall not be valid until signed at the foot thereof by the manual signature of the Bond Registrar.

**8. CUSIP Numbers.** If the Bonds are sold publicly, the Bonds shall have CUSIP identification numbers printed thereon. No such number shall constitute a part of the contract evidenced by the Bond on which it is imprinted and no liability shall attach to the City, or any of its officers or agents by reason of such numbers or any use made of such numbers, including any use by the City and any officer or agent of the City, by reason of any inaccuracy, error or omission with respect to such numbers.

**9. Registration, Transfer and Exchange.** Upon surrender for transfer or exchange of any Bond at the principal office of the Bond Registrar, the City shall execute and deliver and the Bond Registrar shall authenticate in the name of the transferee or transferees a new Bond or Bonds of any authorized denomination in an aggregate principal amount equal to the Bond surrendered and of the same form and maturity and bearing interest at the same rate as the Bond surrendered, subject in each case to such reasonable regulations as the City and the Bond Registrar may prescribe. All Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and substance reasonably satisfactory to the City and the Bond Registrar, duly executed by the registered owner or by his or her duly authorized attorney-in-fact or legal representative. No Bond may be registered to bearer.

New Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by this Resolution and entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered.

**10. Charges for Exchange or Transfer.** No charge shall be made for any exchange or transfer of Bonds, but the City may require payment by the registered owner of any Bond of a sum sufficient to cover any tax or other governmental charge which may be imposed with respect to the transfer or exchange of such Bond.

**11. Non-Arbitrage Certificate and Tax Covenants.** The City Manager and the Director of Finance, or either of them, and such officers and agents of the City as either of them may designate are authorized and directed to execute a Non-Arbitrage Certificate and Tax Covenants setting forth the expected use and investment of the proceeds of the Bonds and containing such covenants as may be necessary in order to comply with the provisions of the Internal Revenue Code of 1986, as amended ("Code"), including the provisions of Section 148 of the Code and applicable regulations relating to "arbitrage bonds." The City Council covenants on behalf of the City that the proceeds from the issuance and sale of the Bonds will be invested and expended as set forth in the City's Non-Arbitrage Certificate and Tax Covenants, to be delivered simultaneously with the issuance and delivery of the Bonds and that the City shall comply with the other covenants and representations contained therein.

**12. Disclosure Documents.** The City Manager and the Director of Finance, or either of them, and such officers and agents of the City as either of them may designate are hereby authorized and directed to prepare, execute, if required, and deliver an appropriate notice of sale, preliminary official statement, official statement, continuing disclosure agreement or such other offering or disclosure documents as may be necessary to expedite the sale of the Bonds. The notice of sale, preliminary official statement, official statement, continuing disclosure agreement or other documents shall be published in such publications and distributed in such manner, including electronically, and at such times as the Director of Finance shall determine. The Director of Finance is authorized and directed to deem the preliminary official statement "final" for purposes of Securities and Exchange Commission Rule 15c2-12.

**13. Designation as Bank Qualified.** The Bonds are designated as "qualified tax-exempt obligations" eligible for the exception from the disallowance of the deduction of interest by financial institutions allocable to the cost of carrying tax-exempt obligations in accordance with the provisions of Section 265(b)(3) of the Code. The City does not reasonably anticipate that the City, the City's subordinate entities, and the entities which issue obligations on the City's behalf will issue, in the aggregate, more than \$30,000,000 in tax-exempt obligations during calendar year 2009, and the City will not designate more than \$30,000,000 of qualified tax-exempt obligations in calendar year 2009.

**14. Further Actions.** The City Manager and the Director of Finance and such officers and agents of the City as either of them may designate are authorized and directed to take such further action as they deem necessary regarding the issuance and sale of the Bonds and all actions taken by such officers and agents in connection with the issuance and sale of the Bonds are ratified and confirmed.

**15. Effective Date; Applicable Law.** In accordance with Section 15.2-2601 of the Code of Virginia of 1950, as amended, the City Council elects to issue the Bonds pursuant to

the provisions of the Public Finance Act of 1991. This Resolution shall take effect at the time of its adoption.

Approved:

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
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: \_\_\_\_\_.

Approved as to form:

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

  
\_\_\_\_\_  
Hugh Petreka, III  
City Attorney

**Exhibit A**  
**FORM OF BOND**

**UNITED STATES OF AMERICA**  
**COMMONWEALTH OF VIRGINIA**

**No. R-**

**CITY OF COLONIAL HEIGHTS**  
**GENERAL OBLIGATION REFUNDING BOND,**  
**SERIES \_\_\_\_\_**

<b>MATURITY DATE</b>	<b>INTEREST RATE</b>	<b>CUSIP</b>
----------------------	----------------------	--------------

**REGISTERED OWNER:**

**PRINCIPAL AMOUNT:**

**CITY OF COLONIAL HEIGHTS, VIRGINIA** (the "City"), for value received, acknowledges itself indebted and promises to pay to the registered owner of this Bond or legal representative, the principal amount stated above on the maturity date set forth above and to pay interest on the principal amount of this Bond at the rate specified above per annum, payable semiannually on \_\_\_\_\_ 1 and \_\_\_\_\_ 1, beginning on \_\_\_\_\_ 1, \_\_\_\_\_. This Bond shall bear interest (a) from \_\_\_\_\_, \_\_\_\_, if this Bond is authenticated before \_\_\_\_\_ 1, \_\_\_\_ or (b) otherwise from the \_\_\_\_\_ 1 or \_\_\_\_\_ 1 that is, or immediately precedes, the date on which this Bond is authenticated; provided that, if at the time of authentication of this Bond, interest on this Bond is in default, this Bond shall bear interest from the date to which interest has been paid. Both principal of and interest on this Bond are payable in lawful money of the United States of America. The principal of this Bond is payable upon presentation and surrender hereof at the office of \_\_\_\_\_, as Bond Registrar and Paying Agent ("Bond Registrar"). Interest on this Bond is payable by check or draft mailed to the registered owner hereof at its address as it appears on the registration books maintained by the Bond Registrar without presentation of this Bond (or by wire if requested by any owner of at least \$1,000,000 in principal amount of the Bonds). All interest payments shall be made to the registered owner as it appears on the registration books kept by the Bond Registrar on the fifteenth day of the month preceding each interest payment date.

This Bond has been duly authorized by the City Council and is issued for the purpose of providing funds to refund in advance of their maturities certain outstanding bonds issued by the City. The full faith and credit of the City are irrevocably pledged for the payment of the principal of and premium, if any, and interest on this Bond in accordance with its terms.

This Bond is one of a series of \$\_\_\_\_\_ General Obligation Refunding Bonds, Series \_\_\_\_\_ of the City, (the "Bonds") of like date and tenor, except as to number, denomination, rate of interest and maturity, issued under the authority of and in full compliance with the Constitution and statutes of the Commonwealth of Virginia, and, more particularly, issued pursuant to the Public Finance Act of 1991, Chapter 26 of Title 15.2 of the Code of

Virginia of 1950, as amended and a Resolution adopted by the City Council on November 18, 2009 (the "Resolution").

Bonds maturing on or before \_\_\_\_\_, \_\_\_\_ are not subject to redemption before maturity. Bonds at the time outstanding which are stated to mature on or after \_\_\_\_\_, \_\_\_\_ may be redeemed before their maturities on or after \_\_\_\_\_, \_\_\_\_, at the option of the City in whole or in part (in installments of \$5,000) at any time or from time to time during the following redemption periods upon payment of the following redemption prices (expressed as a percentage of the principal amount to be redeemed) together with the interest accrued thereon to the date fixed for redemption:

<u>Redemption Period</u> <u>(both dates inclusive)</u>	<u>Redemption Price</u>
_____, ____ through _____, ____	____%
_____, ____ through _____, ____	____%
_____, ____ and thereafter	____%

If less than all of the Bonds are called for redemption, the maturities of the Bonds to be redeemed shall be selected by the Director of Finance of the City in such officer's discretion. If less than all of the Bonds of any maturity are called for redemption, the Bonds or portions thereof to be redeemed within a maturity shall be selected by lot by the Bond Registrar, each portion of \$5,000 principal amount being counted as one Bond for such purpose.

If any of the Bonds or portions thereof are called for redemption, the Bond Registrar shall send notice of the call for redemption identifying the Bonds by serial or CUSIP numbers, and in the case of partial redemption, identifying the principal amount to be redeemed, and identifying the redemption date and price and the place where Bonds are to be surrendered for payment, by first class mail not less than 30 nor more than 60 days before the redemption date to the registered owner of each Bond to be redeemed at such owner's address as it appears on the registration books maintained by the Bond Registrar, but failure to mail such notice shall not affect the validity of the proceedings for redemption. Provided funds for their redemption are on deposit at the place of payment on the redemption date, all Bonds or portions thereof so called for redemption shall cease to bear interest on such date, shall no longer be secured by the Resolution and shall not be deemed to be outstanding. If a portion of this Bond shall be called for redemption, a new Bond in principal amount equal to the unredeemed portion hereof will be issued to the registered owner upon the surrender of this Bond.

The Bonds are issuable as fully registered bonds in denominations of \$5,000 and integral multiples thereof. Any Bond may be exchanged for a like aggregate principal amount of Bonds of the same maturity of other authorized denominations at the principal office of the Bond Registrar.

This Bond may be transferred only by an assignment duly executed by the registered owner hereof or such owner's attorney or legal representative in a form satisfactory to the Bond Registrar. Such transfer shall be made in the registration books kept by the Bond Registrar upon presentation and surrender hereof and the City shall execute, and the Bond Registrar shall

authenticate and deliver in exchange, a new Bond or Bonds having an equal aggregate principal amount, in authorized denominations, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner hereof or such owner's attorney or legal representative. Any such exchange shall be at the expense of the City, except that the Bond Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The City may designate a successor Bond Registrar and/or Paying Agent, provided that written notice specifying the name and location of the principal office of any such successor shall be given to the registered owner of the Bonds. Upon registration of transfer of this Bond, the Bond Registrar shall furnish written notice to the transferee of the name and location of the principal office of the Bond Registrar and/or the Paying Agent.

The Bond Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner, except that interest payments shall be made to the person shown as the owner on the registration books on the 15th day of the month preceding each interest payment date.

This Bond shall not be valid or obligatory for any purpose unless and until authenticated at the foot hereof by the Bond Registrar.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist or be performed precedent to the issuance of this Bond have happened, exist or been performed in due time, form and manner as so required and that the indebtedness evidenced by this Bond is within every debt and other limit prescribed by the Constitution and statutes of the Commonwealth of Virginia.

**IN WITNESS WHEREOF**, the City Council of the City of Colonial Heights, Virginia, has caused this Bond to be signed by the facsimile signature of its City Manager, a facsimile of its seal to be affixed and attested by the facsimile signature of its Clerk and this Bond to be dated \_\_\_\_\_, \_\_\_\_\_.

**CITY OF COLONIAL HEIGHTS, VIRGINIA**

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

City Manager, City of Colonial Heights, Virginia

[SEAL]

ATTEST:

\_\_\_\_\_  
Clerk, City Council,  
City of Colonial Heights, Virginia

## ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

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(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE OF ASSIGNEE)

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE: \_\_\_\_\_

the within Bond and does hereby irrevocably constitute and appoint

\_\_\_\_\_, attorney, to transfer said Bond on the books kept for registration of said Bond, with full power of substitution in the premises.

Dated \_\_\_\_\_

Signature Guaranteed:

(NOTICE: Signature(s) must be guaranteed.)

Registered Owner

(NOTICE: The signature above must correspond with the name of the Registered Owner as it appears on the books kept for registration of this Bond in every particular, without alteration or change.)

## **CERTIFICATE OF AUTHENTICATION**

The undersigned Bond Registrar hereby certifies that this is one of a series of Bonds of the City of Colonial Heights, Virginia described in the within-mentioned Resolution.

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

By: \_\_\_\_\_  
[Director of Finance]

## **CERTIFICATION**

The undersigned City Clerk and Clerk of Council certifies that the attached is a true copy of the Resolution which was adopted by the City Council of the City of Colonial Heights at a meeting held on November 18, 2009.

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Clerk, City Council,  
City of Colonial Heights, Virginia



# CITY OF COLONIAL HEIGHTS

P.O. Box 3401  
COLONIAL HEIGHTS, VA 23834-9001  
[www.colonial-heights.com](http://www.colonial-heights.com)

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## Office of the City Manager

**TO:** The Honorable Mayor and Members of City Council

**FR:** Richard A. Anzolut, Jr. ~~City Manager~~

**DATE:** November 13, 2009

**SUBJ:** Standard Project Administration Agreement for Paving on Southpark Boulevard and on Dimmock Parkway

During the Council Meeting of October 13, 2009, City Council appropriated two carryover street resurfacing appropriations. During the discussion of that item, Staff made Council aware of \$684,570 of federal stimulus money provided through a regional allocation to the City of Colonial Heights. The federal stimulus money is referred to as ARRA and has the requirement for the funds to be allocated by March 2, 2010. Since the localities in our region did not have "shovel ready" transportation construction projects, the region has allocated its stimulus funding toward resurfacing. Staff has identified Southpark Boulevard and Dimmock Parkway as significant commercial corridors in need of resurfacing. In order for the City to administer the stimulus monies that are passing from the Federal Government through VDOT, it is necessary to adopt a Standard Project Administration Agreement before obligating and receiving the funds.

Attached is Resolution No. 09-52 that would give the City Manager the authority to execute a Standard Project Administration Agreement with VDOT so the stimulus funding can be formally transferred to the City for the paving. The Director of Public Works and Engineering has already bid the quantities necessary for this work. Once all administrative aspects of the Standard Project Administration Agreement have been completed, we will formally amend the FY10 Budget to show receipt of the stimulus money (probably in December, 2009).

The Honorable Mayor and City Council

November 13, 2009

Page 2

It is recommended that Council adopt Resolution No. 09-52 during the Council Meeting of November 18, 2009. The Director of Public Works and Engineering will be available at that time should any questions on our resurfacing program arise.

If any questions arise prior to the Council Meeting, please do not hesitate to contact me.

Attachments

cc:     Hugh P. Fisher, III, City Attorney  
          William E. Johnson, Director of Finance  
          William A. Henley, Director of Public Works and Engineering

A RESOLUTION NO. 09-52

Authorizing the City Manager to execute a "Standard Project Administration Agreement" with the Virginia Department of Transportation for milling and resurfacing from Ivey Avenue to Southpark Circle and from Southpark Boulevard to Temple Avenue. The Project Number is U000-106-130, C501, UPC 94860, and the project is to be locally administered.

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

1. That Richard A. Anzolut, Jr., City Manager, be, and is hereby, authorized to enter into, on behalf of the City, an Agreement with the Virginia Department of Transportation entitled "Standard Project Administrative Agreement", a copy of which is attached to and made a part of this resolution; subject to approval by the City Attorney as to form.
2. That this resolution shall be in full force and effect upon its passage.

Approved:

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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: \_\_\_\_\_.

Resolution No. 09-52

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

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

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

Approved as to form:

Hugh P. Trotter, III  
City Attorney

**STANDARD PROJECT ADMINISTRATION AGREEMENT**  
**Federal-aid Projects**

Project Number	UPC	Local Government
U000-106-130,C501	94860	City of Colonial Heights

THIS AGREEMENT, made and executed in triplicate this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between the **City of Colonial Heights, Virginia**, hereinafter referred to as the LOCALITY and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT.

WHEREAS, the LOCALITY has expressed its desire to administer the work described in Appendix A, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds shown in Appendix A have been allocated to finance each Project; and

WHEREAS, the LOCALITY will progress with the development of each Project so that any federal funds allocated to each Project may be obligated within three years of allocation to each Project in accordance with the current Statewide Transportation Improvement Program, unless otherwise specified in writing by the Department; and

WHEREAS, both parties have concurred in the LOCALITY's administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state, and local law and regulations.

NOW THEREFORE, in consideration of the mutual premises contained herein, the parties hereto agree as follows:

1. The LOCALITY shall:
  - a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties. Each Project will be designed and constructed to meet or exceed current American Association of State Highway and Transportation Officials standards or supplementary standards approved by the DEPARTMENT.
  - b. Receive prior written authorization from the DEPARTMENT to proceed with preliminary engineering, right-of-way acquisition and utility relocation, and construction phases of each Project.
  - c. Administer the project(s) in accordance with guidelines applicable to Locally Administered Projects as published by the DEPARTMENT.

- d. Maintain accurate and complete records of each Project's development and documentation of all expenditures and make such information available for inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement will be requested shall be maintained for no less than three (3) years following acceptance of the final voucher on each Project.
- e. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the LOCALITY and an up-to-date project summary and schedule tracking payment requests and adjustments. A request for reimbursement shall be made within 90 days after any eligible project expenses are incurred by the Locality. For federally funded projects and pursuant to the Code of Federal Regulations, Title 49, Section 18.43, violations of the provision may result in the imposition of sanctions including possible denial or delay of payment of all or a part of the costs associated with the activity or action not in compliance.
- f. Reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if, due to action or inaction solely by the LOCALITY, federally funded Project expenditures incurred are not reimbursed by the Federal Highway Administration (FHWA), or reimbursements are required to be returned to the FHWA, or in the event the reimbursement provisions of Section 33.1-44 or Section 33.1-70.01 of the Code of Virginia, 1950, as amended, or other applicable provisions of federal, state, or local law or regulations require such reimbursement.
- g. On Projects that the LOCALITY is providing the required match to state or federal funds, pay the DEPARTMENT the LOCALITY's match for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 2.a.
- h. Administer the Project in accordance with all applicable federal, state, or local laws and regulations. Failure to fulfill legal obligations associated with the project may result in forfeiture of federal or state-aid reimbursements
- i. Provide certification by a LOCALITY official that all LOCALITY administered Project activities have been performed in accordance with all federal, state, or local laws and regulations. If the locality expends over \$500,000 annually in federal funding, such certification shall include a copy of the LOCALITY's single program audit in accordance with Office of Management and Budget Circular A-133.
- j. If legal services other than that provided by staff counsel are required in connection with condemnation proceedings associated with the acquisition of Right-of-Way, the LOCALITY will consult the DEPARTMENT to obtain an attorney from the list of outside counsel approved by the Office of the

Attorney General. Costs associated with outside counsel services shall be reimbursable expenses of the project.

- k. For Projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.
  - l. Ensure compliance with the provisions of Title VI of the Civil Rights Act of 1964, regulations of the United States Department of Transportation (USDOT), Presidential Executive Orders and the Code of Virginia relative to nondiscrimination.
2. The DEPARTMENT shall:
  - a. Perform any actions and provide any decisions and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties and provide necessary coordination with the FHWA as determined to be necessary by the DEPARTMENT.
  - b. Upon receipt of the LOCALITY's invoices pursuant to paragraph 1.e, reimburse the LOCALITY the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the LOCALITY.
  - c. If appropriate, submit invoices to the LOCALITY for the LOCALITY's share of eligible project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.
  - d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with federal and state laws and regulations.
  - e. Make available to the LOCALITY guidelines to assist the parties in carrying out responsibilities under this Agreement.
3. Appendix A identifies the funding sources for the project, phases of work to be administered by the LOCALITY, and additional project-specific requirements agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.
4. If designated by the DEPARTMENT, the LOCALITY is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.1-94 of the Code of Virginia, 1950, as amended.
5. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been

appropriated. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its costs exceed the allocated amount, however the DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated and allocated.

6. Nothing in this agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.
7. This agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be reimbursed in accordance with paragraphs 1.e, 1.f, and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination, the DEPARTMENT shall retain ownership of plans, specifications, and right of way, unless all state and federal funds provided for the Project have been reimbursed to the DEPARTMENT by the LOCALITY, in which case the LOCALITY will have ownership of the plans, specifications, and right of way, unless otherwise mutually agreed upon in writing.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

**CITY OF COLONIAL HEIGHTS, VIRGINIA:**

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Signature

---

Typed or printed name of signatory

---

Title

---

Date

---

Signature of Witness

---

Date

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this agreement.

**COMMONWEALTH OF VIRGINIA, DEPARTMENT OF  
TRANSPORTATION:**

---

Commonwealth Transportation Commissioner  
Commonwealth of Virginia  
Department of Transportation

---

Date

---

Signature of Witness

---

Date

**Attachments**

Appendix A - UPC 94860

Project Number: U000-106-130,C501 (UPC 94860) Locality: City of Colonial Heights

Project Narrative	
<b>Scope:</b>	Milling & Resurfacing – 2 locations in the City of Colonial Heights
<b>From:</b>	Southpark Blvd – From: Ivey Ave To: Southpark Circle
	Dimmock Pkwy – From: Southpark Blvd To: Temple Ave
<b>To:</b>	see above
Locality Project Manager Contact Info: Harold Caples, 804-524-8708 Department Project Coordinator Contact Info: Sherry Eagle 804-524-6382	

Project Costs and Reimbursement				
Phase	Estimated Project Costs	Estimated Eligible Project Costs	Estimated Eligible VDOT Project Expenses	Estimated Reimbursement to Locality
Preliminary Engineering	0	0	0	0
Right-of-Way & Utilities	0	0	0	0
Construction	\$686,070	\$686,070	\$1,500	\$684,570
Total Estimated Cost	\$686,070	\$686,070	\$1,500	\$684,570
Total Maximum Reimbursement/Payment by Locality to VDOT				0
Total Maximum Reimbursement by VDOT to Locality				\$686,070

Project Financing				
A	B	C	D	E
ARRA Funds 100%	<fund source B>	<fund source C>	<fund source D>	Aggregate Allocations (A+B+C+D)
\$686,070				\$686,070

Program and Project Specific Funding Requirements	
<ul style="list-style-type: none"> <li>This project will be developed in accordance with the Urban Construction Initiative Guide.</li> <li>This project will be constructed and maintained with the Urban Construction &amp; Maintenance Program Policies &amp; Guidance (Urban Manual).</li> <li>The locality will continue to operate and maintain the facility as constructed. Should the design features of this project be altered by the Locality subsequent to project completion, without the approval of the Department, the Locality inherently agrees, by execution of this agreement, to make restitution, either physically or monetarily, as required by the Department.</li> <li>This is a limited fund source project. All costs exceeding \$686,070, will be borne 100% by the Locality.</li> <li><i>"This Project is funded in whole or in part with ARRA (stimulus) funds. Compliance with the reporting requirements of ARRA sections 902 and 1515(a) in the manner prescribed by the Department is mandatory. The Locality also agrees to include the special contract provision, provided by VDOT, in any contract agreement for ARRA projects."</i></li> <li><i>"Pursuant to the certification requirements of the ARRA, the City of Colonial Heights is cognizant of the timeline for expenditure of these funds and is committed to satisfying all state and federal requirements necessary to fully obligate these funds by March 2, 2010 and complete the project phase(s) supported in whole or part with ARRA funding by February 2012."</i></li> </ul>	

This attachment is certified and made an official attachment to this document by the parties of this agreement



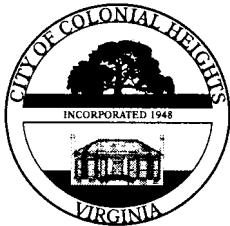
September 29, 2009

Authorized Locality Official and date

William (Chuck) E. Henley, Director of Public Works,  
Typed or printed name of person signing

Residency Administrator's/Urban Program Manager's  
Recommendation and date

Typed or printed name of person signing



# CITY OF COLONIAL HEIGHTS

P.O. Box 3401  
COLONIAL HEIGHTS, VA 23834-9001  
[www.colonial-heights.com](http://www.colonial-heights.com)

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## Office of the City Manager

**TO:** The Honorable Mayor and Members of City Council  
**FR:** Richard A. Anzolut, Jr., City Manager  
**DATE:** November 13, 2009  
**SUBJ:** Draft Noise Ordinance

In September of 2009, the City Attorney made Council aware that the language in the City's Noise Ordinance was no longer enforceable. Noise ordinance language like ours had been struck down by the Virginia Supreme Court in a case brought by the City of Virginia Beach. Local government attorneys throughout the State were responding to this legal matter by developing language for re-adoption of noise ordinances that were enforceable. Attached is a draft Noise Ordinance that correspondence with the work of the City Attorney and other local government attorneys throughout the State. Initial discussion of this matter is scheduled for the Council Meeting of November 18, 2009.

This item is being placed on Council's regular agenda under Reports of Officers and Documents Related Thereto, in lieu of our usual work session discussion. It is the City Manager and City Attorney's intention to have a brief work session type discussion on this matter on November 18, 2009. Should we be able to agree on language acceptable to City Council, our suggested course of action would be to advertise this matter for a Public Hearing to be conducted during the Council Meeting of December 8, 2009. Should the Council provide first reading to the Ordinance following the Public Hearing, we could be in a position for final adoption during the Special Meeting (Work Session) of December 15, 2009. If this schedule were to hold, the City could have a re-ordained Noise Ordinance in place prior to the end of the calendar year.

The Honorable Mayor and City Council  
November 13, 2009  
Page 2

Questions on this matter are probably best directed to the City Attorney. However, the City Manager is very familiar with this type of language having had it in a previous jurisdiction. If Staff can be of any assistance, please do not hesitate to contact us.

Attachments

cc:     Hugh P. Fisher, III, City Attorney  
          William E. Johnson, Director of Finance  
          Jeffrey W. Faries, Chief of Police

AN ORDINANCE NO. 09-\_\_\_\_\_

To repeal and replace the current provisions of Article IV ("Noise") of Chapter 218 of the Colonial Heights City Code, regulating noise in the City.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS:

1. That the current provisions of Article IV ("Noise") of Chapter 218 of the Colonial Heights City Code are hereby repealed and are replaced by the following provisions:

**ARTICLE IV, NOISE**

**§218-4. Declaration of findings and policy.**

*City Council hereby finds and declares that excessive sound is a serious hazard to the public health, welfare, peace and safety and the quality of life; that the people have a right to and should be ensured an environment free from excessive sound that may jeopardize the public health, welfare, peace and safety or degrade the quality of life; and that it is the policy of the City to prevent such excessive sound.*

**§218-5. Definitions.**

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

*A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.*

*Background noise level shall mean the aggregate of all sound sources impacting at the place where a specific sound generation is measured or evaluated, excluding the specific sound generation itself.*

*Decibel (dB) means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).*

*Emergency means any occurrence or set of circumstances involving actual or imminent physical injury or illness or property damage that requires immediate action.*

*Emergency work means any work performed for the purpose of preventing or alleviating the physical injury or illness or property damage threatened or caused by an emergency.*

*Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.*

*Instrument, machine or device means and refers to any musical instrument, radio, phonograph, compact disc player, cassette tape player, amplifier or any other machine or device for producing, reproducing or amplification of sound.*

*Motor carrier vehicle engaged in interstate commerce means any vehicle for which regulations apply pursuant to section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.*

*Motorcycle means any motor vehicle designed to travel on not more than three (3) wheels in contact with the ground and any four-wheeled vehicle weighing less than five hundred (500) pounds and equipped with an engine of less than six (6) horsepower, excepting farm tractors.*

*Motor vehicle means any self-propelled device or device designed for self-propulsion, upon or by which any person or property is or may be drawn or transported upon a street or highway, except devices moved by human power or used exclusively upon stationary wheels or tracks.*

*Noise means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.*

*Public area means any real property owned by the government, including, but not limited to, public rights-of-way, sidewalks, parks, and buildings.*

*Residential dwelling means any building or other structure in which one or more persons resides on a permanent or temporary basis, including, but not limited to, houses, apartments, condominiums, hotels, and motels.*

*Restaurant means any building or structure where in the normal course of business food or drink is available for eating on the premises, in consideration for payment. For purposes of this chapter, the term restaurant includes, but is not limited to, bars, lounges, taverns, coffee shops and cafes.*

*Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.*

*Sound generation means any conduct, activity or operation, whether human, mechanical, electronic or other, and whether continuous, intermittent or sporadic, and whether stationary or ambulatory in nature, which produces or results in an audible sound.*

*Sound level means the weighted sound pressure level obtained by the use of a sound level meter and the A-frequency weighting network, as specified in American National Standards Institute specifications for sound level meters.*

*Sound level meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.*

**§218-6. Administration and enforcement.**

*The police department shall be responsible for enforcement of the noise control program established by this article and may be assisted by other City departments as required.*

**§218-7. Violations.**

A. Any person who violates any provision of this article shall be deemed to be guilty of a Class 3 misdemeanor for a first offense. Any person who violates a provision of this article within one (1) year after a previous conviction under this article shall be guilty of a Class 2 misdemeanor.

B. The person operating or controlling a noise source shall be guilty of any violation caused by that source. If that cannot be determined, any owner, tenant, resident or manager physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the noise source.

C. In addition to and not in lieu of the penalties prescribed in this section, the City may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this article and may seek any other remedy or relief authorized by law.

**§218-7.1. Exceptions.**

No provisions of this article shall apply to (1) the emission of sound for the purpose of alerting persons to the existence of an emergency; (2) the emission of sound in the performance of emergency work; (3) activities sponsored by the City; (4) activities authorized by a permit issued by the City; or (5) activities for which the regulation of noise has been preempted by federal law.

**§218-7.2. Use of sound level meters.**

The decibel level of any noise regulated by this article shall be measured by a sound level meter. In order to implement and enforce this article effectively, the Chief of Police shall promulgate standards and procedures for using and testing sound level meters used in the enforcement of this article.

**§218-7.3. Maximum sound levels and residential dwellings.**

A. Nighttime. No person shall permit, operate or cause any source of sound to create a sound level that can be heard in another person's residential dwelling during the hours between 10:00 p.m. and 7:00 a.m. in excess of fifty-five (55) dBA when measured inside the residence at least four (4) feet from the wall nearest the source, with doors to the receiving area closed and windows in the normal position for the season.

B. Daytime. No person shall permit, operate or cause any source of sound to create a sound level in another person's residential dwelling during the hours between 7:00 a.m. and 10:00 p.m. in excess of sixty-five (65) dBA when measured inside the residence at least four (4) feet from the wall nearest the source, with doors to the receiving area closed and windows in the normal position for the season.

C. Measurements in multifamily dwellings or mixed use structures. In a structure used as a multifamily dwelling or a mixed use structure, the police department may take measurements to determine sound levels from common areas within or outside the structure or from other dwelling units within the structure, when requested to do so by the residential occupant in possession and control thereof. Such measurement shall be taken at a point at least four (4) feet from the wall, ceiling or floor nearest the noise source, with doors to the receiving area closed and windows in the normal position for the season.

D. Exemptions. The following activities or sources of noise shall be exempt from the daytime prohibition set forth in subsection (b) of this section:

- (1) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, colleges, or universities.
- (2) Athletic contests and other officially sanctioned activities in City parks or facilities.
- (3) Activities related to the construction, repair, maintenance, remodeling or demolition, grading or other improvement of real property.
- (4) Gardening, lawn care, tree maintenance or removal, and other landscaping activities.
- (5) Agricultural activities.

- (6) Church bells, carillons, or calls to worship by other sound-producing devices.
- (7) Religious or political gatherings to the extent that those activities are protected by the First Amendment to the United States Constitution.
- (8) Public transportation, refuse collection and sanitation services.

**§218-7.4. Motor vehicle maximum sound levels; amplified sound from vehicles.**

A. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle, when measured at a distance of fifty (50) feet or more, exceeds the level set forth in the following table:

TABLE INSET:

Vehicle Class	Sound level in dBA	
	Speed limit 35 MPH or less	Speed limit over 35 MPH
All motor vehicles of GVWR or GCWR of 6,000 lbs. or more	86	90
Any motorcycle	82	86
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	82

B. This section shall not apply to any motor carrier vehicle engaged in interstate commerce.

C. Notwithstanding any other provisions of this section or article, it shall be unlawful for any person to play or operate, or permit the playing, use or operation of, any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound, which is located within a motor vehicle being operated or parked on public or private property within the City, including any public or private street or alley, in such a manner as to be audible to the human ear at a distance of one hundred (100) or more feet from the vehicle in which it is located.

The provisions of this subsection shall not apply to motor vehicles driven in a duly authorized parade, nor to motor vehicle alarms or other security devices, nor to the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.

**§218-7.5. Specific prohibitions.**

The following acts are declared to be violations of this article. This enumeration shall not be construed to limit, in any way, the general prohibitions contained in section 23-69:

A. Vehicle horns, signaling devices and similar devices. Sounding any horn, signaling device, or similar device on any automobile, motorcycle or other vehicle on any right-of-way or in any public space continuously or intermittently for more than ten (10) consecutive seconds, except when the sounding of any such device is intended as a danger warning.

B. Nonemergency signaling devices. Sounding or permitting the sounding of any amplified signal continuously or intermittently from any bell, chime, siren, whistle or similar device intended primarily for nonemergency purposes from any one location for

*more than ten (10) consecutive seconds in any hourly period; provided, however, that this subsection shall not apply to the sounding of such devices by religious uses or by public bodies or agencies for testing, traffic control or other public purposes.*

C. *Emergency signaling devices, security, burglar and fire alarms, etc. Sounding or permitting the continuous or intermittent sounding outdoors of any emergency signaling device, or any security, burglar or fire alarm, siren, whistle, or similar device, including without limitation any motor vehicle security alarm, siren, whistle, or similar device, for a period in excess of ten (10) minutes in any residential area and fifteen (15) minutes in any other area, except in response to a burglary, attempted burglary, fire, or other emergency.*

D. *Audio and audio-visual devices, musical instruments, etc. The playing of any television, boombox, stereo, phonograph, radio, tape player, compact disc player, MP3 player, video player, musical instrument, drum, or any other device that produces, reproduces or amplifies sound, including any such device in a motor vehicle, where the sound is plainly audible to any person other than the players(s) or operator(s) of the device and those who are voluntarily listening to the sound and is plainly audible and discernable at a distance of fifty (50) feet or more from the source of the sound; provided, however that the provisions of this subsection shall not apply to any outdoor performance, parade, gathering, dance, concert, show, sporting event, or other event sponsored by the City or for which the City has granted a permit.*

E. *Noise-sensitive areas. The making of any sound in excess of fifty (50) db(A) within one hundred (100) feet, or sixty db(A) between one hundred (100) feet and two hundred (200) feet, of any school, place of worship, court, hospital, nursing home, or assisted-living facility while the same is being used as such, that interferes with the workings of the institution.*

F. *Construction equipment. The operation of any bulldozer, crane, backhoe, front loader, pile driver, jackhammer, pneumatic drill, or other construction equipment between the hours of 9:00 p.m. and 7:00 a.m. except when operated in the course of emergency work or as authorized by the City Manager.*

#### **§218-7.6. Sound levels; restaurants.**

*No person shall permit, operate or cause any source of sound to create a sound level emanating from a restaurant during the hours between 11:00 p.m. and 7:00 a.m. (1) in excess of seventy-five (75) dB(A) when measured from any public area, including but not limited to adjacent streets or sidewalks; or (2) that is plainly audible and discernable at a distance of fifty (50) feet from any of the restaurant's external walls when measured from any property other than the property on which the restaurant is located.*

#### **§218-7.7. Severability.**

*A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this article shall not affect the validity of the remaining parts thereto.*

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

P.O. Box 3401  
COLONIAL HEIGHTS, VA 23834-9001  
[www.colonial-heights.com](http://www.colonial-heights.com)

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## Department of Planning and Community Development

### MEMORANDUM

To: Honorable Mayor and Members of City Council  
Mr. Richard A. Anzolut Jr., City Manager

From: George W. Schanzenbacher, Director

Date: November 10, 2009

**RECEIVED**

NOV 10 2009

**CITY CLERK'S OFFICE**

### **Subject: Planning Commission Actions at November 5, 2009 meeting**

At the November 5, 2009 meeting of the Commission the following actions were taken:

1. Approved minutes of the October 2009 meeting (attached).
2. Gave conditional approval to a plan of development for a 9,775 sq ft addition to American Family Fitness, 501 E. Roslyn Road.
3. Began review of the proposed Zoning ordinance rewrite.

**CITY OF COLONIAL HEIGHTS  
REGULAR PLANNING COMMISSION MEETING  
OCTOBER 7, 2009, 7:00 P.M.**

**CALL TO ORDER**

The regular meeting of the Colonial Heights Planning Commission was called to order by Chairman Harry B. Hargis, Jr. Mr. Milton E. Freeland, Jr.; Mrs. Mary Ann Hamilton; Mr. Michael A. Magnusson; Mr. James L. O'Connell and Mr. Richard A. Anzolut, Jr., City Manager were present. Also in attendance were Harold Caples, Assistant Public Works Director; Mr. Hugh P. Fisher, III, City Attorney; and George W. Schanzenbacher, Director of Planning and Community Director. A quorum was determined for the conducting of business.

**APPROVAL OF MINUTES OF SEPTEMBER 9, 2009**

Mr. Hargis asked if there were any changes to the minutes. The minutes were approved on a 5 to 0 roll call vote.

**APPROVAL OF AGENDA**

There were no changes to the agenda.

**HEARING OF CITIZENS GENERALLY**

No one spoke.

**PUBLIC HEARINGS**

Mr. Hargis asked Mr. Schanzenbacher to read the rules of procedure for a public hearing.

A. Zoning ordinance amendment-Itinerant Merchants. Mr. Schanzenbacher stated this is a proposed zoning ordinance amendment relating to Itinerant Merchants. Mr. Fisher gave out a copy of a more comprehensive ordinance, which covers other code sections, which are part of the same subject, but not changes to the zoning regulations. This is a new provision relating to Itinerant Merchants. You have in your packet the definition for an itinerant merchant, and then as part of the zoning, we have developed standards, which all Itinerant Merchants would have to follow.

Mr. Hargis said he would like clarification on the charges of the \$50 to \$500. It may be in here, but he hadn't had a chance to read this. He asked if that was for everybody or was it based on what they were going to do?

Mr. Fisher stated that was correct. There are certain categories and the fee is changed from \$50 to \$500.

Mr. Anzolut stated this matter is an initiative brought by the Staff first through the City Council in work session and it has had at least three work session discussions on Itinerant Merchants. He then stated Itinerant Merchants frequently set up predominately along the Boulevard, but Temple Avenue also has its share. The basic policy question is supporting Itinerant Merchants or Transient Vendors versus those with hard permanent real estate locations. The Council has given a number of policy directions to Staff as we ask the basic questions and this is the product of those work session efforts. He then stated he thinks it is safe to say that City Council is interested in limiting the duration of Itinerant Merchants activities, and therefore, there were modifications to the business license tax code, which is what Mr. Fisher handed out, supplementary, tonight. The predominating reasons before the Commission is there are some amendments to the zoning code, as you can see in your packet. The most significant of which, is when your license expires and you move on, you have to take your temporary structure and other items with you when you go and they don't come back. He has reason to believe there is a structure on the Boulevard, as well as one significantly property on Temple Avenue, that have had the remnants of Itinerant Merchants left behind in between their uses of the property. Most specifically near Ashley Furniture property and the Big Lots property, and then even more recently the Big Lots appears to have become the permanent home of a portable bar-b-cue facility. He then stated it is the Council's desire to remove those眼-sores when that business has expired. One significant element of the business license tax code is that it allows an itinerant operation only thirty days per calendar year. Here before, an Itinerant Merchant bought a business license and if you were in the food service business it was \$50 a year and that was for a 365 days tax year to come and go and leave your stuff behind or take it with you, whatever. If you were a vendor of merchandise, you were always paying \$500 for that business license State code limit and that has not changed. The most significantly before you are the elements of the zoning code, most specifically, when you go take your stuff.

Mr. O'Connell asked if I was an itinerant merchant and I am only given a total of thirty days was it going to cost him \$500?

Mr. Anzolut stated that was correct.

Mr. O'Connell asked where is it that after thirty days that you haven't finished your business and cleared the lot, we are going to come down on you.

Mr. Anzolut stated that he would say that is in the Section Y of 286-77, subsection 9: "All fixtures, equipment or any other structural elements of the business shall be immediately removed from the site once the license expires."

Mr. O'Connell stated lighting and signage is also in another section of this chapter. He assumes that is whatever we currently have in our ordinance.

Mr. Anzolut stated that was correct.

Mr. Magnusson asked one of the exclusions of the merchants who purchase merchandise directly from the manufacturers, what excludes that?

Mr. Fisher stated that is a definition from the State Code.

Mr. Magnusson asked Mr. Fisher if he understands the logic?

Mr. Fisher said no he doesn't and he had the same question himself.

Mr. Anzolut stated the wholesalers are exempted by the State, but retailer isn't.

Mr. O'Connell asked what was the purpose of all this?

Mr. Anzolut stated he thinks the purpose overall is to limit the business activity of Itinerate Merchants in transient state. He then stated one of the things he left out that he thinks is important was those merchants who sell farm goods are of course exempted from all that. If you have grown and produced it, the elements of this code don't apply. They don't intend to do that in temporary structures, but they tend to do it from vehicles and are exempted from all this, because Virginia encourages the distribution of Virginia farm products.

Mr. Freeland asked what if he should buy it wholesale?

Mr. Anzolut stated he doesn't know, but would look into that.

Mr. Freeland stated if he goes to the beach and buys it when it comes off the boat and brings it here, that is about as wholesale as you can get.

Mr. Anzolut stated it could be looked at as a wholesaler in that respect. If he buys it from a fish house, he is probably a retailer.

Mr. Fisher stated the standard is if an item is grown or produced by him, then he faces the lower rate. If it is not grown or produced by an individual, then it is \$500.

Mr. Freeland stated he doesn't quiet understand the difference. If the guy that is getting furniture from High Point and brings it up here, he doesn't have pay but \$50.

Mr. Anzolut stated that is not correct, because he is a retailer and would pay \$500.

Mr. Freeland stated he is buying it wholesale from the manufacturer and he is selling it wholesale.

Mr. Anzolut stated if he has to buy it first, he is not a wholesaler. If High Point came with it, they would be the wholesaler.

Mr. Freeland stated he thinks this need a little bit more work on this from our legal team.

Mr. Fisher stated given the State Code language, he is not sure how you would interpret this now, because so much of this is taken right from the State Code. He then stated he could certainly take another look at it.

Mr. Freeland stated he would like to have those questions answered, before a final decision was made.

Mr. Fisher stated it took the interpretation of Itinerate Merchant directly from the State Code and was perplexed by that language as well.

Mr. Freeland stated it was basically they are same thing, but it is two different sets of rules.

Mr. Fisher stated all of this is going to have to be interpreted by the Commission. As a matter of fact, the Commission may have to make some regulations to govern it. He then stated he would like to say in response to what Mr. O'Connell said he thinks what part of the logic that led Council to warrant this is imposing a thirty day limit, Council collectively feels it is unfair to allow these individuals to operate for an indefinite period, when in fact, they don't have to meet the same requirements as a permanent vendor in that area. It is really unfair to allow them just to step out without the proper building, and without paying proper permits for an indefinite period of time. If they are going to do that, then they are going to need the proper zoning and meet all the other requirements.

Mr. O'Connell stated the only reason he asked the question was because he doesn't know how successfully these people are in their business, but if \$500 was a deterrent and would end thirty days it appears to be what Council or Staff has decided to make to deter some he thinks that where we are coming from.

Mr. Freeland stated he thinks what was behind this was because we catch a lot of grief from business owners in the City that complain to Councilmen they pay their taxes and pay their real estate taxes. Just like Mr. Fisher said, it is unfair for someone else to come up two doors down and set up business and don't have to go through all that. There is a situation here where his business partner can come in here and spend another \$500 and he can set up for another thirty days and his wife can come up and pay another \$500 and set up for another thirty days. There are ways to get around this system. He thinks that is what Council main objective was behind this. He then stated with efforts we have spent on beautification on the Boulevard, if you have a bunch of Itinerate Merchants set up, it looks like a flea market area. We are not looking to put anyone out of business, by no means, but there have to be rules and regulations and make it fair for everybody to compete.

Mr. O'Connell stated Mr. Freeland's comment about it looks like a flea market and is something we don't want. He then asked if when they make their application, do they have a feeling of what they are going to put up and what is going to look like?

Mr. Anzolut stated he wasn't sure about that, but we are going to be better at it now.

Mr. Freeland stated that would be up to the Commission of Revenue.

Mr. Anzolut stated we would try and coordinate better with the Commissioner. The time line here is to get this in place by January 1, 2010, because that is the business license tax year. He thinks once it is in place, we would talk a little bit more with the Commissioner about what goes in.

Mr. O'Connell stated he isn't opposed to this he just asked the question?

Mr. Anzolut stated it is a very good question, because may be are not as well coordinated of what goes in as we could have been. Not that we have any authority to do much about it.

Mr. O'Connell asked if we could get an interpretation from the State on this?

Mr. Fisher stated we certainly could, but he won't bet the farm that you are going to get anything very illuminating.

Mr. Anzolut stated there is resolution before the Commission tonight that does ask you to look at those sides, but really it is the zoning element that is in your packet.

Mr. Fisher stated the problem is there is no State agency to regulate this. This something put in the legislature, but the Department of Business and Occupation and Profession does not regulate this and he is not sure whom he would ask, but he would give it some thought.

Mr. Hargis stated he thinks this would give the City a reason to act to move stuff out and if they don't comply, then you can act on it. He then stated he is kind of like everybody else, because some of that is tacky especially when it is left. He said he sees some positive pieces on this.

Mr. Anzolut stated he gets a lot of telephone calls from residents that do not have business interest that are in competition, who don't like the appearance.

Mr. O'Connell asked these are residents from the B-1 area?

Mr. Anzolut stated they residents throughout the City. He thinks it is safe to say he has taken calls from pretty much of every region, not every street, but a number of calls. Depending on the nature of the business, it is usually about the business that is set up, but then it goes on to businesses like that as a whole.

Mr. Hargis stated this is a public hearing and was there anyone who would like to speak.

Mrs. Jessica Sears of 315 Norwood Drive and representative the Beautification Committee addressed the Commission. She stated they would like to express opinion on this matter.

Mr. Hargis asked if there was anyone else who would like to speak? None one spoke. He then asked if there was a motion?

Mr. Magnusson made a MOTION to approve and seconded by Mr. O'Connell. The motion passed on a 5 – 0 roll call vote.

PLANS OF DEVELOPMENT/SUBDIVISION – None

A. I-95/Temple Avenue and Southpark Boulevard Interchanges-proposed plans.  
Mr. Hargis asked if this was something we need to act on?

Mr. Schanzenbacher stated this is just information for the Commission. He then stated at the last Planning Commission Meeting we got into a little bit of discussion, about the interchange at Southpark Boulevard and I-95. The City has also been discussion the I-95/Temple Avenue interchange and for your information we thought it would be helpful to keep the Commission up to speed on these two plans. Mr. Caples would be able to explain the two sets of drawings that we have included, which is the summary of Public Works' presentation to the City Council on the two matters.

Mr. Caples stated, as the Commission is aware, we had a rezoning in, but at this point it is in withdrawal for the old IBC building that is located on W. Roslyn Road. With that rezoning, a 527-traffic study was required per State regulations and with that study provided to the department was a fair amount of information of what we can expect to see in that corridor in the near future. The pink here is the projected queue, which is the amount of time traveling public cars or trucks would have to wait at this intersection, which is two stop signs. Right now with no development, it shows the queues backing-up over the bridge, almost over to Southpark Boulevard and well down to the Medallion Pools building on W. Roslyn Road. Once you look at the traffic-flows with proposed development, in 2011 the darker pink line and that is the intersection of W. Roslyn Road and Southpark Boulevard that is the signalized intersection. Once you look at the 2017, which is ten years out with development, and that is just this for one developed site, we would be looking at queues that back all the way up almost full frontage of the IBC building. Additionally, the queues would back-up on I-95 northbound ramp, almost out onto I-95 and additionally, all the way back passed Dance's almost to South Avenue.

What that prompted us to do, was to look at our option of how we could go about fixing this. This is really a regional problem that would need to be addressed. Mr. Henley has talked with City Council about the options here and Mr. Schanzenbacher has said he wanted to make the Commission aware of what they are hearing. There are several different options with the traffic study that was submitted by Timmons Group on behalf of the developer. The only proposed development other than the frontage improvements along their property was a stop light at this interchange. This just shows you generally what we are dealing with out here. The City owns the right-of-way, but there is a limited access that belongs to the State along I-95 and along their ramp. The State actually controls those right-of-ways. That being said there are really two operational deficiencies in this corridor. The first being the way this intersection aligns with I-95. We have a very short off ramp and a very short on ramp. This traffic coming off of I-95 actually has the right-of-way and the traffic on W. Roslyn Road and Ivey actually has to stop at a stop sign on both sides. The second deficiency is the existing bridge over I-95 and that is currently a two-lane bridge that based on the traffic flows in

the maps of the Master Comprehensive Plan for the City and looking at development of this corridor in future as commercial development, we need to look at our options here as how to correct this deficiency. This would be a longer term, because it would require a significant enlargement of the bridge for an additional two-lanes, plus lanes on either side of Burger King and Renee's. Obviously, there is a lot of right-of-way acquisition here and then the cost of building that bridge. On this side it would just be a little pavement to get a second lane to allow a freer flow of traffic around this interchange. We have looked at a couple of different options. This is another option the department evaluated. All the property that faces W. Roslyn Road actually has an old abandoned railroad right-of-way behind it that the City owns. We looked at the potential to re-configure the whole intersection, which would be building an access road within the existing City owned property that is the old railroad right-of-way and taking the existing W. Roslyn Road and actually extending the ramp a little farther to give a little more storage, because what happens is if you put a stop light here you would be backing traffic up out onto I-95, because it is a very short ramp. We are trying to utilize the existing W. Roslyn Road as a ramp and actually abandon the section of the road that currently exists. These are a couple of different options that we were looking at once we were able to evaluate the traffic study that had been submitted. We made Council aware of the significant issues here that need to be addressed from a more global standpoint. This is not going to be born by a one development. We were entertaining different ways to do this, we could try to get Federal or State money and there may be City money involved and then development agreements along the way for funds. Since the rezoning has been pulled, we have some food for thought and time to move this forward.

Mr. Magnusson stated he couldn't tell by the map, aren't there some homes along that proposed route.

Mr. Caples stated there are a few existing homes. The positive here is there a significant buffer there. The abandon railroad right-of-way is approximately 80 to 100 feet. There would be a fairly significant public involvement process with this. We have the time to try and address this, but he believes we will see more re-zonings along this corridor in the near future. We just have to figure out a short-term approach and a long-term approach.

Mr. Anzolut stated there is the concept that if the existing W. Roslyn Road were abandoned, that property wouldn't need to remain in the public ownership and perhaps a swap, so called front to back, could occur with the City and the property owners, which would allow the new road to move a little bit to the east preserving more of the buffer. Certainly the City's priority is to preserve the buffer, but the Council doesn't want to give that away. There is also some discussion in the Engineering Office that if this rear access didn't fly, it could be possible to do the off-ramp part of this as Mr. Caples identified and still have W. Roslyn Road's front. It is kind of a busy layout, because you have the

Interstate off-ramp and W. Roslyn Road all there, one next to the other. We like this better, but we understand that if any existing buildings wanted to stay, they are not oriented in that direction, but when we look at it, we see the day where everything but Roslyn Converters isn't there any more. It is just the raw real estate redeveloped for commercial and therefore, its orientation would be set up for any other Interstate fronting retail operations that has rear access, which is quite common, along the I-95 corridor. We do it at all kinds of exits, we get off and then take the access road, we enter and the businesses still have the interstate visibility, but the vehicle access is from the rear. Some of the existing property owners maybe don't see it that way, at least in the term where they continue to operate in these existing structures.

Mr. Hargis stated he would agree with Mr. Anzolut, because the buildings do have a lot of age.

Mr. Anzolut stated we are looking at modern retail.

Mr. Hargis stated he could see where this would be a positive move and he likes this concept. He thinks you can still buffer from the residential side and not do that any harm, because the tree lines would stay there.

Mr. Anzolut stated if you see the area totally transformed, it is a good way to go.

Mr. Caples stated we have gotten the northbound I-95 ramp off of Temple Avenue opened over a year ago. In the previous version of the plan was a southbound ramp that actually came off a little farther north of this intersection. The department and VDOT have been meeting and unfortunately, the funding doesn't exist to do that plan. There is just shy of eight million dollars allocated for this project, and because of the environmental impact and concerns of this general area and there would need to be a lot of bridgework. That design can't be supported with the current budget. We met with VDOT and tried to come up with a new version to elevate the traffic concerns here coming off of I-95 and coming on to Temple Avenue where you have this yield condition for the northbound traffic and southbound traffic. We looked at several different options and this is the one that VDOT and the Federal Highway Administration had settled on. It is essentially very similar of what is currently out there. We are going to have additional ramps coming off the southbound I-95 and there would be four lanes at Temple Avenue, two to turn left and two to turn right. There would be an additional turn lane going west on Temple Avenue to get on to I-95 and another additional one here to accommodate that additional turn lane coming off of I-95.

Mr. Hargis asked when would this start.

Mr. Caples stated this is currently in the interim design phase with VDOT. This is a VDOT project and they would administer all through construction just like they did on the northbound ramp. It is currently in the early stages of preliminary engineering.

Mr. Anzolut stated breaking ground would be in 2012.

NEW BUSINESS – None

#### REPORTS

Chairman: Mr. Hargis stated the ribbon cutting of Roslyn Landing Trails was superb.

##### Committees

Land Use: No report

Subdivision: No report

Zoning - No report

City Manager: No report

Assistant Director of Public Works: No report

Director of Planning and Community Development: Mr. Schanzenbacher reported that we have several items that would be coming forward. We should be ready to go with the zoning ordinance. We are about 95% now and we will start the review process. He then stated he expects to have one re-zoning, one plan of development and the CIP information.

#### ADJOURNMENT

There, being no further business, the meeting was adjourned.

Respectfully,

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Mary Beth Fallin

**APPROVAL:**

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Harry B. Hargis  
Chairman