



# City of Petersburg Virginia

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## Special City Council Meeting

March 2, 2021

12:00 PM

## City Council

Samuel Parham, Mayor – Ward 3  
Annette Smith-Lee, Vice-Mayor – Ward 6  
Treska Wilson-Smith, Councilor – Ward 1  
Darrin Hill, Councilor – Ward 2  
Charlie Cuthbert, Councilor – Ward 4  
W. Howard Myers, Councilor – Ward 5  
John A. Hart, Sr., Councilor – Ward 7

## Interim City Manager

Kenneth Miller

- 
1. **Roll Call**
  2. **Prayer**
  3. **Pledge of Allegiance**
  4. **Determination of the Presence of a Quorum**
  5. **Approval of Consent Agenda (to include minutes of previous meeting/s)**
    - a. A request to schedule a Public Hearing and consideration of a Petition and Ordinance to rezone the property at 3706 S Crater Road from PUD – M-1c to PUD.
    - b. A request to schedule a Public Hearing and consideration of an Ordinance amending the text of the City's Zoning Ordinance regarding restaurants and other uses.
    - c. A request to schedule a Public Hearing and consideration of an Ordinance amending the City of Petersburg Municipal Code regarding the Chesapeake Bay Preservation Act.
    - d. Consideration of ABC Application for Andrades International LLC
    - e. Consideration of ABC Application for So Fresh Enterprise Inc
    - f. To schedule a public hearing for the appropriation for a \$2,000,000 grant from the Virginia Economic Development Partnership Authority for the Project Tube project. (1st reading of ordinance)
    - g. A request to schedule a Public Hearing and consideration of an Ordinance authorizing the City Manager to approve the reduction of Site Plan Review and Land Disturbance Permit Fees when offset by in-kind Staffing Augmentation, in an amount not to exceed 30 percent of the total fees.
    - h. A resolution of the City of Petersburg City Council in support of HB1800, Item 114 #11h Infrastructure upgrades for the Petersburg Pharmaceutical Park
    - i. Request for the City Council to schedule a public hearing and consideration of an ordinance authorizing the City Manager to execute a Memorandum of Understanding regarding a proposal to lease City-owned property located at 1555 Flank Road.
    - j. City Council Minutes of January 28, 2021, February 2, 2021, February 9, 2021; February 10, 2021(closed session); February 10, 2021 (special meeting)
  6. **Special Reports**

- a. Proclamation recognizing March as National Purchasing Month.
  - b. Black History Month Celebration Strategy
  - c. Presentation from The Metropolitan Business League
- 7. Monthly Reports**
- a. COVID 19 Update
  - b. City Council Questions & Answers
- 8. Finance and Budget Report**
- a. Atlantic Union Bank Presentation  
Andi Weissbart, Vice President  
Workplace Solutions Relationship Manager
  - b. Fiscal Year 2021-22 Budget Development Briefing
- 9. Capital Projects Update**
- 10. Utilities**
- 11. Streets**
- 12. Facilities**
- 13. Economic Development**
- a. Presentation on the Project Tube Performance Agreement Between the City of Petersburg, Civica, Inc & Virginia Economic Development Partnership Authority
  - b. Memorandum of Understanding to enter into an Infrastructure Development Agreement between the City of Petersburg, Phlow Corp., Civica, Inc., and AMPAC Fine Chemicals of Virginia, LLC
  - c. Consideration on the creation of a Technology Zone at the former Southside Regional Medical Center site.
  - d. The Department of Economic Development Marketing Material: Rack Card, Business Resource Directory, and Information Packet.
  - e. The Department of Economic Development reports on Deficient Properties, City Property Update (Sold, Pending Closing, Available), and Project Status Report.
- 14. City Manager's Agenda**
- 15. Business or reports from the Clerk**
- 16. Business or reports from the City Attorney**
- 17. Public Comments**
- 18. Adjournment**



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager  
Lionel Lyons, Deputy City Manager of Development

**FROM:** Reginald Tabor

**RE:** **A request to schedule a Public Hearing and consideration of a Petition and Ordinance to rezone the property at 3706 S Crater Road from PUD – M-1c to PUD.**

**PURPOSE:** To Schedule a Public Hearing and Consider the rezoning of property in accordance with Code requirements.

**REASON:** To schedule a Public Hearing and consider of an item in compliance with code requirements and in accordance with procedures to rezone property.

**RECOMMENDATION:** It is recommended that the City Council schedules a public hearing and considers adoption of an ordinance approving the petition to rezone property at 3706 South Crater Road from PUD – M-1c to PUD.

**BACKGROUND:** The City of Petersburg received a petition from PG Investments, LLC, contractual owners to rezone 1 parcel with a total land area of approximately 82.4 acres from “PUD” Planned Unit Development “M-1c,” Light Industrial District with conditions to “PUD” Planned Unit Development to permit a mixed use development to include Residential Single-Family District (R-2), Residential Townhouse District (RTH) in the Central and Western portion of the parcel, and General Commercial District (B-2) uses along South Crater Road. The property is located across South Crater Road West of Lakewood Drive and Thacker Hardware, North of the South Plains Subdivision, and South of Wal-Mart and the Addison Crater Woods Apartment Development.

The City Council adopted 7-Ord-104A on December 4, 2007, which approved the rezoning of the property from A - Agriculture to PUD for Mixed Use with proffered conditions. The City Council adopted 17-Ord-22 on May 16, 2017, which approved the rezoning of the property to PUD - M-1c. This is a request to rezone the property back to PUD to allow residential and commercial development on the property. Properties in the adjacent neighborhood to the South are zoned R-1. Adjacent properties to the North are zoned PUD.

The Developers are proposing a phased development over multiple years to include residential development and commercial development. The residential development is to include 300 market-rate mostly single-family and some townhouse units to meet existing an anticipated demand for single family homes, especially the Starter-home market. They are also proposing commercial development along South Crater Road.

All development would have to comply with relevant City State and Federal codes. All development would have to be accommodated by City utilities. The Planning Commission will review the proposal prior to the Public Hearing.

**COST TO CITY:** N/A

**BUDGETED ITEM:** N/A

**REVENUE TO CITY:** Revenue associated with the development of vacant property.

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:** N/A

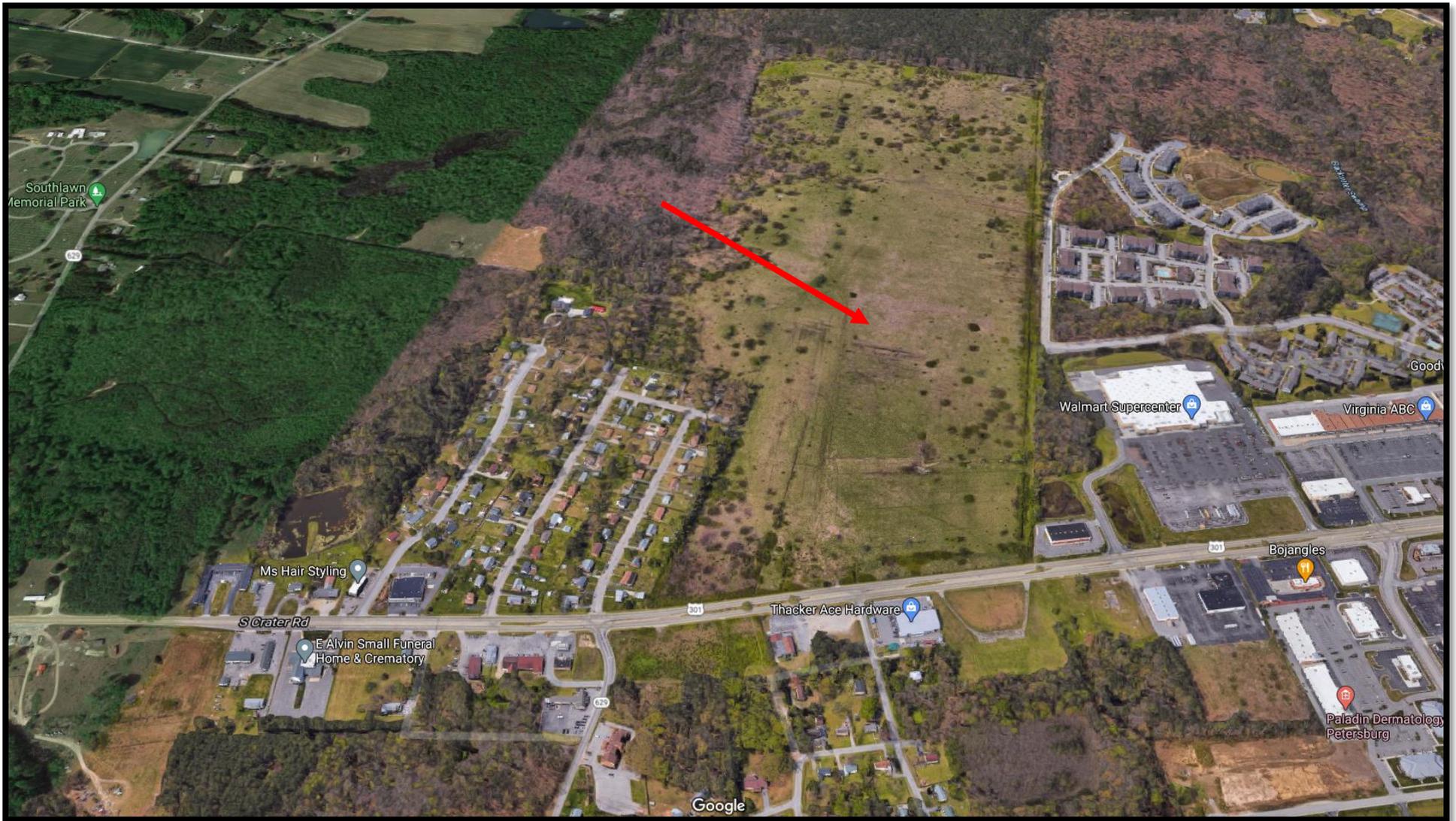
**AFFECTED AGENCIES:** Department of Planning and Community Development, Departments that are part of the Development review process.

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:** 7-Ord-104A, 17-Ord-22

**REQUIRED CHANGES TO WORK PROGRAMS:** N/A

**ATTACHMENTS:**

1. 1215\_2020Aerial2\_3706SCraterRoad
2. 1215\_2020AerialPhoto3706SCraterRd
3. 1215\_2020MapPhoto3706SCraterRd
4. 1215\_2020PropertyRecord3706SCraterRoad
5. 1221\_2020ResponsePublicWorksRezoningRequest3706SCraterRd

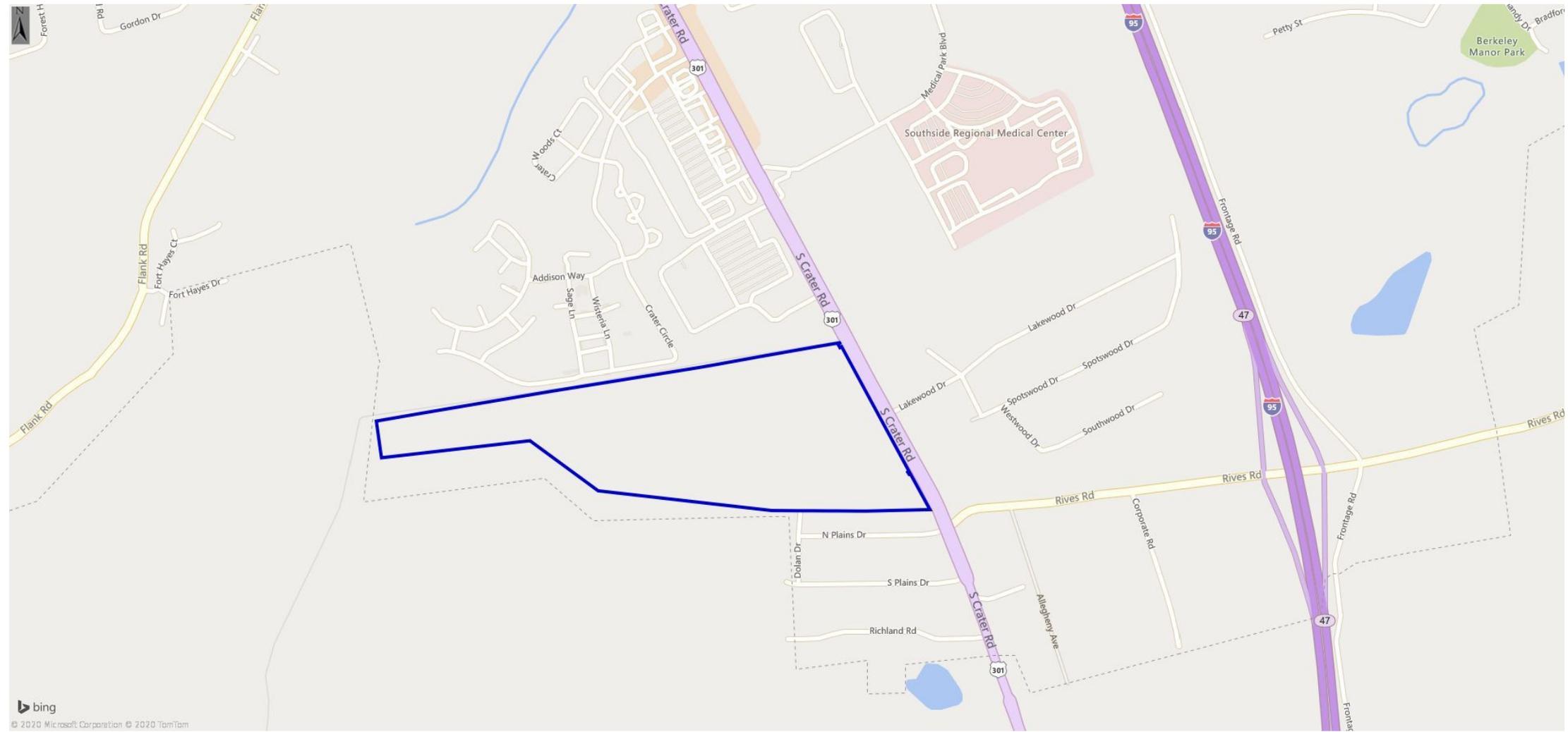


3706 S Crater Road

# 3706 S Crater Road



# Map 3706 S Crater Road



# Property Record Card - Petersburg, VA

## General Property Data

Parcel ID	101-060001	Account Number	
Prior Parcel ID	--	Property Location	3706 CRATER RD
Property Owner	PG INVESTMENTS LLC	Property Use	Agri Vac
Mailing Address	44345 PREMIER PLAZA #120	Most Recent Sale Date	5/3/2018
City	ASHBURN	Legal Reference	2018-1109
Mailing State	VA	Zip	20147
Parcel Zoning	PUD	Grantor	GARNET STH CRATER REAL EST LLC,
		Sale Price	712,453
		Land Area	acres

## Current Property Assessment

Card 1 Value Building Value	0	Xtra Features Value	0	Land Value	2,400,000	Total Value	2,400,000
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## Building Description

Building Style	NONE	Foundation Type		Flooring Type	CARPET
# of Living Units	0	Frame Type		Basement Floor	N/A
Year Built	1930	Roof Structure		Heating Type	NONE
Building Grade	EXCELLENT	Roof Cover		Heating Fuel	N/A
Building Condition	N/A	Siding		Air Conditioning	
Finished Area (SF)		Interior Walls	N/A	# of Bsmt Garages	0
Number Rooms	0	# of Bedrooms	0	# of Full Baths	
# of 3/4 Baths		# of 1/2 Baths		# of Other Fixtures	

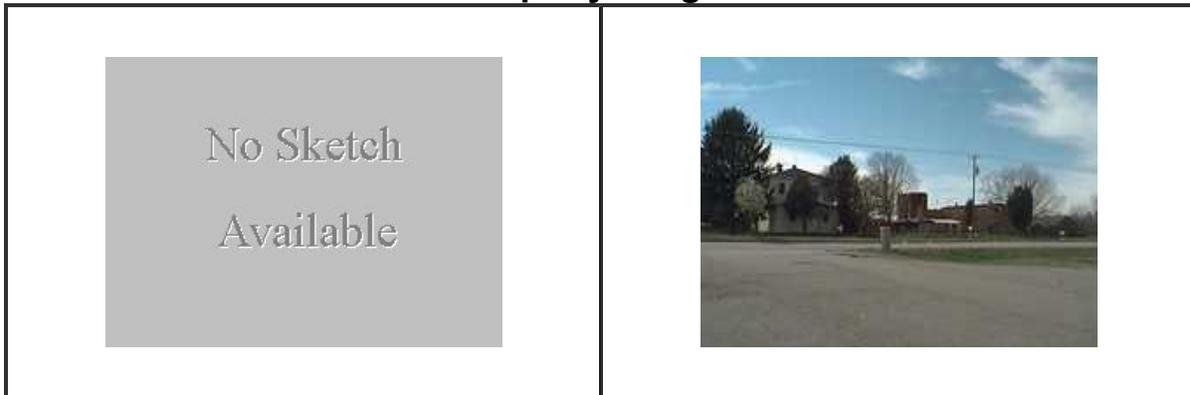
## Legal Description

82.4 ACRES

## Narrative Description of Property

This property contains acres of land mainly classified as Agri Vac with a(n) NONE style building, built about 1930 , having exterior and roof cover, with 0 unit(s), 0 room(s), 0 bedroom(s), bath(s), half bath(s).

## Property Images



Disclaimer: This information is believed to be correct but is subject to change and is not warranted.

## Rezoning Request – 3706 S. Crater Road

**Petersburg Department of Public Works and Utilities**

**Public Utilities - Water/Sewer**

**Staff Contact:** Andrew J. Barnes, P.E.

804-733-2356

[abarnes@petersburg-va.org](mailto:abarnes@petersburg-va.org)

**Background:**

The applicant, PG Investments, LLC, is requesting to rezone 1 parcel (PID: 101-06-0001), with total land area of approximately 82.4 Acres (with an additional contiguous 61.47 Acres located in Prince George County), from existing M-1 (Light Industrial), to R1A and RTH (SFD Residential and Townhouse Residential).

The property is located at 3706 S. Crater Road, across from Lakewood Drive and Thacker Hardware, in the southern most portion of the City. The parcel is located between South Plains subdivision to the south and the Walmart and Addison Crater Woods Apartments to the north.

The applicant has submitted a Phase 1 General Development Plan (GDP) which shows 153 single family detached dwelling units and 169 single family attached (townhomes). Subsequent phases will include 19.1 acres of additional residential development in the western portion of the site and 3.9 Acres of commercial development along S. Crater Road. The future residential phase within the City could include between 40 – 45 additional units based on SFD density. The applicant has not identified whether the contiguous land in Prince George County will be similarly developed as part of the overall site, nor have they identified whether a development within Prince George would seek to make use of City utilities.

Based on the proposed GDP (with a net density of 5.79 du/ac), and assuming a similar development potential within the Prince George portion of the site, we calculate the likely demands as follows:

<u>Development</u>	<u>Net Yield (DU, Ac)</u>	<u>GPD (per DU, per Ac)</u>	<u>Average Water Demand (MGD)</u>	<u>Peak Water Demand (MGD)</u>	<u>Average Sewer Demand (MGD)</u>	<u>Peak Sewer Demand (MGD)</u>
Petersburg - Res (DU)	367	350	0.128	0.231	0.128	0.668
Petersburg - Com (AC)	3.9	4500	0.017	0.031	0.017	0.133
Prince George	356	350	0.125	0.224	0.125	0.652
<b>Total</b>	<b>727</b>	-	<b>0.271</b>	<b>0.487</b>	<b>0.271</b>	<b>1.219</b>

If the developer seeks to utilize City utilities for the Prince George portion of the site, peak water demand would be approximately 0.5 MGD and peak sewer conveyance would be 1.22 MGD. This is calculated with a average per unit demand of 350 gallons and a peaking factor of 1.8. Sewer demand is calculated according to  $(3.5 \times \text{ADD}^{0.807})$

**Existing Infrastructure:**

The properties would be served by an existing 12” waterline and 15” sewer in S. Crater Road. Existing water and sewer are available within the adjacent developments; waterlines within adjoining ROW should be looped with any onsite utilities to improve resiliency.

The nearest water storage tanks are Walnut Hill Tank and Jamestown Tank, 9,200’ away and 15,000’ away, respectively. The southernmost portion of the City’s water system is essentially a dead-end. The intersection of Wagner Road and S. Crater Road, 4,200’ to the north, is the nearest water network node with multiple supplies. Additionally, numerous large users are located between the site and the Wagner Road Intersection.

The site is located within the Poor Creek sewer shed, with sewer effluent flowing through the Poor Creek Interceptor to the Poor Creek Pump Station. Sewer within this area of S. Crater Road is likely asbestos cement pipe.

**Impacts:**

Connection fees assessed for the approximately 367 proposed dwelling units would total \$1,042,280 for Water and \$1,886,380 for Sewer.

The property is currently vacant/undeveloped with dense brush and small trees. In its current state of development, the property has no usage of the public water and wastewater utility systems.

If the developer wishes to make use of the City's utilities for any portion of the development outside of the City, it will first require City Council approval, in accordance with City Code 4-3.

Within the Poor Creek sewer shed, an existing development project that is currently underway will capitalize on most of the remaining pump station capacity, as well as the capacity in the downstream force main. The City has not committed effort or funds to studying or improving the capacity or condition of the gravity sewer system upstream of the Poor Creek Interceptor (a gravity line which extends from the Poor Creek Pump Station to the I-95/Rt. 460 Interchange).

The City will be considering a 2<sup>nd</sup> High Pressure Zone in conjunction with the aforementioned development project. The new pressure zone will be removed from the hydraulic influences of Walnut Hill Tank and Jamestown Tank. Under both existing and future hydraulic regimes, the site is likely to suffer from a lack of storage for use in fire protection as well as emergency storage for potable water. Due to the dead-end nature of the water network in this area, the site's use of the water system may either result in unacceptably low pressure for on-site residents, or adversely affect other customers, including Southside Regional Medical Center.

The development will have impacts on local infrastructure immediately serving the site as well as within the greater context of the City's water and wastewater systems. The developer should closely assess the utility impacts of their proposed development and how those impacts will be addressed.



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager  
Lionel Lyons, Deputy City Manager of Development

**FROM:** Reginald Tabor

**RE:** **A request to schedule a Public Hearing and consideration of an Ordinance amending the text of the City's Zoning Ordinance regarding restaurants and other uses.**

**PURPOSE:** To schedule a Public Hearing and consideration of an Ordinance amending the text of the City's Zoning Ordinance regarding restaurants and other uses.

**REASON:** To comply with code and procedural requirements for amending the text of the City's Zoning Ordinance.

**RECOMMENDATION:** It is recommended that the City Council approves the amendments to the text of the City's Zoning Ordinance regarding restaurants and other uses.

**BACKGROUND:** There are currently more than eighty (80) restaurants located in the City of Petersburg. The City's Zoning Ordinance currently does not contain a definition for or otherwise regulate "restaurants."

Within the current Zoning Ordinance, restaurant is included in the definitions of Adult Entertainment Establishment, Drive-in restaurant, and Nightclub. Restaurant is also included in the use regulations of Article 10. "R-5" Multiple Dwelling, and Article 18.1. "MXD-1" Mixed Use District. Fast Food Restaurants and Restaurants except fast-food restaurants but including those accessory to hotels and motels, are referenced in Art. 19, § 4 Petersburg Code Art. 19, § 6 Section 5. Parking space requirements. Zoning matters related to restaurants have been considered under Zoning Ordinance regulations listed above and in Article 14. "B-1" Shopping Center District Regulations, Section 2. Use Regulations (1) Retail sale of merchandise, services, recreational areas, parking areas and other facilities, as set forth and described in this section and ordinarily accepted as shopping center uses.

There is a need to further define restaurants and related uses to clarify zoning matters related to restaurants.

The Planning Commission adopted a resolution during their meeting on February 17, 2021 recommending approval of the text amendment.

**COST TO CITY:** N/A

**BUDGETED ITEM:** N/A

**REVENUE TO CITY:** N/A

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:** N/A

**AFFECTED AGENCIES:** N/A

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:** City's Zoning Ordinance

**REQUIRED CHANGES TO WORK PROGRAMS:** N/A

**ATTACHMENTS:**

1. 0302\_2021OrdinanceRestaurants

**AN ORDINANCE APPROVING AN AMENDMENT TO THE PETERSBURG ZONING ORDINANCE TO ADDRESS RESTAURANTS AND RELATED USES**

**WHEREAS**, The City's Zoning Ordinance currently does not contain a definition for or otherwise regulate "restaurants"; and

**WHEREAS**, Within the Zoning Ordinance, restaurant is included in the definitions of Adult Entertainment Establishment, Drive-in restaurant, and Nightclub; and

**WHEREAS**, Restaurant is also included in the use regulations of Article 10. "R-5" Multiple Dwelling, and Article 18.1. "MXD-1" Mixed Use District; and

**WHEREAS**, Fast Food Restaurants and Restaurants except fast-food restaurants but including those accessory to hotels and motels, are referenced in Art. 19, § 4 Petersburg Code Art. 19, § 6 Section 5. Parking space requirements; and

**WHEREAS**, Zoning matters related to restaurants have been considered under Zoning Ordinance regulations listed above and in Article 14. "B-1" Shopping Center District Regulations, Section 2. Use Regulations (1) Retail sale of merchandise, services, recreational areas, parking areas and other facilities, as set forth and described in this section and ordinarily accepted as shopping center uses; and

**WHEREAS**, There is a need to further define restaurants and related uses to clarify zoning matters related to restaurants; and

**WHEREAS**, The item was on the posted February 3, 2021 Planning Commission Meeting Agenda as an information item, and on the February 17, 2021 Planning Commission Meeting Agenda as a public hearing. Public Hearing notices were advertised in compliance with Code requirements.

**WHEREAS**, During the February 17, 2021 meeting, the Petersburg Planning Commission held a Public Hearing and considered the matter, then approved a resolution recommending approval by the City Council.

**NOW THEREFORE BE IT ORDAINED** that the City of Petersburg City Council does hereby approve a Zoning Ordinance Text Amendment consistent with the attached (**Exhibit A**).

## Exhibit A

### ARTICLE 3 SECTION 1 OF THE PETERSBURG ZONING ORDINANCE “DEFINITIONS” IS HEREBY AMENDED AND RE-ADOPTED TO INCLUDE:

*Live Entertainment.* An accessory use allowing live performances but not limited to, music performances involving amplified music or more than one live instrument, a disc jockey, any form of dancing, karaoke, solo artists and comedians.

*Micro-Brewery, Micro-Distillery, Micro-Winery and/or Micro-Cidery.* A facility for the production and packaging of alcoholic beverages for distribution, retail or wholesale, on- or off-premises and which meets all Virginia Alcoholic Beverage Control laws and regulations. The facility may include other uses such as retail sales, tasting rooms and restaurants.

*Mobile Food Unit.* A restaurant that is mounted on wheels and readily movable from place to place by an internal engine or that is towed from place to place by a motor vehicle. Mobile food unit shall not include vending carts or other conveyances which are designed to be moved by either human or animal power.

*Nightclub.* An establishment where entertainment, live or otherwise, predominates over food service, becoming the principal use for at least during part of the business' operations, with or without dancing, and typically involving a cover or other charge for admission and event advertising. An establishment that serves alcoholic beverages, that provides live entertainment with live music, a disc jockey and a dance floor and that operates late in the evening later than 11:00 p.m.

- 1) A nightclub shall not serve food or beverages to customers between the hours of 2:00 a.m. and 6:00 a.m.
- 2) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- 3) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.
- 4) The establishment shall maintain a current, active business license at all times while in operation.
- 5) The establishment shall remain current on all food beverages taxes and business personal property taxes which may become due while it is in operation.
- 6) The area devoted to dance floor shall not exceed 250 square feet or ten percent of total floor area (exclusive of food preparations and service area), whichever is greater.

Private plaza means a multi-purpose area that allows flexibility of space within its boundaries, to include planned and passive activities such as festivals, art events, outdoor movies, staged musical or theatrical entertainment, which may also include fountains,

benches, temporary installations, including temporary stages, lighting and sound equipment, recreational facilities, outdoor furniture and seating areas and outdoor seating for restaurants and other eating establishments that surround the plaza.

*Private Club.* An establishment of a private not-for-profit organization, including fraternal organizations, which provides social, physical, recreational, educational or benevolent services. Such establishment shall not be operated for the purpose of carrying on a trade or business, and no part of the net earnings shall inure to the benefit of any member of such organization or any other individuals, although regular employees may be paid reasonable compensation for services rendered.

*Restaurant.* an establishment where food and beverages are prepared and sold for consumption both on and off the premises, and with customer seating provided on the premises.

*Restaurant, Carry Out.* An establishment where food and beverages are prepared for consumption off the premises, and with no customer seating on the premises.

*Restaurant, Coffee or Ice Cream Shop.* A small restaurant, typically no more than 2,000 square feet in area, where the principal business is either the sale of coffee and other hot beverages or the sale of ice cream, frozen yogurt or other related confections. Pastries, baked goods, cold beverages, sandwiches and other light fare may also be sold incidental to the service of coffee, and other confections, but no alcohol is served, no entertainment takes place and no significant cooking, other than the application of heat by microwave, electric burner, espresso machine, the heating of soup or the boiling of water, typically takes place; and



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager  
Lionel Lyons, Deputy City Manager of Development

**FROM:** Reginald Tabor

**RE:** **A request to schedule a Public Hearing and consideration of an Ordinance amending the City of Petersburg Municipal Code regarding the Chesapeake Bay Preservation Act.**

**PURPOSE:** To schedule a Public Hearing and consideration of an Ordinance amending the City of Petersburg Municipal Code regarding the Chesapeake Bay Preservation Act.

**REASON:** To comply with Code and Procedural requirements for amending the Municipal Code, and consider amendments regarding the Chesapeake Bay Preservation Act.

**RECOMMENDATION:** It is recommended that the City Council adopts the Ordinance amending the Municipal Code regarding the Chesapeake Bay Preservation Act.

**BACKGROUND:** The Chesapeake Bay Preservation Act (Bay Act) was enacted by the Virginia General Assembly in 1988 as a critical element of Virginia's nonpoint pollution source management program. The purpose of the Bay Act program is to protect and improve water quality in the Chesapeake Bay by requiring the implementation of effective land use management practices.

The City of Petersburg Municipal Code currently includes provisions for the Chesapeake Bay Preservation Act. There is a need to amend sections of the City's Municipal Code to address additional Chesapeake Bay Preservation Act considerations and requirements to remain compliant with State and Federal laws.

The proposed Amendments to the Municipal Code are defined in the attached document (Exhibit A).

During the March 10, 2021 meeting, the Petersburg Planning Commission held a Public Hearing and considered the matter, then considered a resolution recommending approval by the City Council.

**COST TO CITY:** N/A

**BUDGETED ITEM:** N/A

**REVENUE TO CITY:** N/A

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:** Virginia Department of Environmental Quality.

**AFFECTED AGENCIES:** Department of Public Works, Department of Planning and Community Development.

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:** Ord. No. 04-51, 6-15-2004

**REQUIRED CHANGES TO WORK PROGRAMS:** N/A

**ATTACHMENTS:**

1. 0302\_2021PetersburgChesBayPACodeOrdinance-PLZLAP3-7
2. 0302\_2021OrdinanceChesBayActExhibitB

**AN ORDINANCE APPROVING AN AMENDMENT TO THE CITY OF  
PETERSBURG MUNICIPAL CODE CHESAPEAKE BAY PRESERVATION  
AREAS SECTION**

WHEREAS, The Chesapeake Bay Preservation Act (Bay Act) was enacted by the Virginia General Assembly in 1988 as a critical element of Virginia's nonpoint pollution source management program; and

WHEREAS, The purpose of the Bay Act program is to protect and improve water quality in the Chesapeake Bay by requiring the implementation of effective land use management practices; and

WHEREAS, The Bay Act program is the only program administered by the Commonwealth of Virginia that comprehensively addresses the effects of land use planning and development on water quality; and

WHEREAS, The Bay Act recognizes that local governments have the primary responsibility for land use decisions and expands their authority to manage water quality, and establish a direct relationship between water quality protection and local land use decision-making; and

WHEREAS, Under the Bay Act framework, the Chesapeake Bay Preservation Area Designation and Management Regulations were originally adopted in 1989, and amended in 1991, 2001 and in 2012; and

WHEREAS, The Regulations provide the required elements and criteria that local governments must adopt and implement in administering their Bay Act programs.

WHEREAS, The City of Petersburg Municipal Code currently includes provisions for the Chesapeake Bay Preservation Act; and

WHEREAS, There is a need to amend sections of the City's Municipal Code to address additional Chesapeake Bay Preservation Act considerations and requirements; and

WHEREAS, During the March 10, 2021 meeting, the Petersburg Planning Commission held a Public Hearing and considered the matter.

**NOW THEREFORE BE IT ORDAINED** that the City of Petersburg City Council does hereby approve Amendments to the Municipal Code consistent with the attached (**Exhibits A and B**).

Exhibit A

CHAPTER 122 OF THE PETERSBURG MUNICIPAL CODE IS HEREBY  
AMENDED AND RE-ADOPTED TO INCLUDE THE ADDITIONS, DELETIONS  
AND MODIFICATIONS BELOW:

ARTICLE II. - CHESAPEAKE BAY PRESERVATION AREAS

DIVISION 1. - GENERALLY

Sec. 122-31. - 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. Words and terms not defined in this article but defined in the zoning ordinance shall be given the meanings set forth therein.

*Agricultural land* means that land used for the planting and harvesting of crops or plant growth of any kind in the open; pasture; horticulture; dairying; floriculture; or raising of poultry or livestock.

*Best management practice* or *BMP* means a practice, or a combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

*Buffer area* means an area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.

*City* means the city council.

~~*CBLAD* means the Chesapeake Bay Local Assistance Department.~~

*Chesapeake Bay Preservation Area (CBPA)* means an area delineated by the city in accordance with criteria established pursuant to Code of Virginia, § 10.1-2107. A "Chesapeake Bay Preservation Area" shall consist of a resource protection area and a resource management area.

*Construction footprint* means the area of all impervious surface including, but not limited to, buildings, roads and drives, parking areas and sidewalks, and the area necessary for construction of such improvements.

[DEQ means the Virginia Department of Environmental Quality](#)

*Development* means the construction or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

*Diameter at breast height* or *DBH* means the diameter of a tree measured outside the bark at a point 4.5 feet above ground.

*Dripline* means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

*Highly erodible soils* means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility of any soil is defined as the product of the formula  $RKLS/T$ , as defined by the "Food Security Act (F.S.A.) Manual" of August 1988 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Soil Conservation Service, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope, length and steepness; and T is the soil loss tolerance.

*Highly permeable soils* means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soils having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resources Conservation Service.

*Impervious cover* means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

*Infill* means utilization of vacant land in previously developed areas.

*Floodplain Administrator* means the entity responsible for implementing the community's local flood plain ordinance and ensuring the community is complying with minimum NFIP standards and enforcing any locally imposed higher standards.

*Nonpoint source pollution* means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

*Nontidal wetlands* means those wetlands other than tidal wetlands that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act, in 33 CFR 328.3b, as now or hereafter amended.

*Nonvegetated wetlands* means unvegetated lands lying contiguous to mean low water and between mean low water and mean high water, including those unvegetated areas of Back Bay and its tributaries and the North Landing River and its tributaries subject to flooding by normal and wind tides but not hurricane or tropical storm tides.

*Noxious weeds* means weeds that are difficult to control effectively, such as Johnson grass, kudzu, and multiflora rose.

*Plan of development* means the process for site plan or subdivision plat review to ensure compliance with Code of Virginia, § 10.1-2109 and this article prior to any clearing or grading of a site or the issuance of a building permit.

*Public road* means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (Code of Virginia § 10.1-560 et seq.) and (ii) the Virginia Stormwater Management Act (Code of Virginia § 10.1-603.1 et seq.). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by a local government in accordance with the standards of that local government.

*Redevelopment* means the process of developing land that is or has been previously developed.

*Resource management area* or *RMA* means that component of the Chesapeake Bay Preservation Area that is not classified as the resource protection area. RMAs include land types that, if improperly used

or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area.

*Resource protection area* or *RPA* means that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

*Silvicultural activities* means forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the state forester pursuant to Code of Virginia § 10.1-1105 and are located on property defined as real estate devoted to forest use under Code of Virginia § 58.1-3230.

*Substantial alteration* means expansion or modification of a building or development that would result in a disturbance of land exceeding an area of 2,500 square feet in the resource management area only.

*Tidal shore* or *shore* means land contiguous to a tidal body of water between the mean low water level and the mean ~~high-water~~high-water level.

*Tidal wetlands* means vegetated wetlands and nonvegetated wetlands as defined in Code of Virginia, § 28.2-1300.

*Use* means an activity on the land other than development including, but not limited to, agriculture, horticulture and silviculture.

*Vegetated wetlands* means lands lying between and contiguous to mean low water and an elevation above mean low water equal to the factor 1½ times the mean tide range at the site of the proposed project in the county, city, or town in question, and upon which is growing any of the following species: saltmarsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), saltgrass (*Distichlis spicata*), black needlerush (*Juncus roemerianus*), saltwort (*Salicornia* spp.), sea lavender (*Limonium* spp.), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle (*Myrica* sp.), sea oxeye (*Borrichia frutescens*), arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wildrice (*Zizania aquatica*), bulrush (*Scirpus validus*), spikerush (*Eleocharis* sp.), sea rocket (*Cakile edentula*), southern wildrice (*Zizaniopsis miliacea*), cattail (*Typha* spp.), three-square (*Scirpus* spp.), buttonbush (*Cephalanthus occidentalis*), bald cypress (*Taxodium distichum*), black gum (*Nyssa sylvatica*), tupelo (*Nyssa aquatica*), dock (*Rumex* spp.), yellow pond lily (*Nuphar* sp.), marsh fleabane (*Pluchea purpurascens*), royal fern (*Osmunda regalis*), marsh hibiscus (*Hibiscus moscheutos*), beggar's tick (*Bidens* sp.), smartweed (*Polygonum* sp.), arrowhead

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(*Sagittaria* spp.), sweet flag (*Acorus calamus*), water hemp (*Amaranthus cannabinus*), reed grass (*Phragmites communis*), or switch grass (*Panicum virgatum*).

*Water-dependent facility* means a development of land that cannot exist outside of the resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to:

- (1) Ports.
- (2) The intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers.
- (3) Marinas and other boat docking structures.
- (4) Beaches and other public water-oriented recreation areas.
- (5) Fisheries or other marine resources facilities.

*Wetlands* means tidal and non-tidal wetlands, and both vegetated and nonvegetated wetlands.

(Code 1981, §§ 9.5-3, 9.5-4, 9.5-12; Ord. No. 04-51, 6-15-2004)

**Editor's note**— The zoning ordinance is on file in the office of the clerk of the city council.

**Cross reference**— Definitions generally, § 1-2.

Sec. 122-32. - Findings of fact.

- (a) The Chesapeake Bay and its tributaries represent one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of the city and the commonwealth.
- (b) The Chesapeake Bay waters have been degraded significantly by many sources of pollution, including nonpoint source pollution from land uses and development. Existing ~~high-quality~~high-quality waters are worthy of protection to guard against further degradation. Certain lands that are proximate to shorelines have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints attributable to flooding, erosion, and soil

limitations. With proper management, these lands offer significant ecological benefits by providing water quality maintenance and pollution control, as well as flood and shoreline erosion control. These lands together, designated by the city council as Chesapeake Bay Preservation Areas, need to be protected from destruction and damage in order to protect the quality of water in the bay and consequently the quality of life in the city and the commonwealth.

(Code 1981, § 9.5-1)

Sec. 122-33. - Purpose and intent.

- (a) This article is enacted to implement the requirements of Code of Virginia, § 10.1-2100 et seq. (the Chesapeake Bay Preservation Act). The intent of the city council is to establish an overlay district, the purpose of which is to:
- (1) Protect existing ~~high-quality~~high-quality state waters.
  - (2) Restore state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them.
  - (3) Safeguard the clean waters of the commonwealth from pollution.
  - (4) Prevent any increase in pollution.
  - (5) Reduce existing pollution.
  - (6) Promote water resource conservation in order to provide for the health, safety, and welfare of the citizens of the city.
- (b) This district shall be in addition to and shall overlay all other zoning districts so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one or more of the other zoning districts provided for by the zoning ordinance. Unless otherwise stated in the overlay district, the existing review and approval procedures provided in current city ordinances and regulations shall be followed in reviewing and approving development, redevelopment, and uses governed by this article.
- (c) This article is enacted under the authority of Code of Virginia, § 10.1-2100 et seq. (the Chesapeake Bay Preservation Act) and Code of Virginia, § 15.2-2283. Code of Virginia, § 15.2-2283 states that

zoning ordinances may "also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and groundwater as defined in Code of Virginia, § 62.1-255."

(Code 1981, § 9.5-2)

**Editor's note**— The zoning ordinance is on file in the office of the clerk of the city council.

Sec. 122-34. - Resource protection area and resource management area.

A Chesapeake Bay Preservation Area shall consist of a resource protection area and a resource management area.

(Code 1981, § 9.5-4)

Secs. 122-35—122-50. - Reserved.

DIVISION 2. - APPLICATION

Subdivision I. - In General

Sec. 122-51. - Areas of applicability.

(a) The Chesapeake Bay Preservation Area Overlay District shall apply to all lands identified as CBPAs as designated by the city council and as shown on the Chesapeake Bay Preservation Area Map. The Chesapeake Bay Preservation Area Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this article.

(1) The resource protection area is all lands within the city lying within the Chesapeake Bay ~~outfall~~ watershed including:

- a. Tidal shores.
- b. Tidal wetlands.
- c. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow.
- d. A 100-foot vegetated buffer area located adjacent to and landward of the components listed in subsections (a)(1)a. through c. of this section, and along both sides of any water bodies with perennial flow.

(2) The resource management area is composed of that area lying 100 feet landward of and contiguous to the resource protection area and, in addition, any area consisting of the 100-year floodplain and hydric soils adjacent to water bodies with perennial flow, included in the RPA, as delineated on the map referenced in this subsection.

- (b) The Chesapeake Bay Preservation Area Map shows the general location of CBPAs and shall be consulted by persons contemplating activities within the city prior to engaging in a regulated activity. Site specific determinations regarding CBPAs shall be accomplished as per the requirements of section 122-56 of this division.
- (c) If the boundaries of an [resource preservation area \(RPA\)](#) or [resource management area \(RMA\)](#) include a portion of a lot or parcel, the entire lot or parcel shall comply with the requirements of the overlay district. The division of property shall not constitute an exemption from this requirement.

(Code 1981, § 9.5-5; Ord. No. 04-51, 6-15-2004)

Sec. 122-52. - Use regulations.

Permitted uses, special permit uses, accessory uses, and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth in this article.

(Code 1981, § 9.5-6)

Sec. 122-53. - Lot size.

Lot size shall be subject to the requirements of the underlying zoning district, provided that any lot shall have sufficient area outside the RPA to accommodate an intended development, in accordance with the performance standards in subdivision II of this division, when such development is not otherwise allowed in the RPA.

(Code 1981, § 9.5-7)

Sec. 122-54. - Required conditions.

~~(a) All development and redevelopment exceeding 2,500 square feet of land disturbance shall be subject to a plan of development process, including the approval of a site plan, in accordance with the provisions of the zoning ordinance, or a subdivision plat, in accordance with the subdivision ordinance.~~

(b) Development in RPA's may be allowed only if it:

- (1) Is water-dependent:
  - a. A new or expanded water dependent facility may be allowed provided that the following criteria are met:
    - (i) It does not conflict with the Comprehensive Plan.
    - (ii) It complies with the performance criteria set forth in section 122-77 of this article.
- (2) Any nonwater-dependent component is located outside of the RPA; and
  - a. Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.
- (3) Constitutes redevelopment and meets the following criteria:
  - a. Redevelopment shall be permitted in the RPA only if there is no increase in the amount of impervious cover and no further encroachment within the RPA, and it shall conform to applicable erosion and sediment control requirements set forth in subsection 122-77(d) and stormwater management criteria set forth in subsection 122-77(g) of this article.
- (4) Is a new use established pursuant to subsection 122-78(d)(2) and (3) of this article.

- (5) Is a road or driveway crossing not exempt under §section 122-122, and which, therefore, must comply with this section. Such road or driveway crossing may be constructed in or across Resource Protection Areas if each of satisfying the following conditions isare met:
- a. The ~~director~~ Director of ~~planning~~ Planning/Community Development ~~D~~ makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the RPA;
  - b. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse impacts on water quality;
  - c. The design and construction of the road or driveway satisfy all applicable criteria of this article, including the submission of a water quality impact assessment;
  - d. The ~~director~~ Director of ~~planning~~ Planning/Community Development ~~D~~ reviews the plan for the road or driveway proposed in or across the RPA in coordination with the requirements under city site plan.
- (6) Is a flood control or stormwater management facility that drains or treats water from multiple development projects or from a significant portion of a watershed, satisfying the following conditions Such facilities may be allowed in Resource Protection Areas provided such facilities they are allowed and constructed in accordance with the Virginia Stormwater Management Act and its attendant regulations, and provided that:
- a. The City of Petersburg Director of Public Works has conclusively established that location of the facility within the resource protection area is the optimum location;
  - b. The size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both;
  - c. The facility must be consistent with a comprehensive stormwater management program that has been approved by the Chesapeake Bay Local Assistance Board as a Phase 1 modification plan developed and approved in accordance with 9VAC25-870-92 of the Virginia Stormwater Management Program (VSMP) regulations;
  - d. All applicable permits for construction in state or federal waters must be obtained from the appropriate state and federal agencies, such as the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission;

- e. Approval must be received from the City of Petersburg prior to construction.
- f. Provisions to require the owner/developer to perform and/or allow routine maintenance on such facility to assure the continued function of the facility as per its design. ~~It is not the intent of this subdivision to~~This subdivision does not allow a best management practice that collects and treats runoff from only an individual lot or some portion of the lot to be located within a Resource Protection Area.

~~(eb)~~ A water quality impact assessment shall be required for any proposed land disturbance, development or redevelopment within RPAs and for any development or redevelopment within RMAs when required by the ~~city director of public works~~City Director of Public Works because of the unique characteristics of the site or intensity of development, in accordance with the provisions of subdivision III of this division.

(Code 1981, § 9.5-8; Ord. No. 05-76, 9-6-2005)

**Editor's note**— The zoning ordinance is on file in the office of the clerk of the city council.

Sec. 122-55. - Conflict with other regulations.

In any case where the requirements of this article conflict with any other provision of the Code of the city, the requirements of this article shall apply.

(Code 1981, § 9.5-9)

Sec. 122-56. - Site-specific determination of ~~resource protection area~~Chesapeake Bay Preservation Area boundaries.

~~(a)~~ ~~(a)~~The Chesapeake Bay Preservation Area Map shall be used as a guide to the general location of resource protection~~the Chesapeake Bay Preservation A-areas.~~

~~Delineation by the applicant. The site specific boundaries of the resource protection area shall be determined by the applicant through the performance of an environmental site assessment, subject to approval by the director of planning and in accordance with subdivision III of this division. The~~

~~Chesapeake Bay Preservation Area Map shall be used as a guide to the general location of resource protection areas.~~

- ~~(1) The determination of water bodies with perennial flow shall be made by use of a scientifically valid system of in-field indicators.~~
- (b) ~~The Director of Planning (or Dept of Public Works?) shall ensure, - as part of their plan of development review process pursuant to §XXX-XXsubdivision III of this division or during their review of a water quality impact assessment pursuant to §XXX-XXsection 122-102 of this article - that a reliable, site-specific evaluation is conducted by the applicant to determine whether water bodies on or adjacent to the development site have perennial flow and resource protection area~~Chesapeake Bay Preservation Area ~~boundaries are adjusted, as necessary on the site based upon this evaluation. The determination of water bodies with perennial flow shall be made by use of a scientifically valid system of in-field indicators.~~
- (c) ~~Where conflict arises over delineation.~~When the applicant provides a site-specific delineation of the ~~RPACBPAs~~, the ~~director-Director~~ of ~~planning pPublic wWorks~~ will verify the accuracy of the boundary delineation. In determining the site-specific ~~RPA-CBPA~~ boundary, the ~~director-Director~~ of ~~planning pPublic wWorks~~ may render adjustments to the applicant's boundary delineation, in accordance with section subdivision III of this division. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of section 122-105.

(Code 1981, § 9.5-10; Ord. No. 04-51, 6-15-2004)

Secs. 122-57—122-75. - Reserved.

Subdivision II. - Performance Standards

Sec. 122-76. - Purpose and intent.

- (a) The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration. Natural ground

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cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential.

- (b) The purpose and intent of these requirements are also to implement the following objectives:
  - (1) Prevent a net increase in nonpoint source pollution from new development.
  - (2) Achieve a ten percent reduction in nonpoint source pollution from redevelopment.
  - (3) Achieve a 40 percent reduction in nonpoint source pollution from agricultural uses.

(Code 1981, § 9.5-11(a))

Sec. 122-77. - General performance standards for development and redevelopment.

- (a) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
  - (1) In accordance with an approved site plan, the limits of land disturbance, including clearing or grading, shall be strictly defined by the construction footprint. These limits shall be clearly shown on submitted plans and physically marked on the development site.
  - (2) Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the ~~city director of public works~~City Director of Public Works.
- (b) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed and in accordance with the Virginia Erosion and Sediment Control Handbook.
  - (1) Existing trees six inches in diameter or greater at breast height shall be preserved outside the construction footprint. ~~However, trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.~~ Diseased trees or trees weakened by age, storm, fire, or other injury may be removed, as approved by the ~~city director of public works~~City Director of Public Works.

- (2) Clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs, and the installation of utilities, as approved by the ~~city director of public works~~ City Director of Public Works.
- (3) Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected five feet outside the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barriers.
- (c) Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the use or development permitted.
  - (1) Pervious surfaces, such as grid and modular pavements, shall be used for any required parking area, alley, or other low traffic driveway, unless otherwise approved by the ~~city director of public works~~ City Director of Public Works.
  - (2) Parking space size, with the exception of disabled spaces, shall be 162 square feet. Parking space width shall be nine feet; parking space length shall be 18 feet.
- (d) ~~Sec. 122-96. -- Required.~~

~~Any development or redevelopment exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development process prior to any clearing or grading of the site or the issuance of any building permit, to assure compliance with all applicable requirements of this article. All development and redevelopment exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development review process, including the approval of a site plan, in accordance with the provisions of the zoning ordinance, or a subdivision plat, in accordance with the subdivision ordinance prior to any clearing or grading of the site or the issuance of a building permit, to assure compliance with all applicable requirements of this article.~~

- (e) Notwithstanding any other provisions of this article or exceptions thereto, any land disturbing activity exceeding ~~1,000~~ 2,500 square feet, including construction of all single-family houses, septic tanks, and drainfields, shall comply with the requirements of chapter 50, article V of this Code, the erosion and sediment control ordinance.

- (f) Any Chesapeake Bay Preservation Act land-disturbing activity as defined in §62.1-4.15:24 of the Code of Virginia shall comply with the requirements of 9VAC25-870-51 and 9VAC25-870-103.
- (eg) All onsite sewage disposal systems not requiring a Virginia Pollution Discharge Elimination System permit shall be pumped out at least once every five years. However, the following alternatives to mandatory pump-out are available:
- (1) Subject to conditions established by the local health department, local government through the director-Director of public-Public works-Works may ~~permit(??)~~allow the owners of such systems the option of having installation of a plastic filter installed and maintained in the outflow pipe from the septic tank to filter solid material from effluent while sustaining adequate flow to the drain field to permit normal use of the septic system. Any such filter must meet or exceed standards established in the Sewage Handling and Disposal Regulations (12 VAC 5-610) as administered by the Virginia Department of Health; or
  - (2) ~~In lieu of requiring proof of septic tank pump-out every five years, T~~the director-Director of public Public works-Works and the Director of the Crater Health District may allow the owner(s) of on-site sewage treatment systems to submit documentation every five years, certified by an operator or onsite soil evaluator licensed or certified under Chapter 23 (§54.1-2300 et seq.) of Title 54.1 of the Code of Virginia as being qualified to operate, maintain, or design onsite sewage systems, sewage handler permitted by the Virginia Department of Health that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it at that time.
- (fh) ~~Where~~For new construction, where an area is not served by public sewer system, a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local health department. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an onsite sewage treatment system which operates under a permit issued by the state water control board until the structure is served by public sewer.
- ~~(g) For any development or redevelopment, stormwater runoff shall be controlled by best management practices. Stormwater management criteria consistent with the water quality protection provisions of the Stormwater Management Regulations of the Commonwealth of Virginia shall be the standard. Stormwater BMPs shall be consistent with the water quality protection provisions of the Virginia Stormwater Management Regulations as set forth at 4 VAC 50-60-40 through 50-60-90.~~

- (hi) Prior to ~~initiating authorizing~~<sup>(2)</sup> grading or other onsite activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the ~~city director of public works~~City Director of Public Works, in accordance with subdivision III of this division ~~and prior to authorizing grading or other onsite activities to begin.~~
- (ij) ~~Land upon which agricultural activities are being conducted shall have a soil and water quality conservation assessment, that where necessary, results in a conservation plan. Such assessment and resulting necessary plan shall be based upon the Field Office Technical Guide of the U.S. Department of Agriculture Soil Conservation Service and accomplish water quality protection consistent with this article. Such assessment and resulting necessary plan shall be approved by the local soil and water conservation district. Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, or lands otherwise defined as agricultural land by the local government, shall have a soil and water quality conservation assessment conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides, and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is being accomplished consistent with the Act and this chapter.~~
- (1) Recommendations for additional conservation practices need address only those conservation issues applicable to the tract or field being assessed. Any soil and water quality conservation practices that are recommended as a result of such an assessment and are subsequently implemented with financial assistance from federal or state cost share programs must be designed, consistent with cost share practice standards effective in January 1999 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service or the June 2000 edition of the "Virginia Agricultural BMP Manual" of the Virginia Department of Conservation and Recreation, respectively. Unless otherwise specified in this section, general standards pertaining to the various agricultural conservation practices being assessed shall be as follows:
- a. For erosion and sediment control recommendations, the goal shall be, where feasible, to prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. However, in no case shall erosion exceed the soil loss consistent with an Alternative Conservation System, referred to as an "ACS", as defined in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service.

- b. For nutrient management, whenever nutrient management plans are developed, the operator or landowner must provide soil test information, consistent with the Virginia Nutrient Management Training and Certification Regulations (4VAC50-85).
  - c. For pest chemical control, referrals shall be made to the local cooperative extension agent or an Integrated Pest Management Specialist of the Virginia Cooperative Extension Service. Recommendations shall include copies of applicable information from the "Virginia Pest Management Guide" or other Extension materials related to pest control.
- (2) A higher priority shall be placed on conducting assessments of agricultural fields and tracts adjacent to Resource Protection Areas. However, if the landowner or operator of such a tract also has Resource Management Area fields or tracts in his operation, the assessment for that landowner or operator may be conducted for all fields or tracts in the operation. When such an expanded assessment is completed, priority must return to Resource Protection Area fields and tracts.
- (3) The findings and recommendations of such assessments and any resulting soil and water quality conservation plans will be submitted to the local Soil and Water Conservation District Board, which will be the plan-approving authority.

(Code 1981, § 9.5-11(b); Ord. No. 04-51, 6-15-2004; Ord. No. 05-76, 9-6-2005; Ord. No. 08-103, § 2, 11-18-2008)

Sec. 122-78. - Buffer area.

- (a) To minimize the adverse effects of human activities on the other components of resource protection areas, state waters, and aquatic life, a 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist ~~if erosion problems are evident.~~
- (b) The buffer area shall be located adjacent to and landward of other RPA component and along both sides of any water bodies with perennial flow. The full buffer area shall be designated as the landward component of the RPA, in accordance with section 122-51 and subdivision III of this division. Notwithstanding permitted uses, encroachments and vegetation clearing, as set forth in this section, the 100-foot wide buffer area is not reduced in width.

- (c) The 100-foot buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.
- (d) The buffer area shall be maintained to meet the following additional performance standards:
  - (1) In order to maintain the functional value of the buffer area, indigenous vegetation may be removed, subject to local approval by the director of public works, only to provide for reasonable sight lines, access paths, general woodlot management, and BMPs, including those that prevent upland erosion and concentrated flows of stormwater, as follows:
    - a. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
    - ~~b~~ab. Any path shall be constructed and surfaced so as to effectively control erosion.
    - ~~b~~bc. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) may be removed and thinning of trees may be allowed, pursuant to sound horticultural practice incorporated into locally adopted standards;
    - ~~d~~ed. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.
  - (2) When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the ~~director-Director~~ of planningPlanning/Community Development, after consulting with the ~~city-City director-Director~~ of public-Public worksWorks, may grant an encroachment into the buffer area through an administrative process in accordance with the following criteria:
    - a. Encroachment into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities.
    - b. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel.
    - c. In no case shall the encroachment extend into the seaward 50 feet of the buffer area.

- (3) When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, the ~~director~~Director of ~~planning~~Planning/Community Development, after consulting with the ~~city~~City ~~director~~Director of ~~public~~Public worksWorks, may allow encroachments into the buffer area in accordance with subdivision III of this division and the following criteria:
  - a. The lot or parcel was created as a result of a legal process conducted in conformity with the Subdivision Ordinance of the City of Petersburg;
  - b. Any specific conditions, mitigation measures or other such legally binding conditions or covenants imposed through a previously approved exception shall be binding and shall be met;
  - c. If the use of a best management practice (BMP) was previously required, the BMP shall be evaluated by a certified engineer (retained by the applicant) to determine if it continues to function effectively, and if deemed necessary, the ~~BPM~~BMP shall be reestablished or repaired and maintained, as required; and
  - d. The criteria in subsection (2) (immediately above) of this section (section 122-78, buffer area) shall be met.
- (4) Buffer area requirements for Intensely Developed Areas designated by the City of Petersburg. In Intensely Developed Areas, the City of Petersburg may exercise discretion regarding whether to require establishment of vegetation in the 100-foot wide buffer area. However, while the immediate establishment of vegetation in the buffer area may be impractical, the City may give consideration to implementing measures that would establish vegetation in the buffer in these areas over time in order to maximize water quality protection, pollutant removal, and water resource conservation. For purposes of this section, intensely developed areas may be designated redevelopment areas in which development is concentrated as of the initial effective date of this section. IDAs may be exempt from the buffer area, in accordance with subdivision III of this division.
- (5) On agricultural lands, the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from invading the buffer area. The agricultural activities may encroach into the buffer area as follows:
  - a. Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality

issue on the adjacent land - erosion control or nutrient management - is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil tests, must be developed consistent with the Virginia Nutrient Training and Certification Regulations (4 VAC 5-15) administered by the Virginia Department of Conservation and Recreation.

- b. Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, must be developed, consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot wide buffer area.
- c. The buffer area is not required to be designated adjacent to agricultural drainage ditches if at least one best management practice which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality issue on the adjacent land - either erosion control or nutrient management - is being implemented on the adjacent land.
- d. Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100-foot wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions as set forth in this section.

(Code 1981, § 9.5-11(c); Ord. No. 04-51, 6-15-2004)

Secs. 122-79—122-95. - Reserved.

Subdivision III. - Plan of Development Process<sup>21</sup>

Footnotes:

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**Cross reference**— Administration, [Ch. 2](#).

~~Sec. 122-96. Required.~~

~~Any development or redevelopment exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development process prior to any clearing or grading of the site or the issuance of any building permit, to assure compliance with all applicable requirements of this article.~~

(Code 1981, § 9.5-12)

Sec. 122-97. - Information submitted.

In addition to the requirements of the zoning ordinance or the requirements of the subdivision ordinance, chapter 102 of this Code, the plan of development process shall consist of the plans and studies identified below. These required plans and studies may be coordinated or combined, as deemed appropriate by the ~~city~~ [City director](#) ~~Director of public~~ [Public works](#) ~~Works~~. The ~~city~~ [City director](#) ~~Director of public~~ [Public works](#) ~~Works~~ may determine that some of the following information is unnecessary due to the scope and nature of the proposed development, with the exception that the environmental site assessment and the water quality impact assessment cannot be waived for projects located on parcels with in designated Chesapeake Bay Preservation Areas. The following plans or studies shall be submitted, unless otherwise directed:

- (1) A site plan or a subdivision plat, in accordance with the provisions of the subdivision ordinance, chapter 102 of this Code.

- (2) An environmental site assessment.
- (3) A landscaping plan.
- (4) A stormwater management plan, [in accordance with the provisions of Chapter 50, Article IV of this Code.](#)
- (5) An erosion and sediment control plan, in accordance with the provisions of chapter 50, article V of this Code.
- (6) A water quality impact assessment as necessary under the requirements of section 122-102.

(Code 1980, § 9.5-12(1); Ord. No. 08-103, § 2, 11-18-2008)

**Editor's note**— The zoning ordinance is on file in the office of the clerk of the city council.

Sec. 122-98. - Environmental site assessment.

An environmental site assessment shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval.

- (1) The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:
  - a. Tidal shores.
  - b. Tidal wetlands.
  - c. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow.
  - d. A 100-foot buffer area located adjacent to and landward of the components listed in subsections (1)a. through c. of this section, and along both sides of any water bodies with perennial flow.
  - e. Other sensitive environmental features as determined by the ~~city~~ [City director](#) ~~Director~~ of ~~public~~ [Public works](#) ~~Works~~.

- (2) Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, as now or hereafter amended.
- (3) The environmental site assessment shall delineate the site-specific geographic extent of the RPA.
- (4) The environmental site assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat, and shall be certified as complete and accurate by a professional engineer or a certified land surveyor. The requirement that the environmental site assessment be developed by a professional engineer or certified land surveyor may be waived by the ~~city~~ City director ~~Director of public works~~ Works when the proposed use or development would result in less than 5,000 square feet of disturbed area.

(Code 1981, § 9.5-12(2); Ord. No. 04-51, 6-15-2004)

**Cross reference**— Environment, ~~ch~~ Ch. 50.

Sec. 122-99. - Landscaping plan.

- (a) A landscaping plan shall be submitted in conjunction with site plan approval or as part of subdivision plat approval. No clearing or grading of any lot or parcel shall be permitted without an approved landscaping plan.
- (b) Landscaping plans shall be prepared and certified by design professionals practicing within their areas of competence as prescribed by the Code of Virginia.
  - (1) *Contents of the plan.*
    - a. The landscaping plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing trees on the site six inches or greater DBH shall be shown on the landscaping plan. Where there are groups of five or more trees, stands may be outlined instead. The specific number of trees six inches or greater DBH to be preserved outside of the construction footprint shall be indicated on the plan. Trees to be removed shall be clearly delineated on the landscaping plan.

- b. Any required buffer area shall be clearly delineated, and any plant material to be added to establish or supplement the buffer area, as required by this article, shall be shown on the landscaping plan.
- c. Within the buffer area, trees to be removed for sight lines, vistas, access paths, and BMPs, as provided for in this article, shall be shown on the plan. Vegetation required by this article to replace any existing trees within the buffer area shall also be shown on the landscaping plan.
- d. Trees to be removed for shoreline stabilization projects and any replacement vegetation required by this article shall be shown on the landscaping plan.
- e. The landscaping plan shall depict grade changes or other work adjacent to trees which would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.
- f. The landscaping plan will include specifications for the protection of existing trees during clearing, grading, and all phases of construction.

(2) *Plant specifications.*

- a. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.
- b. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
- c. Where areas to be preserved, as designated on an approved landscaping plan, are encroached, replacement of existing trees and other vegetation will be achieved at a ratio of three planted trees to one removed. Replacement trees shall be a minimum of 3½ inches DBH at the time of planting.

(3) *Maintenance.*

- a. The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this article.
- b. In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy,

dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of this article.

(Code 1981, § 9.5-12(3))

~~Sec. 122-100. Stormwater management plan.~~

~~A stormwater management plan shall be submitted as part of the plan of development process required by this article and in conjunction with site plan or subdivision plan approval. Such plan shall clearly indicate how the stormwater management criteria consistent with the water quality protection provisions of (4 VAC 3-20-71 et seq.) of the Virginia Stormwater Management Regulations (4 VAC 3-20) shall be satisfied.~~

- ~~(1) *Contents of the plan.* The stormwater management plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, and citations to supporting references as appropriate to communicate the information required by this article. At a minimum, the stormwater management plan must contain the following:
  - ~~a. Location and design of all planned stormwater control devices.~~
  - ~~b. Procedures for implementing nonstructural stormwater control practices and techniques.~~
  - ~~c. Pre and post development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations.~~
  - ~~d. For facilities, verification of structural soundness, including a professional engineer or class III-B surveyor certification.~~~~
- ~~(2) Site specific facilities shall be designed for the ultimate development of the contributing watershed based on zoning, comprehensive plans, local public facility master plans, or other similar planning documents.~~
- ~~(3) All engineering calculations must be performed in accordance with procedures outlined in the current edition of the Virginia Stormwater Management Handbook.~~
- ~~(4) The plan shall establish a long term schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance. If the designated maintenance responsibility is with a party other than~~

~~the city, then a maintenance agreement shall be executed between the responsible party and the city.~~

~~(Code 1981, § 9.5-12(4); Ord. No. 04-51, 6-15-2004; Ord. No. 05-76, 9-6-2005)~~

~~**Cross reference**—Utilities, ch. 114.~~

~~Sec. 122-101. Erosion and sediment control plan.~~

~~An erosion and sediment control plan shall be submitted that satisfies the requirements of this article and in accordance with chapter 50, article V of this Code, in conjunction with site plan or subdivision plan approval.~~

~~(Code 1981, § 9.5-12(5); Ord. No. 08-103, § 2, 11-18-2008)~~

~~**Cross reference**—Erosion and sediment control, § 50-91 et seq.~~

Sec. 122-102. - Water quality impact assessment.

(a) *Purpose and intent.* The purpose of the water quality impact assessment is to:

- (1) Identify the impacts of proposed land disturbance, development, or redevelopment on water quality and lands within RPAs and other environmentally-sensitive lands and to determine specific measures for mitigation of those impacts.
- (2) Ensure that, where development activities do take place within RPAs and other sensitive lands, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands.
- (3) Protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood and storm damage.
- ~~(4) Provide for administrative relief from the terms of this article when warranted and in accordance with the requirements contained in this article.~~

~~(5) Specify mitigation which will address water quality protection.~~

(b) *Water quality impact assessment required.* A water quality impact assessment is required for:

- (1) Any proposed land disturbance, development, or redevelopment within an RPA, including any buffer area encroachment as provided for in subdivision II of this division.
- (2) Any development in an RMA as deemed necessary by the ~~city~~ City director ~~Director~~ of ~~public~~ Public works ~~Works~~ due to the unique characteristics of the site or intensity of the proposed development.

There shall be two levels of water quality impact assessment: a minor assessment and a major assessment.

(c) *Minor water quality impact assessment.* A minor water quality impact assessment pertains only to development within CBPAs which causes no more than 5,000 square feet of land disturbance and requires any encroachment into the landward 50 feet of the 100-foot buffer area. Submission of a plan of development that demonstrates, through the use of calculations and information provided for by subsection 122-100(1), that the remaining buffer area and necessary BMPs will result in removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater runoff shall be deemed to have satisfied the requirement for a minor water quality impact assessment. A revegetation plan shall be required. Proposed revegetation of disturbed areas will provide optimum erosion and sediment control benefits, as well as run-off and pollutant removal equivalent to the full 100-foot undisturbed buffer area.

(d) *Major water quality impact assessment.* A major water quality impact assessment shall be required for any development which: (i) exceeds 5,000 square feet of land disturbance within CBPAs and requires any encroachment into the landward 50 feet of the 100-foot buffer area; (ii) disturbs any portion of the seaward 50 feet of the 100-foot buffer area or any other component of an RPA; or (iii) is located in an RMA and is deemed necessary by the ~~city~~ City director ~~Director~~ of ~~public~~ Public works ~~Works~~. The information required in this section shall be considered a minimum, unless the ~~city director of public works~~ City Director of Public Works determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land. The following elements shall be included in the preparation and submission of a major water quality assessment:

- (1) All of the information required in a minor water quality impact assessment, as specified in subsection (c) of this section.
- (2) A hydrogeological element that:

- a. Describes the existing topography, soils, hydrology, and geology of the site and adjacent lands.
- b. Describes the impacts of the proposed development on topography, soils, hydrology, and geology of the site and adjacent lands.
- c. Indicates the disturbance or destruction of wetlands and justification for such action.
- d. Indicates the disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies.
- e. Indicates the disruptions to existing hydrology including wetland and stream circulation patterns.
- f. Indicates the source, location, and description of proposed fill material.
- g. Indicates the location of dredge material and location of dumping area for such material.
- h. Indicates the location of and impacts on shellfish beds, submerged aquatic vegetation, and fish spawning areas.
- i. Estimates percent increase in impervious surface on site and type(s) of surfacing materials used.
- j. Indicates percent of site to be cleared for project.
- k. Indicates duration and phasing schedule of construction project.
- l. Lists requisite permits from all applicable agencies necessary to develop project.
- m. Describes the proposed mitigation measures for the potential hydrogeological impacts which may include:
  1. Proposed erosion and sediment control concepts; concepts may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, schedule and personnel for site inspection.
  2. Proposed stormwater management system.
  3. Creation of wetlands to replace those lost.
  4. Minimizing cut and fill.

- (3) A landscape element that describes the potential measures for mitigation of the water quality and land impacts within the CBPAs. Possible mitigation measures include:
    - a. Replanting schedule for trees and other significant vegetation removed for construction, in accordance with a plan approved by the ~~city director of public works~~City Director of Public Works.
    - b. Demonstration that the design of the plan will preserve to the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation.
    - c. Demonstration that ~~indigenous native~~ plants are to be used to the greatest extent possible.
  - (4) As part of any major water quality impact assessment submittal, the ~~city director of public works~~City Director of Public Works may require review by the ~~Chesapeake Bay Local Assistance Virginia Department of Environmental Quality (DEQ)~~DEQ. Upon receipt of a major water quality impact assessment, the ~~city director of public works~~City Director of Public Works will determine if such review is warranted and may request ~~CBLAD-DEQ~~ to review the assessment and respond with written comments. Any comments by ~~CBLAD-DEQ~~ will be incorporated into the final review by the ~~city director of public works~~City Director of Public Works, provided that such comments are provided by ~~CBLAD-DEQ~~ within 90 days of the request.
- (e) *Evaluation procedure.*
- (1) Upon the completed review of a minor water quality impact assessment, the ~~city director of public works~~City Director of Public Works will determine if any proposed encroachment into the buffer area is consistent with the provisions of this article and that the following criteria have been satisfied:
    - a. The proposed encroachment is necessary due to the inability to place improvements elsewhere on the site to avoid disturbance of the buffer area.
    - b. Impervious surface is minimized.
    - c. Proposed BMPs, where required, achieve the requisite in pollutant loadings.
    - d. The development, as proposed, meets the purpose and intent of this article.
    - e. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

- (2) Upon the completed review of a major water quality impact assessment, the ~~city director of public works~~City Director of Public Works will determine if the proposed development is consistent with the purpose and intent of this article and that the following criteria have been satisfied:
  - a. Within any RPA, the proposed development is water-dependent or redevelopment.
  - b. The disturbance of any wetlands will be minimized.
  - c. The development will not result in significant disruption of the hydrology of the site.
  - d. The development will not result in significant degradation to aquatic vegetation or life.
  - e. The development will not result in unnecessary destruction of plant materials on site.
  - f. Proposed erosion and sediment control concepts are adequate to control the stormwater runoff to achieve the required performance standard for pollutant control.
  - g. Proposed stormwater management concepts are adequate to control the stormwater runoff to achieve the required performance standard for pollutant control.
  - h. Proposed revegetation of disturbed areas will provide optimum erosion and sediment control benefits.
  - i. The development, as proposed, is consistent with the purpose and intent of the overlay district.
  - j. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.
- (3) The ~~city director of public works~~City Director of Public Works shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the ~~city director of public works~~City Director of Public Works based on the criteria listed in subsections (a) and (b) of this section.
- (4) The ~~city director of public works~~City Director of Public Works shall conclude that the proposal is inconsistent with the purpose and intent of this article when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the ~~city director of public works~~City Director of Public Works based on the criteria listed in subsections (c) and (d) of this section.

(Code 1981, § 9.5-12(6); Ord. No. 04-51, 6-15-2004)

Sec. 122-103. - Final plan.

Final plans for property within CBPAs shall be final plats for land to be subdivided or site plans for land not to be subdivided.

- (1) *Final plans for all lands within CBPAs.* Final plans for all lands within CBPAs shall include the following:
  - a. The delineation of the RPA boundary, including all water bodies with perennial flow.
  - b. The delineation of required RPA buffer areas.
  - c. All wetlands permits required by law.
  - d. A maintenance agreement as deemed necessary and appropriate by the ~~city director of public works~~City Director of Public Works to ensure proper maintenance for BMPs in order to continue their functions.
- (2) *Installation and bonding requirements*
  - a. Where buffer areas, landscaping, stormwater management facilities, or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed, in accordance with the approved site plan.
  - b. When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the city a form of surety satisfactory to the city attorney in amount equal to the remaining plant materials, and installation costs of the required landscaping or other specifications or maintenance costs for any required stormwater management facilities.
  - c. All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited to the city.
  - d. All required stormwater management facilities or other specifications shall be installed and approved within 18 months of project commencement. Should the applicant fail, after proper notice, to initiate, complete, or maintain appropriate actions required by the approved plan, the surety may be forfeited to the city. The city may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.

- e. After all required actions of the approved site plan have been completed, the applicant must submit a written request for a final inspection. If the requirements of the approved plan have been completed to the satisfaction of the ~~city director of public works~~City Director of Public Works, such unexpended or unobligated portion of the surety held shall be refunded to the applicant or terminated within 60 days following the receipt of the applicant's request for final inspection. The ~~city director of public works~~City Director of Public Works may require a certificate of substantial completion from a professional engineer or class III B surveyor before making a final inspection.

(Code 1981, § 9.5-12(7); Ord. No. 05-76, 9-6-2005)

Sec. 122-104. - Administrative responsibility.

Administration of the plan of development process shall be in accordance with the site plan procedure described in this subdivision or the subdivision regulations in chapter 102 of this Code.

(Code 1981, § 9.5-12(8))

Sec. 122-105. - Denial of plan, appeal of conditions or modifications.

If the final plan or any component of the plan of development process is disapproved, and recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decisions to the ~~planning commission~~Board of Zoning Appeals (BZA). In granting or denying an appeal, the ~~planning commission~~BZA must find such plan to be in accordance with all applicable ordinances and include necessary elements to mitigate any detrimental impact on water quality and upon adjacent property and the surrounding area, or such plan meets the purpose and intent of the performance standards in this article. If the ~~planning commission~~BZA finds that the applicant's plan does not meet the above stated criteria, it shall deny approval of the plan.

(Code 1981, § 9.5-12(9))

~~Subdivision IV. -- Discharges to the Stormwater Sewer System~~

~~Sec. 122-106. Definitions.~~

~~When used in this article, the following terms shall have the following meanings:~~

~~*Administrator.* The water quality administrator or the water quality administrator's designee.~~

~~*Discharge.* To dispose, deposit, spill, pour, inject, dump, leak or place by any means; and any substance which is disposed, deposited, spilled, poured, injected, dumped, leaked or placed by any means.~~

~~*Illicit discharge.* Any discharge to the storm sewer system that is not composed entirely of storm water except (i) discharges pursuant to a VPDES or NPDES permit, (ii) discharges resulting from fire fighting activities and (iii) discharges listed in section 122-107(b) unless such discharges are identified by the City of Petersburg as sources of pollutants of waters of the United States pursuant to section 122-107(c).~~

~~*Industrial wastes.* Wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resource.~~

~~*National Pollutant Discharge Elimination System (NPDES) Permit.* The permit issued by the federal government for imposing and enforcing pretreatment requirements pursuant to the Federal Clean Water Act.~~

~~*Other wastes.* Wastes that can adversely affect waters of the United States when discharged into those waters, including, but not limited to, garbage, refuse, lime, fertilizer, ashes, offal, tar, paint, solvents, petroleum products, antifreeze and chemicals.~~

~~*Person.* An individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee of any such person.~~

~~*Sanitary sewer line.* An underground conduit that collects and delivers sanitary wastewater to a wastewater treatment plant.~~

~~*Storm sewer system.* The conveyance or system of conveyances located within the City of Petersburg which are designed or used for collecting, storing or conveying storm water or through which storm water is collected, stored or conveyed, including but not limited to roads, municipal streets, catch basins, drop inlets, curbs, gutters, ditches, pipes, lakes, ponds, man-made channels, storm drains, outfalls, retention, detention and infiltration basins and other facilities.~~

~~*Stormwater.* Stormwater runoff, snow melt runoff, surface runoff and drainage.~~

~~Surface waters. All waters that run across the surface of land, including but not limited to natural or man-made ponds, lakes, impoundments, rivers, streams (including intermittent and ephemeral streams), natural or man-made water courses and tidal and non-tidal wetlands, except that waste treatment systems, treatment ponds and lagoons designed to meet the requirements of the Federal Clean Water Act shall not be surface waters.~~

~~Virginia Pollutant Discharge Elimination System (VPDES). The permit issued by the State of Virginia for imposing and enforcing pretreatment requirements pursuant to the Federal Clean Water Act.~~

~~Waters of the City of Petersburg. All waters, whether on the surface or under the ground, that are wholly or partially within or bordering the City.~~

~~Waters of the United States. All waters, whether on the surface or under the ground, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce, including but not limited to intrastate lakes, rivers, streams (including intermittent and ephemeral streams), mudflats, sandflats, wetlands, sloughs, prairie pot holes, wet meadows, playa lakes and natural ponds, except that waste treatment systems, treatment ponds and lagoons designed to meet the requirements of the Federal Clean Water Act shall not be waters of the United States.~~

~~Wetlands. Land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, generally including but not limited to swamps, marshes, bogs and similar areas.~~

~~(Ord. No. 10-14, § 1, 4-6-2010)~~

~~Sec. 122-107. -- Prohibited discharge to the stormwater sewer system.~~

~~(a) It shall be unlawful to:~~

- ~~(1) Cause or allow illicit discharges to the storm sewer system or to waters of the City of Petersburg;~~
- ~~(2) Cause or allow the discharge of industrial waste or other waste to the storm sewer system or to waters of the City of Petersburg without a VPDES or NPDES permit;~~
- ~~(3) Violate any condition or provision of this article; and~~

- ~~(4) Connect, or cause or allow to be connected to the storm sewer system or waters of the City of Petersburg, without a VPDES or NPDES permit, any structure that conveys any liquid other than stormwater or discharges listed in paragraph (b) of this section, including but not limited to pipes, drains, sanitary sewer lines, washing machine drains or floor drains.~~
- ~~(b) Subject to the provisions of paragraph (c) of this section, the following activities shall not be unlawful illicit discharges:~~
- ~~(1) Water line flushing;~~
  - ~~(2) Landscape irrigation;~~
  - ~~(3) Diverted stream flows or rising groundwaters;~~
  - ~~(4) Infiltration of uncontaminated groundwater;~~
  - ~~(5) Pumping of uncontaminated groundwater;~~
  - ~~(6) Discharges from potable water sources, foundation drains, irrigation water, springs, water from crawl spaces or footing drains;~~
  - ~~(7) Air conditioning condensation;~~
  - ~~(8) Lawn watering;~~
  - ~~(9) Residential car washing;~~
  - ~~(10) Dechlorinated swimming pool discharges; and~~
  - ~~(11) Public street washing.~~
- ~~(c) If any activity listed in paragraph (b) of this section is found by the administrator to be a source of pollutants to waters of the United States, the administrator shall serve a written notice on the party responsible for the activity which orders that the activity be ceased or conducted in a manner that will avoid the discharge of pollutants to the storm sewer system or waters of the City of Petersburg. The notice shall state the date by which the activity shall cease or be conducted without pollution. Failure to comply with any such order within the time stated in the notice shall constitute a violation of paragraph (a)(3) of this section.~~

~~(Ord. No. 10-14, § 1, 4-6-2010)~~

~~Sec. 122-108.— Inspecting and monitoring stormwater discharge.~~

~~The administrator shall have the authority to inspect and monitor discharges and sources of potential discharge to the storm sewer system to ensure compliance with this article, including the authority to enter upon private property to inspect or monitor such discharges or sources of potential discharge, the administrator shall also have the authority to initiate enforcement actions in accordance with section 122-109.~~

~~(Ord. No. 10-14, § 1, 4-6-2010)~~

~~Sec. 122-109.— Penalties for violations of this article.~~

- ~~(a) Any person who knowingly violates any provision of this article shall be guilty of a class 1 misdemeanor. Each day that such violation is committed, and each day that such violation is permitted to remain uncorrected shall constitute a separate offense.~~
- ~~(b) Any person who otherwise violates any provision of this article shall be subject to a civil penalty between \$250.00 and \$1,000.00 for each day that the violation continues. The court assessing such civil penalty may order the penalty to be paid into the treasury of the City of Petersburg and designated for the purpose of minimizing, preventing, managing or mitigating pollution of the waters of the city.~~
- ~~(c) Any person who violates any provision of this article shall be responsible for testing, containing, cleaning up, abating, removing and disposing of any substance unlawfully discharged into the storm sewer system or into waters of the City of Petersburg, or, if the administrator determines that correction of the violation can best be accomplished by the city, shall be liable to the city for all costs of testing, containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the storm sewer system or into waters of the city.~~

~~(Ord. No. 10-14, § 1, 4-6-2010)~~

Secs. 122-110—122-120. - Reserved.

DIVISION 3. - NONCONFORMING USE, DEVELOPMENT WAIVERS; EXEMPTIONS; EXCEPTIONS

Sec. 122-121. - Nonconforming use and development waivers.

- (a) ~~The Notwithstanding the expansion requirements in subsection (b) of this section, the~~ lawful use, ~~but not necessarily the expansion,~~ of a building or structure which existed at the time of passage of the ordinance from which this article is derived, ~~or which exists at the time of any amendment to such ordinance or this article,~~ and which is not in conformity with the provisions of the overlay district may be continued in accordance with the nonconforming use provisions of the city's zoning ordinance, provided that:
- ~~(b) No change or expansion of use shall be allowed with the exception that:~~
- ~~(1) The zoning administrator may grant a nonconforming use and development waiver for structures on legal nonconforming lots or parcels to provide for remodeling and alterations to such nonconforming structures provided that:~~
- ~~(1)a.~~ There will be no net increase in nonpoint source pollution load, as certified by the ~~city director of public works~~City Director of Public Works.
- ~~b(2):~~ Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this article.
- ~~e(3)-(3) This section shall not be construed to prevent the reconstruction of pre-existing structures within CBPAs from occurring as a result of casualty loss unless otherwise restricted by this ordinance~~
- ~~(b) Additions and modifications to existing legal principal structures may be processed as a nonconforming use and development waiver, subject to the following findings:~~
- ~~e(1)~~ The requested exception to the criteria is the minimum necessary to afford relief.
- ~~e(2):~~ Granting the exception will not confer upon the applicant any special privileges that are denied by this part to other property owners who are subject to its provisions and who are similarly situated.
- ~~e(3):~~ The exception request is in harmony with the purpose and intent of this ordinance and is not of substantial detriment to water quality.

~~f(4)~~. The exception request is not based upon conditions or circumstances that are self-created or self-imposed.

~~g(5)~~. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality.

~~(2c)~~ An application for a nonconforming use and development waiver shall be made ~~to and~~ upon forms furnished by the zoning administrator and shall include, for the purpose of proper enforcement of this article, the following information:

~~(1)a~~. Name and address of applicant and property owner.

~~b(2)~~ Legal description of the property and type of proposed use and development.

~~c(3)~~ A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines and boundary of the RPA.

~~d(4)~~ Location and description of any existing private water supply or sewerage system.

~~(5)~~ RPA and RMA boundaries.

~~(6)~~ Existing and proposed topography.

~~(7)~~ Existing and proposed vegetation.

~~(8)~~ Existing impervious surfaces.

~~(3d)~~ A nonconforming use and development waiver shall become null and void 12 months from the date issued if no substantial work has commenced.

~~(e)~~ These provisions shall not apply to accessory structures.

~~(4)~~ Notwithstanding the provisions of subsections (a) and (b) of this section, additions and modifications to the existing legal principal structures may be processed through this nonconforming use and development waiver review process subject to the findings required by subsection (b)(1) of this section. This provision shall not apply to accessory structures.

(Code 1981, § 9.5-13; Ord. No. 04-51, 6-15-2004; Ord. No. 05-76, 9-6-2005)

**Editor's note**— The zoning ordinance is on file in the office of the clerk of the city council.

Sec. 122-122. - Exemptions.

(a) Exemptions for public utilities, railroads, public roads and facilities.

- (1) Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with the city's erosion and sediment control ordinance, ~~at chapter Chapter 50, article Article V of this Code, and the stormwater management ordinance, XXXXXXat eChapter 50, aArticle IV of this Code, and an erosion and sediment control plan and a stormwater management plan,~~ will be deemed to constitute compliance with this article. Exempted public roads shall be designed and aligned to prevent or otherwise minimize ~~to the extent practical~~ encroachment into the RPA and adverse effects on water quality.
- (2) Construction, installation, and maintenance of water, sewer, underground telecommunications lines, underground cable television lines and local natural gas lines owned, permitted or both by the City or regional service authority shall be exempt from the overlay district provided that:
  - a. To the degree possible, the location of such utilities and facilities shall be outside RPAs.
  - b. No more land shall be disturbed than is necessary to provide for the proposed utility installation.
  - c. All construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality.
  - d. Any land disturbance exceeding an area of 1,0002,500 square feet complies with all city erosion and sediment control requirements, contained in the erosion and sediment control ordinance at ~~chapter Chapter~~ 50, ~~article Article~~ V of this Code.
  - e. All such exempt public utilities or facilities shall be either owned by the City of Petersburg or permitted by the City of Petersburg.

(b) Exemptions for silvicultural activities. Silvicultural activities are exempt from the requirements of this article provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the 1997–2011 edition of "Virginia's Forestry Best Management Practices for Water Quality in Virginia Technical GuideManual, 5<sup>th</sup> edition."

- (c) Exemptions in resource protection areas. The following land disturbances in resource protection areas may be exempted from the overlay district:
- (1) Water wells.
  - (2) Passive recreation facilities such as boardwalks, trails, and pathways.
  - (3) Historic preservation and archaeological activities.
  - (4) The immediately above listed land disturbances in resource protection areas may be exempted from the overlay district, provided that it is demonstrated to the satisfaction of the ~~director~~ Director of Planning/Community Development that:
    - a. Any required permits, except those to which this exemption specifically applies, shall have been issued.
    - b. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality.
    - c. The intended use does not conflict with nearby planned or approved uses.
    - d. Any land disturbance exceeding an area of ~~4000~~ 2,500 square feet shall comply with all city erosion and sediment control requirements, contained in the erosion and sediment control ordinance at ~~chapter~~ Chapter 50, ~~article~~ Article V of this Code.

(Code 1981, § 9.5-14; Ord. No. 04-51, 6-15-2004; Ord. No. 05-76, 9-6-2005; Ord. No. 08-103, § 2, 11-18-2008)

Sec. 122-123. ~~—~~ Exceptions.

- (a) A request for an exception to the requirements of sections 122-54, 122-77, and 122-78 of this article shall be made in writing to the ~~d~~Director of ~~P~~planning/Community Development~~BZA~~. The ~~D~~irector of ~~p~~Planning/Community Development ~~BZA~~ shall identify the impacts of the proposed exception on water quality and on lands within the RPA through the performance of a water quality impact assessment, as required, which complies with the provisions of section 122-102. The Director of Planning/Community Development shall forward the request to the Exceptions Review Committee for review, and consideration and recommendation.

- (b) The ~~Exceptions review~~ Review committee ~~Committee~~, consisting of the ~~director~~ Director of ~~planning~~ Planning/Community Development, ~~director~~ Director of ~~public~~ Public Wworks, building official, zoning administrator, ~~chairman of the planning commission~~, and ~~two citizens of the city appointed by city council~~ the Floodplain Administrator, shall review the request, including the water quality impact assessment when required, and provide a recommendation ~~for an exception and the water quality impact assessment prior to going before the BZA approval~~ on the request to the Director of Planning/Community Development or the Board of Zoning Appeals. ~~The exceptions review committee~~ BZA may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this article if the committee finds:
- (1) Granting the exception will not confer upon the applicant any special privileges that are denied by this article to other property owners in the overlay district.
  - (2) The exception request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels.
  - (3) The exception request is the minimum necessary to afford relief.
  - (4) The exception request will be in harmony with the purpose and intent of the overlay district and not injurious to the neighborhood, detrimental to the public welfare, and not of substantial detriment to water quality.
  - (5) Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.
- (~~c~~) Following a recommendation on the request by the Exception Review Committee, exceptions to Section 122-77 must be approved by the Director of Planning/Community Development based upon the recommendation and findings of the Exception Review Committee.
- (~~d~~) The provisions of this section not withstanding, no ~~Following a recommendation for approval by the Exception Review Committee, exceptions to sections 122-54 and 122-78 must be approved by the Board of Zoning Appeals following~~ shall notice and a public hearing ~~not be authorized except~~ except after notice and a public hearing, conducted by the ~~exceptions review committee~~ Board of Zoning Appeals, as required by Code of Virginia § 15.2-2204, except that only one hearing shall be required. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the notice may be given by first-class mail rather than by registered or certified mail.

~~(c) Appeals of the decisions of the exceptions review committee shall be made to the board of zoning appeals. The board of zoning appeals shall apply the criteria listed in this section when considering the request for an exception upon appeal.~~ ~~(ed)~~ Exceptions to sections of this article other than 122-54, 122-77, and 122-78 may be granted by the Director of Planning/Community Development, provided that:

(1) exceptions to the criteria shall be the minimum to afford relief; and

(2) reasonable and appropriate conditions upon any exception granted shall be imposed as necessary, so that the purpose and intent of the Act is preserved.

~~(fe)~~ Notwithstanding the provisions of subdivision (de) of this section, additions and modifications to existing legal principal structures may be processed through an administrative review process, as allowed by subdivision (b) of this section and without a requirement for a public hearing. This provision shall not apply to accessory structures.

~~(gfe)~~ Appeals of the decisions of the ~~Exceptions Review Committee~~ ~~Director of Planning/Community Development~~ shall be made to the ~~b~~Board of ~~z~~Zoning ~~a~~Appeals. The ~~B~~Board of ~~Z~~Zoning ~~A~~Appeals shall apply the criteria listed in this section when considering the request for an exception upon appeal.

~~(h)~~ Appeals of the decisions of the Board of Zoning Appeals shall be made to the Circuit Court.

(Code 1981, § 9.5-15; Ord. No. 04-51, 6-15-2004)

**Exhibit B**

**CHAPTER 50 OF THE PETERSBURG MUNICIPAL CODE IS HEREBY  
AMENDED AND RE-ADOPTED TO INCLUDE THE ADDITIONS, DELETIONS  
AND MODIFICATIONS BELOW:**

Chapter 50 - ENVIRONMENT<sup>[1]</sup>

Footnotes:

--- (1) ---

**Cross reference**— Animals, ch. 18; dangerous or vicious dogs, § 18-146 et seq.; rabies control, § 18-231 et seq.; buildings and building regulations, ch. 22; community development, ch. 38; floods, ch. 58; health and sanitation, ch. 62; parks and recreation, ch. 78; planning, ch. 82; solid waste, ch. 94; streets, sidewalks and other public places, ch. 98; deposit of hazardous or injurious material on street or sidewalk removal, § 98-21; subdivisions, ch. 102; utilities, ch. 114; radioactive wastes, § 114-268; hazardous waste, § 114-282; waterways, ch. 122; environmental site assessment for Chesapeake Bay preservation areas, § 122-98.

**State Law reference**— Erosion and sediment control, Code of Virginia, § 10.1-560 et seq.; local control programs, Code of Virginia, § 10.1-562; stormwater management, Code of Virginia, § 10.1-603.3; local air pollution ordinances, Code of Virginia, § 10.1-1321; abatement or removal of nuisances, Code of Virginia, §§ 15.2-900, 15.2-1115.

ARTICLE I. - IN GENERAL

Secs. 50-1—50-30. - Reserved.

ARTICLE II. - NOISE<sup>[2]</sup>

Footnotes:

--- (2) ---

**Cross reference**— Noise in parks, § 78-63.

Sec. 50-31. - Declaration of policy.

It is hereby declared to be the public policy of the city to protect its citizens against excessive noise which is detrimental to life, health and enjoyment of property. In order to promote the public health, safety, welfare and the peace and quiet of the inhabitants of the city, the standards in this article relating to noise are hereby adopted.

(Code 1981, § 19-1; Ord. No. 14-100, 10-21-2014)

Sec. 50-32. - Definitions.

For purposes of this chapter, the following words shall have the meanings respectively ascribed to them by this section:

*A-weighted decibel* means the sound level, in decibels, measured with a sound level meter using the A-weighting network or scale as specified in the ANSI S1.4-1983 (specifications for sound level meters). The level so read shall be postscripted dB(A) or dBA.

*ANSI* means The American National Standards Institute, Inc., New York, New York.

*Daytime* means the local time of day between the hours of 7:00 a.m. and 10:00 p.m. weekdays and from 9:00 a.m. to 10:00 p.m. on Saturdays, Sundays and legal holidays observed by city government unless otherwise specified.

*Decibel* means a unit that describes the sound pressure level or intensity of sound. The sound pressure level in decibels is 20 times the logarithm to the base ten of the ratio of the pressure of the sound in microbars to a reference pressure of 0.0002 microbar; abbreviated dB.

*Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

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

*Industrial* is given the same meaning as defined by the zoning ordinance.

*Motor vehicle* means every vehicle defined as a motor vehicle by § 46.2-100 of the Code of Virginia, 1950, as amended.

*Multi-family dwelling* means a building designed for, or occupied exclusively, by three or more families living independently of each other.

*Nighttime* means those times excluded from the definition of daytime

*Noise* means any steady-rate or impulsive sound occurring on either a continuous or intermittent basis that disturbs persons or that causes or tends to cause an adverse effect on humans.

*Person* means any individual, corporation, cooperative, partnership, firm, association, trust, estate, private institution, group, agency, or any legal successors, representative, agent or agency thereof.

*Residential area* is given the same meaning as defined by the zoning ordinance.

*Residential dwelling* means a building or portion thereof designed or intended to be occupied as living quarters by one or more persons and including permanent provisions for living, sleeping, eating, cooking and sanitation.

*Residential property line* means an imaginary line along the ground surface and its vertical extension, which separates the real property owned, leased or otherwise controlled by one person from that owned, leased or otherwise controlled by another person, but not including intra-building real property divisions.

*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.

*Urban mixed use* means a district that includes commercial, industrial, institutional and residential uses, such as B-2, B-3, RB, MXD-1 and MXD-2, as defined by the zoning ordinance.

*Zoning district classification* means the designation of land use classification contained in the zoning ordinance.

(Code 1981, § 19-3; Ord. No. 14-100, 10-21-2014)

**Editor's note**— The zoning ordinance is on file in the office of the clerk of the council.

**Cross reference—** Definitions generally, § 1-2.

Sec. 50-33. - Specific prohibitions.

It shall be unlawful for any person:

- (a) To use, operate or play any radio, phonograph, television, record, compact disc or tape player, musical instrument, loudspeaker, sound amplifier or other machine or device capable of producing or reproducing sound in such a manner or with such volume or duration that it is heard between 11:00 p.m. and 7:00 a.m.:
  - (1) Inside the confines of the residential dwelling, house or multi-family dwelling of another person; or
  - (2) At 50 or more feet from the device, except for devices permitted to be used at public parks or recreation fields, sporting events, school-sponsored activities on school grounds, or duly authorized parades, public functions or commemorative events.
- (b) To allow noise between the hours of 10:00 p.m. and 7:00 a.m. that is heard either inside the confines of the residential dwelling, house or multi-family dwelling of another person or at 50 or more feet when the noise is made by one or more persons.
- (c) To operate, install, have, or permit on the outside of any store, shop, business establishment, warehouse or commercial building, any loudspeaker or other sound-producing or reproducing device capable of emitting music, noise, sounds, tapes or voice in such manner that it is heard on any public sidewalk or street unless it is used only intermittently for announcing or paging an individual or unless it signals the ringing of a telephone, danger from smoke, a fire or a burglary or the beginning or stopping of work or school, or unless it is operated in accordance with conditions of zoning.
- (d) Using any instrument, whistle, drum or bell or making any other unnecessary noise for the purpose of advertising, announcing, or otherwise calling attention to any goods, wares, merchandise, or to any show, entertainment, or event. The provisions of this section shall not be construed to prohibit the selling by verbally announcing the sale of merchandise, food, or beverage at licensed sporting events, parades, fairs, circuses or other similarly licensed public entertainment events.
- (e) To play or permit the playing of any radio, stereo, tape player, compact disc player, loud speaker or other electronic device or mechanical equipment used for the amplification of sound, which is located within a motor vehicle and which is heard from outside the motor vehicle at a distance of 50 feet or more from the vehicle. This provision shall not apply to sirens, loud speakers and emergency communications radios in public safety vehicles, nor shall it apply to motor vehicle alarms or other security devices.
- (f) To create noise heard in residential areas in connection with the loading or unloading of refuse, waste or recycling collection vehicles between the hours of 10:00 p.m. and 7:00 a.m., except those areas zoned for urban mixed use, when the sound or noise is produced in connection with the loading or unloading of refuse, waste or recycling collection vehicles.
- (g) To create a noise disturbance across a residential property line between 10:00 p.m. and 7:00 a.m. in connection with lawn care, leaf removal, gardening, tree maintenance or removal, other landscaping, lawn or timbering activities; the operation of any mechanically powered saw, drill, grinder, sander or similar device; or the construction, demolition, repair, paving, excavation or alteration of a building or street.
- (h) Operating or causing to be operated between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and between the hours of 10:00 p.m. and 9:00 a.m. on Saturdays, Sundays and legal holidays observed by city government equipment used in the construction, repair, alteration or demolition work on buildings, structures, alleys or appurtenances thereto in the outdoors in any residential district within 100 yards of a lawfully occupied dwelling. This section shall not apply to construction

of public projects, the repair or maintenance work performed on such projects or work performed by private or public utility companies for the repair of facilities or restoration of services.

Provided however, that the prohibitions of this section shall not apply to emergency work to provide public facilities or utilities, or to remove debris, when necessary to protect the public health or safety.

(Ord. No. 14-100, 10-21-2014)

**Editor's note**— Ord. No. 14-100, adopted Oct. 21, 2014, repealed § 50-33 and enacted a new section as set out herein. The former § 50-33 pertained to violations of article and derived from § 19-2 of the 1981 Code.

Sec. 50-34. - Exemptions.

This provision shall not apply to:

- (a) Noise generated in connection with the business being performed in an industrial area;
- (b) Locomotives and other railroad equipment, and aircraft;
- (c) Sound emanating from any area permitted by the Virginia Department of Mines, Minerals and Energy or any division thereof;
- (d) Police, fire, ambulance or emergency vehicle sirens;
- (e) Sounds created when responding to emergencies, including emergency utility repairs;
- (f) Motor vehicles and trucks traveling on roads;
- (g) Heat pumps and/or air conditioners on residential properties;
- (h) Backup generators running during power outages;
- (i) Public transportation facilities;
- (j) Burglar, fire or other alarms tests between 7:00 a.m. and 9:00 p.m.;
- (k) Band performances or practices, athletic matches or practices and other such activities on school or recreational grounds between 7:00 a.m. to 11:00 p.m.;
- (l) Religious services, religious events or religious activities, including, but not limited to music, bells, chimes and organs which are a part of such religious activity between the hours of 7:00 a.m. to 11:00 p.m.;
- (m) Sound amplifying equipment used at public parks or recreation fields provided the operation of such equipment has been approved by the department of parks and leisure services;
- (n) Activities for which the regulation of noise has been preempted by federal law;
- (o) Parades, fireworks or other special events or activities for which a permit has been issued by the city, within such hours as may be imposed as a condition for the issuance of the permit.

(Code 1981, § 19-7; Ord. No. 14-100, 10-21-2014)

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-980.

Sec. 50-35. - Animals.

It shall be unlawful for any person to [allow an] animal or bird except farm animals in agricultural districts to create noise or intense barking that is plainly audible at least once a minute for ten consecutive minutes:

- (1) Inside the confines of the residential dwelling, house or multi-family dwelling of another; or
- (2) At 50 or more feet from the animal or bird.

For purposes of this chapter, the animal or bird noise shall not be deemed a noise disturbance if a person is trespassing or threatening to trespass upon private party in or upon which the animal or bird is situated, or is using any other means to tease or provide the animal or bird. This provision shall not apply to public zoos, licensed animals parks or licensed veterinarian facilities.

(Ord. No. 14-100, 10-21-2014)

**Editor's note**— Ord. No. 14-100, adopted Oct. 21, 2014, repealed § 50-35 and enacted a new section as set out herein. The former § 50-35 pertained to measurement procedures and derived from § 19-6 of the 1981 Code.

Sec. 50-36. - Maximum permissible sound levels generally.

- (a) In addition to, and not in limitation of the specific prohibitions of sections 50-33, 50-34, and 50-35, any noise which emanates from any operation, activity or source and which exceeds the maximum permissible sound levels established in this section is hereby prohibited. When noise emanates from private property, such levels shall be measured at the property boundary of the sound source, at any point on public property, or at any point within any other property affected by the noise. When noise emanates from public property including street rights-of-way, such levels shall be measured at any point on public property or at any point within any other property affected by the noise. When a noise source can be identified and its noise measured in more than one zoning district classification, the limits of the most restrictive classification shall apply.

MAXIMUM PERMISSIBLE  
SOUND PRESSURE LEVELS

Zoning District	Maximum dBA	
	Daytime	Nighttime
Classification		
Agricultural	65	55
Residential	65	55
R/B	70	60
Planned unit development	70	60
Mixed use district	75	65
Business	75	65
Industrial	79	72

- (b) Measurements in multi-family dwellings. In a structure used as a multi-family dwelling, the measurements to determine such sound levels shall be taken from common areas within or outside the structure or from other dwelling units within the structure, when requested to do so by the owner or tenant in possession and control thereof. Such measurement shall be taken at a point at least four 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.
- (c) Any person, with lawfully obtained permits, who during the daytime operates or causes to be operated any equipment used in the construction, repair, alteration, or demolition work on buildings, structures, alleys or appurtenances thereto in the outdoors shall not be subject to the levels enumerated in subsection (a) of this section.
- (d) Persons performing construction of public projects, repair or maintenance work for such projects or persons performing work for private or public utilities for the repair of facilities or restoration of services shall not be subject to the levels enumerated in subsection (a) of this section.

(Code 1981, § 19-4; Ord. No. 14-100, 10-21-2014)

Sec. 50-37. - Penalty and enforcement.

- (a) If it is determined that a noise in violation of this chapter exists at a fixed location, the following procedures shall be followed:
  - (1) A written or verbal warning shall be issued by the chief of police, or his or her designee to the person(s), corporation, firm or association, responsible for the event causing the noise disturbance.
  - (2) If the noise disturbance persists for more than five minutes following the issuance of a written or verbal warning, the chief of police, or his or her designee, shall proceed to charge the person responsible for the event causing the noise disturbance.
- (b) No person shall be charged with a violation of the provisions of this section unless a violation is committed in the presence of the chief of police, or his or her designee.
- (c) 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 or resident physically present on the property where the violation is occurring is rebuttably presumed to be responsible for the noise violation.
- (d) Any person who violates any provision of this article shall be deemed to be guilty of a class 4 misdemeanor for a first offense and a class 3 misdemeanor for each subsequent offense.

(Ord. No. 14-100, 10-21-2014)

**Editor's note**— Ord. No. 14-100, adopted Oct. 21, 2014, repealed § 50-37 and enacted a new section as set out herein. The former § 50-37 pertained to prohibitions generally and derived from § 19-5 of the 1981 Code.

Sec. 50-38. - Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this article is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this article.

(Ord. No. 14-100, 10-21-2014)

**Editor's note**— Ord. No. 14-100, adopted Oct. 21, 2014, repealed § 50-38 and enacted a new section as set out herein. The former § 50-38 pertained to animals and derived from § 19-5.1 of the 1981 Code.

Secs. 50-39—50-60. - Reserved.

ARTICLE III. - NUISANCES<sup>[3]</sup>

Footnotes:

--- (3) ---

**Cross reference**— Removal of nuisances in Blandford Cemetery, § 30-50.

Sec. 50-61. - Nuisances generally.

- (a) No person shall cause a nuisance, as described in this section or in Code of Virginia, § 15.2-900 or 15.2-1115, in any place whatever within the corporate limits of the city, nor suffer any nuisance to remain in any house or lot occupied or owned by him. Everything shall be deemed a nuisance, within the meaning of this section, which is offensive or prejudicial to the health of any citizen and which is not specifically proscribed by the provisions of this Code.
- (b) A violation of this section shall constitute a class 3 misdemeanor.

(Code 1981, § 21-54)

**State Law reference**— Authority of city to abate nuisances, Code of Virginia, §§ 15.2-900, 15.2-1115; nuisances generally, Code of Virginia, tit. 48.

Sec. 50-62. - Certain offensive, unwholesome, etc., uses of land declared a nuisance.

- (a) Any condition or use of any land or premises in the city which is offensive, unwholesome, unsanitary, unhealthy, is detrimental to the property of others, or which causes or tends to cause substantial diminution in value of the property in the neighborhood in which such land or premises is located is hereby declared a nuisance. This includes but is not limited to the keeping or the depositing on, or the scattering over the land or premises of any of the following:
  - (1) Lumber, junk, trash, or debris;
  - (2) Abandoned, discarded or unused objects or equipment such as motor vehicle parts, furniture, stoves, refrigerators, freezers, cans, containers or plumbing fixtures.

Whenever it shall come to the knowledge of a designated enforcement official that such a nuisance exists, it shall be his duty to give notice to the occupant of the premises or, if unoccupied, to the owner of the premises to cause such nuisance to be abated within 48 hours from the date of receipt of such notice.

- (b) Any occupant or owner who shall fail to abate such nuisance within the time specified in a notice given pursuant to this section shall be guilty of a class 4 misdemeanor, and each day that such nuisance is permitted to remain upon such land or premises after the expiration of the time specified in such notice shall be deemed to constitute a separate offense under this section.
- (c) If such nuisance is permitted to remain on any such land or premises after the expiration of the time specified in a notice given pursuant to this section, the designated enforcement official may cause

such nuisance to be removed therefrom, and the city may collect the expense of so doing from the owner or occupant of the land or premises by distress and sale in the same manner in which taxes levied upon real estate for the benefit of the city are authorized to be collected. Every charge authorized by this section with which the owner of the property has been assessed and which remains unpaid shall constitute a lien against such property.

- (d) All sworn police officers, health inspectors, building and housing inspectors, and the zoning administrator are hereby designated as enforcement officers for the purposes of this section.

(Code 1981, § 21-54.1; Ord. No. 14-47, 5-20-2014)

**State Law reference**— Similar provisions, Code of Virginia, § 15.2-901.

Sec. 50-63. - Detrimental or excessively high growths of weeds or other vegetable matter.

- (a)
  - (1) The existence of any weeds, bushes, grass or other vegetable matter upon any land or premises in the city which is detrimental to the health, comfort or general welfare of any of the inhabitants of the city or which exceeds a height of 12 inches is hereby declared a nuisance.
  - (2) No owner of any lot or parcel of land shall permit to grow or remain thereon any hedge, shrub, tree or other vegetation, the limbs, branches or other parts of which overhang, extend or protrude into any street, sidewalk or public alley in a manner which obstructs or impedes the safe and orderly movement of persons or vehicles, or in the case of trees, when the dead limbs, trunks, or branches are likely to fall into or across such street or sidewalk, thereby endangering such persons and vehicles.
- (b) Whenever it shall come to the knowledge of the city manager, or his or her designee, that such a nuisance exists, it shall be his or her duty to give notice to the occupant of the premises or, if unoccupied, to the owner of the premises to cause such weeds, bushes, grass or other vegetable matter to be cut and removed from such premises within 48 hours from the date of receipt of such notice or in the time limit set forth in the notice.

If weeds, bushes, grass or other vegetable matter are permitted to remain on any such land or premises after the expiration of the time specified in a notice given pursuant to this section, the city manager, or his or her designee, may cause such nuisance to be removed therefrom, and the city may collect the expense of so doing from the owner or occupant of the premises by distress and sale in the same manner in which taxes levied upon real estate for the benefit of the city are authorized to be collected.

- (c) Any owner who violates paragraphs (a)(1) or (a)(2) of this section shall be subject to a civil penalty of \$50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall be \$200.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000.00 in a 12-month period.
- (d) Violations of paragraphs (a)(1) or (a)(2) shall be a class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.
- (e) Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, §§ 58.1-3940 et seq. and 58.1-3965 et seq. The city may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage

to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

(Code 1981, § 21-56; Ord. No. 11-97, 9-20-2011; Ord. No. 14-47, 5-20-2014)

**State Law reference**— Authority for above section, Code of Virginia, §§ 15.2-901, 15.2-1115.

Sec. 50-64. - Standing water on private property.

- (a) The existence of any standing water upon any land or premises in the city which is, in the opinion of the health director, detrimental to the health, comfort or general welfare of any of the inhabitants of the city is hereby declared a nuisance. Whenever it shall come to the knowledge of the health director that such a nuisance exists, it shall be his duty to give notice to the occupant of the premises, or if unoccupied, to the owner, to cause the standing water to be drained within ten days. Any such occupant or owner who shall fail to cause such standing water to be drained within the time specified in such notice shall be guilty of a class 3 misdemeanor and each day that such nuisance is permitted to remain upon such land or premises after the expiration of the time specified in such notice shall be deemed to constitute a separate offense under this section.
- (b) If any standing water is permitted to remain on any land or premises after the expiration of the time specified in a notice given pursuant to this section, the health director may cause such nuisance to be removed therefrom and the city may collect the expense of so doing from the owner and occupant of the property by distress and sale in the same manner in which taxes levied upon real estate for the benefit of the city are authorized to be collected.

(Code 1981, § 21-59)

**State Law reference**— Grounds subject to be covered by standing water, Code of Virginia, § 15.2-1115.

Secs. 50-65—50-100. - Reserved.

ARTICLE IV. - STORMWATER MANAGEMENT<sup>4</sup>

Footnotes:

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**Editor's note**— Prior to the reenactment of Art. IV by Ord. No. 14-67, said article was repealed by Ord. No. 08-103, § 3, adopted Nov. 18, 2008. The former Art. VI, §§ 50-91—50-99, 50-116—50-123, pertained to erosion and sediment control and derived from §§ 12-2—12-11 and §§ 12-23—12-30 of the 1981 Code.

Sec. 50-101. - Purpose and authority. (Section 9VAC25-870-20, 9VAC25-870-40)

- (a) The purpose of this article is to ensure the general health, safety, and welfare of the citizens of Petersburg and protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.

(b) This article is adopted pursuant to Article 2.3 (§ 62.1-44.15:27 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-102. - Definitions. (9VAC25-870-10)

In addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this article have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

*Administrator* means the VSMP authority including the stormwater program manager or the department of public works.

*Agreement in lieu of a stormwater management plan* means a contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VSMP for the construction of a single-family residence; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.

*Applicant* means any person submitting an application for a permit or requesting issuance of a permit under this article.

*Best management practice* or *BMP* means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

*Chesapeake Bay Preservation Act land-disturbing activity* means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation Act, Code of Virginia, § 62.1-44.15:67 et seq.

*Clean Water Act* or *CWA* means the federal Clean Water Act (33 U.S.C. § 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

*Common plan of development or sale* means a contiguous area where separate and distinct construction activities may be taking place at different times on difference schedules.

*Control measure* means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

*Department* means the Department of Environmental Quality (DEQ).

*Development* means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes.

*General permit* means the state permit titled General Permit for Discharges of Stormwater From Construction Activities found in Part XIV (9VAC25-880-1 et seq.) of the Regulations authorizing a category of discharges under the CWA and the Virginia Stormwater Management Act.

*Land disturbance* or *land-disturbing activity* means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in section 50-103(c) of this article.

*Layout* means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

*Minor modification* means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

*Operator* means the owner or operator of any facility or activity subject to regulation under this article.

*Permit* or *VSMP authority permit* means an approval to conduct a land-disturbing activity issued by the administrator for the initiation of a land-disturbing activity, in accordance with this article, and which may only be issued after evidence of general permit coverage has been provided by the department.

*Permittee* means the person to whom the VSMP authority permit is issued.

*Person* means any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, governmental body, including federal, state, or local entity as applicable, any interstate body or any other legal entity.

*Regulations* means the Virginia Stormwater Management Program (VSMP) Permit Regulations, 9VAC25-870, as amended.

*Site* means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

*State* means the Commonwealth of Virginia.

*State board* means the state water control board.

*State permit* means an approval to conduct a land-disturbing activity issued by the state board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the state board for stormwater discharges from an MS4. Under these state permits, the commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Regulations.

*State water control law* means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

*State waters* means all water, on the surface and under the ground, wholly or partially within or bordering the commonwealth or within its jurisdiction, including wetlands.

*Stormwater* means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

*Stormwater management plan* means a document(s) containing material describing methods for complying with the requirements of section 50-106 of this article.

*Stormwater pollution prevention plan* or *SWPPP* means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site, and otherwise meets the requirements of this article. In addition the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

*Subdivision* means the same as defined in section 33-1 of article I of the Petersburg Subdivision Ordinance.

*Total maximum daily load* or *TMDL* means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety.

TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

*Virginia Stormwater Management Act or Act* means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

*Virginia Stormwater BMP Clearinghouse website* means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

*Virginia Stormwater Management Program or VSMP* means a program approved by the state board after September 13, 2011, that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

*Virginia Stormwater Management Program authority or VSMP authority* means an authority approved by the state board after September 13, 2011, to operate a Virginia Stormwater Management Program.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-103. - Stormwater permit requirement; exemptions.

- (a) A person shall not conduct any land-disturbing activity until a permit application has been submitted to the VSMP authority that includes a state VSMP permit registration statement, if such statement is required. A registration statement is not required for detached single-family home construction within or outside of common plan of development or sale; however, such projects must adhere to the requirements of the general permit.
- (b) Chesapeake Bay Preservation Act land-disturbing shall not require completion of a registration statement or require coverage under the general permit for discharges of stormwater from construction activities. A Chesapeake Bay Preservation Act land-disturbing activity shall be subject to an erosion and sediment control plan consistent with the requirements of the erosion and sediment control ordinance, a stormwater management plan as outlined under section 50-106, the technical criteria and administrative requirements for land disturbing activities outlined in section 50-109, and the requirements for control measures for long-term maintenance outlined under section 50-110. Exceptions to these technical criteria and administrative requirements may be requested.
- (c) Notwithstanding any other provisions of this article, the following activities are exempt, unless otherwise required by federal law:
  - (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
  - (2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the state board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;

- (3) Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
- (4) Land-disturbing activities that disturb less than one acre of land area; except for land disturbing activity exceeding an area of 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC 25-830) adopted pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) or except for activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance.
- (5) Discharges to a sanitary sewer or a combined sewer system;
- (6) Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;
- (7) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and
- (8) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the administrator shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of subsection (a) is required within 30 days of commencing the land-disturbing activity.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-104. - Stormwater management program established; submission and approval of plans; prohibitions.

- (a) Pursuant to § 62.1-44.15:27 of the Code of Virginia, the City of Petersburg hereby establishes a Virginia stormwater management program for land-disturbing activities and adopts the applicable regulations that specify standards and specifications for VSMPs promulgated by the state board for the purposes set out in section 50-101 of this article. The city council hereby designates the stormwater program manager as the administrator of the Virginia stormwater management program.
- (b) No VSMP authority permit shall be issued by the administrator, until the following items have been submitted to and approved by the administrator as prescribed herein:
  - (1) A permit application that includes a general permit registration statement;
  - (2) An erosion and sediment control plan approved in accordance with the Petersburg Erosion and Sediment Control Ordinance (Chapter 50, Article V of this Code); and
  - (3) A stormwater management plan that meets the requirements of section 50-106 of this article, or an executed agreement in lieu of a stormwater management plan.
- (c) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained.
- (d) No VSMP authority permit shall be issued until the fees required to be paid pursuant to section 50-115, are received, and a reasonable performance bond required pursuant to section 50-116 of this article has been submitted.
- (e) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.

- (f) No grading, building or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the administrator.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-105. - Stormwater pollution prevention plan; contents of plans.

- (a) The stormwater pollution prevention plan (SWPPP) shall include the content specified by Section 9VAC25-870-54 and must also comply with the requirements and general information set forth in Section 9VAC25-880-70, Section II (stormwater pollution prevention plan) of the general permit.
- (b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
- (c) The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-106. - Stormwater management plan; contents of plan.

- (a) The stormwater management plan, required in section 50-104 of this article, must apply the stormwater management technical criteria set forth in section 50-109 of this article to the entire land-disturbing activity. A stormwater management plan that is approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities. The stormwater management plan must consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff, and include the following information:
  - (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the pre-development and post-development drainage areas;
  - (2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;
  - (3) A narrative that includes a description of current site conditions and final site conditions;
  - (4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
  - (5) Information on the proposed stormwater management facilities, including:
    - (i) The type of facilities;
    - (ii) Location, including geographic coordinates;
    - (iii) Acres treated; and
    - (iv) The surface waters or karst features, if present, into which the facility will discharge;
  - (6) Hydrologic and hydraulic computations, including runoff characteristics;
  - (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of section 50-109 of this article;
  - (8) A map or maps of the site that depicts the topography of the site and includes:

- (i) All contributing drainage areas;
  - (ii) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
  - (iii) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
  - (iv) Current land use including existing structures, roads, and locations of known utilities and easements;
  - (v) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
  - (vi) The limits of clearing and grading, and the proposed drainage patterns on the site;
  - (vii) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
  - (viii) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.
- (b) If an operator intends to meet the water quality and/or quantity requirements set forth in section 50-109 of this article through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by § 62.1-44.15:35 of the Code of Virginia.
- (c) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- (d) A construction record drawing for permanent stormwater management facilities shall be submitted to the administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-107. - Pollution prevention plan; contents of plans.

- (a) A pollution prevention plan, required by 9VAC25-870-56, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:
- (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
  - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
  - (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- (b) The pollution prevention plan shall include effective best management practices to prohibit the following discharges:
- (1) Wastewater from washout of concrete, unless managed by an appropriate control;

- (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
  - (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
  - (4) Soaps or solvents used in vehicle and equipment washing.
- (c) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-108. - Review of stormwater management plan.

- (a) The administrator or any duly authorized agent of the administrator shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:
- (1) The administrator shall determine the completeness of a plan in accordance with section 50-106 of this article, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.
  - (2) The administrator shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subsection (1), then plan shall be deemed complete and the administrator shall have 60 calendar days from the date of submission to review the plan.
  - (3) The administrator shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission.
  - (4) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this article.
  - (5) If a plan meeting all requirements of this article is submitted and no action is taken within the time provided above in subsection (2) for review, the plan shall be deemed approved.
- (b) Approved stormwater plans may be modified as follows:
- (1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the administrator. The administrator shall have 60 calendar days to respond in writing either approving or disapproving such request.
  - (2) The administrator may require that an approved stormwater management plan be amended, within a time prescribed by the administrator, to address any deficiencies noted during inspection.
- (c) The administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to section 50-110(b).

(Ord. No. 14-67, 7-1-2014)

Sec. 50-109. - Technical criteria for regulated land disturbing activities.

- (a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the locality hereby adopts the technical criteria for

regulated land-disturbing activities set forth in Part II B of the regulations, as amended, expressly to include 9VAC25-870-62 (applicability); 9VAC25-870-63 (water quality design criteria requirements); 9VAC25-870-65 (water quality compliance); 9VAC25-870-66 (water quantity); 9VAC25-870-69 (offsite compliance options); 9VAC25-870-72 (design storms and hydrologic methods); 9VAC25-870-60-74 (stormwater harvesting); 9VAC25-870-76 (linear development project); 9VAC25-870-85 (stormwater management impoundment structures or facilities); 9VAC25-870-92 (comprehensive stormwater management plans); 9VAC25-870-93 (definitions); 9VAC25-870-94 (applicability); 9VAC25-870-95 (general); 9VAC25-870-96 (water quality); 9VAC25-870-97 (stream channel erosion); 9VAC25-870-98 (flooding); and 9VAC25-870-99 (regional stormwater management plans), which shall apply to all land-disturbing activities regulated pursuant to this article, except as expressly set forth in subsection (b) of this section.

- (b) Any land disturbing activity shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the VSMP Regulation provided:
  - (1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with the Part II C technical criteria of the VSMP regulation, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;
  - (2) A state permit has not been issued prior to July 1, 2014; and
  - (3) Land disturbance did not commence prior to July 1, 2014.
- (c) Locality, state and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the VSMP regulation provided:
  - (1) There has been an obligation of locality, state or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012;
  - (2) A state permit has not been issued prior to July 1, 2014; and
  - (3) Land disturbance did not commence prior to July 1, 2014.
- (d) Land disturbing activities grandfathered under subsections (b) and (c) of this section shall remain subject to the Part II C technical criteria of the VSMP regulation for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.
- (e) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.
- (f) Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.
- (g) The administrator may grant exceptions to the technical requirements of Part II B or Part II C of the regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the regulations, and this article are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this article.
  - (1) Exceptions to the requirement that the land-disturbing activity obtain required VSMP authority permit shall not be given by the administrator, nor shall the administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse website, or any other control measure duly approved by the director.
  - (2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-110. - Long-term maintenance of permanent stormwater facilities.

- (a) The administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by the administrator and shall at a minimum:
  - (1) Be submitted to the administrator for review and approval prior to the approval of the stormwater management plan;
  - (2) Be stated to run with the land;
  - (3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;
  - (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the administrator; and
  - (5) Be enforceable by all appropriate governmental parties.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-111. - Monitoring and inspections.

- (a) The administrator or any duly authorized agent of the administrator (engineering technician/project inspector) shall inspect the land-disturbing activity during construction for:
  - (1) Compliance with the approved erosion and sediment control plan;
  - (2) Compliance with the approved stormwater management plan;
  - (3) Development, updating, and implementation of a pollution prevention plan; and
  - (4) Development and implementation of any additional control measures necessary to address a TMDL.
- (b) The administrator or any duly authorized agent of the administrator (engineering technician/project inspector) may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this article.
- (c) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.
- (d) Pursuant to § 62.1-44.15:40 of the Code of Virginia, the administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this article, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this article.
- (e) Post-construction inspections of stormwater management facilities required by the provisions of this article shall be conducted by the administrator or any duly authorized agent of the administrator (engineering technician/project inspector) pursuant to the locality's adopted and state board approved

inspection program, and shall occur, at minimum, at least once every five years except as may otherwise be provided for in section 50-110.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-112. - Hearings.

The state board shall hold hearings in a manner consistent with Code of Virginia, § 62.1-44.26. If the City of Petersburg holds hearings under this article it shall do so in a manner consistent with applicable city hearing procedures.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-113. - Appeals.

Appeals shall be considered in accordance with section 50-134(f) and section 50-137 of this Code, and shall be consistent with the limitations within § 62.1-44.15:46 of Chapter 3.1 of Title 62.1 of the Code of Virginia.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-114. - Enforcement.

- (a) If the administrator determines that there is a failure to comply with the VSMP authority permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.
- (1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with subsection (b) or the permit may be revoked by the administrator.
  - (2) If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall be issued in accordance with section 50-134 of this Code. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the administrator. However, if the administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with subsection 50-114(c).

- (b) In addition to any other remedy provided by this article, if the administrator or his designee determines that there is a failure to comply with the provisions of this article, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with Chapter 50, Article V of this Code.
- (c) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the administrator may be compelled in a proceeding instituted in Petersburg Circuit Court by the city to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- (d) Any person who violates any provision of this article or who fails, neglects, or refuses to comply with any order of the administrator, shall be subject to a civil penalty not to exceed \$32,500.00 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.
  - (1) Violations for which a penalty may be imposed under this subsection shall include but not be limited to the following:
    - (i) No state permit registration;
    - (ii) No SWPPP;
    - (iii) Incomplete SWPPP;
    - (iv) SWPPP not available for review;
    - (v) No approved erosion and sediment control plan;
    - (vi) Failure to install stormwater BMPs or erosion and sediment controls;
    - (vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
    - (viii) Operational deficiencies;
    - (ix) Failure to conduct required inspections;
    - (x) Incomplete, improper, or missed inspections; and
    - (xi) Discharges not in compliance with the requirements of Section 9VAC25-870-70 of the general permit.
  - (2) The administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.
  - (3) In imposing a civil penalty pursuant to this subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.
  - (4) Any civil penalties assessed by a court as a result of a summons issued by Petersburg shall be paid into the treasury of the City of Petersburg to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.
- (e) Notwithstanding any other civil or equitable remedy provided by this section or by law, any person who willfully or negligently violates any provision of this article, any order of the administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500.00 nor more than \$32,500.00, or both.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-115. - Fees.

- (a) Fees to cover costs associated with implementation of a VSMP related to land disturbing activities and issuance of general permit coverage and VSMP authority permits shall be imposed in accordance

with Table 1. When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees ("total fee to be paid by applicant" column) in accordance with the disturbed acreage of their site or sites according to Table 1. VSMP authority portion of the statewide permit fee for coverage under the general permit for discharges of stormwater for construction activities for small construction activity involving a single family detached residential structure with a site or area, within or outside a common plan of development or sale, that is equal to or greater than one acre but less than five acres shall be no greater than the VSMP authority portion of the fee for coverage of sites or areas with a land-disturbance acreage of less than one acre within a common plan of development or sale.

**Table 1. Fees for Permit Issuance**

Fee Type	Total fee to be paid by applicant (includes both VSMP authority and department portions where applicable)	Department portion of "total fee to be paid by applicant" (based on 28% of total fee paid*)
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to general permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$290.00	\$0.00
General/stormwater management - Small construction activity/land clearing (areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$290.00	\$81.00
General/stormwater management - Small construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres)	\$2,700.00	\$756.00
General/stormwater management - Large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$3,400.00	\$952.00
General/stormwater management - Large construction activity/land clearing (sites or areas within common plans of development or sale with	\$4,500.00	\$1,260.00

land disturbance acreage equal to or greater than 10 acres and less than 50 acres)		
General/stormwater management - Large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100.00	\$1,708.00
General/stormwater management - Large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$9,600.00	\$2,688.00

\* If the project is completely administered by the department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the department.

- (b) Fees for the modification or transfer of registration statements from the general permit issued by the state board shall be imposed in accordance with Table 2. If the general permit modifications result in changes to stormwater management plans that require additional review by the City of Petersburg, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in Table 1.

**Table 2. Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities**

Type of Permit	Fee Amount
General/stormwater management - Small construction activity/land clearing (areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$20.00
General/stormwater management - Small construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 and less than 5 acres)	\$200.00

General/stormwater management - Large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$250.00
General/stormwater management - Large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300.00
General/stormwater management - Large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450.00
General/stormwater management - Large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$700.00

- (c) The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated.

**Table 3. Permit Maintenance Fees**

Type of Permit	Fee Amount
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to general permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$50.00
General/stormwater management - Small construction activity/land clearing (areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$50.00
General/stormwater management - Small construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance equal to or greater than 1 acre and less than 5 acres)	\$400.00
General/stormwater management - Large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$500.00

General/stormwater management - Large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650.00
General/stormwater management - Large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900.00
General/stormwater management - Large construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance acreage equal to or greater 100 acres)	\$1,400.00

General permit coverage maintenance fees shall be paid annually to the City of Petersburg, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a notice of termination is effective.

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- (d) The fees set forth in subsections (a) through (c) above, shall apply to:
- (1) All persons seeking coverage under the general permit.
  - (2) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.
  - (3) Persons whose coverage under the general permit has been revoked shall apply to the department for an individual permit for discharges of stormwater from construction activities.
  - (4) Permit and permit coverage maintenance fees outlined under section 50-115(c) may apply to each general permit holder.
- (e) No general permit application fees will be assessed to:
- (1) Permittees who request minor modifications to general permits as defined in section 50-102 of this article. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the administrator shall not be exempt pursuant to this section.
  - (2) Permittees whose general permits are modified or amended at the initiative of the department, excluding errors in the registration statement identified by the administrator or errors related to the acreage of the site.
- (f) All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in § 58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A ten percent late payment fee shall be charged to any delinquent (over 90 days past due) account. The City of Petersburg shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

(Ord. No. 14-67, 7-1-2014)

Sec. 50-116. - Performance bond. (9VAC25-870-104.D and Code § 62.1-44.15:34(A))

Prior to issuance of any permit, the applicant shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the city attorney, to ensure that measures could be taken by the City of Petersburg at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land disturbing activity. If the City of Petersburg takes such action upon such failure by the applicant, the city may collect from the applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within 60 days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.

(Ord. No. 14-67, 7-1-2014)

Secs. 50-117—50-123. - Reserved.

#### ARTICLE V. - EROSION AND SEDIMENT CONTROL ORDINANCE

Sec. 50-124. - Title, purpose, and authority.

This article shall be known as the "Erosion and Sediment Control Ordinance of the City of Petersburg." The purpose of this article is to conserve the land, water, air and other natural resources of the city by establishing requirements for the control of erosion and sedimentation and procedures for administering and enforcing those requirements.

This article is authorized by Title 10.1, Chapter 5, Article 4 (§§ 10.1-560 et seq.) of the Code of Virginia.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-125. - Definitions.

As used in this article, unless the context requires a different meaning:

*Administrator* means the official designated by the city manager to administer the city's erosion and sediment control program established pursuant to this article.

*Agreement in lieu of a plan* means a contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence, and that may be executed by the plan-approving authority in lieu of a formal plan.

*Applicant* means any person submitting an erosion and sediment control plan for approval or requesting the issuance of any permit necessary to authorize initiation of land-disturbing activities.

*Board* means the Virginia Soil and Water Conservation Board.

*Certificate of competence* means a certificate issued by the board pursuant to Code of Virginia § 10.1-561 F.

*Certified inspector* means an employee or agent of the program authority who (i) holds a certificate of competence from the board in the area of project inspection or (ii) is enrolled in the board's training program for project inspection and successfully completes such program within one year after enrollment.

*Certified plan reviewer* means an employee or agent of the program authority who (i) holds a certificate of competence from the board in the area of plan review, (ii) is enrolled in the board's training program for plan review and successfully completes such program within one year after enrollment, or (iii)

is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Code of Virginia §§ 54.1-400 et seq.) of Code of Virginia tit. 54.1, ch. 4.

*Certified program administrator* means an employee or agent of the program authority who (i) holds a certificate of competence from the board in the area of program administration or (ii) is enrolled in the board's training program for program administration and successfully completes such program within one year after enrollment.

*Chesapeake Bay Preservation Area* means an area delineated by the city in accordance with criteria established pursuant to Code of Virginia, § 10.1-2107.

*Clearing* means any activity which removes the vegetative ground cover, including, but not limited to, root mat removal or top soil removal.

*Conservation plan, erosion and sediment control plan, or plan* means a document, prepared in accordance with the requirements of this article that details mechanisms and techniques for the conservation of soil and water in the course of implementation of land-disturbing activities.

*District or soil and water conservation district* means a political subdivision of the commonwealth organized in accordance with the provisions of Article 3 (Code of Virginia, § 10.1-506 et seq.) of Title 10.1.

*Erosion impact area* means an area of land not associated with current land-disturbing activity but subject to persistent soil erosion that results in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to (i) any lot or parcel of land of 5,000 square feet or less used for residential purposes or (ii) to shorelines where the erosion results from wave action or other coastal processes.

*Excavating* means any digging, scooping or other methods of removing earth materials.

*Filling* means any depositing or stockpiling of earth materials.

*Grading* means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

*Land development project* means a tract of land developed or to be developed as a single unit under single ownership or unified control, for use for a business or industrial purpose or that contains two or more residential dwelling units, which development involves construction activity necessitating a land-disturbing permit.

*Land-disturbing activity* means any land change that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include those activities made exempt from this article pursuant to section 50-126.

*Land-disturbing permit* means a permit issued by the administrator pursuant to this article.

*Local erosion and sediment control program or local control program* means the law, policy, and procedures the city uses to regulate land-disturbing activities in accordance with state law, and includes this article, and such regulations, policies, guidelines, and technical materials as the administrator may identify or create.

*Natural channel design concepts* means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

*Owner* means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of a property.

*Peak flow rate* means the maximum instantaneous flow from a given storm condition at a particular location.

*Permittee* means the person to whom the permit authorizing land-disturbing activities is issued, the person who certifies that the approved erosion and sediment control plan will be followed, or the person responsible for carrying out the plan, who may be the same person.

*Person* means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the commonwealth, any interstate body, or any other legal entity.

*Plan-approving authority* means the program authority, or a department of a program authority, responsible for evaluating, and approving or disapproving, conservation plans.

*Program authority* means the City of Petersburg in the context of its operation of a duly-adopted soil erosion and sediment control program that has been approved by the board.

*Responsible land disturber* means an individual from the project or development team, who will be responsible for carrying out the land-disturbing activity covered by an approved plan or agreement in lieu of a plan, in accordance with that plan or agreement, who (i) holds a responsible land disturber certificate of competence, (ii) holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection, or plan review, (iii) holds a current contractor certificate of competence for erosion or sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article I (Code of Virginia § 54.1-400 et seq.) of Code of Virginia tit. 54.1, ch. 4.

*Runoff volume* means the volume of water that runs off the land development project from a prescribed storm event.

*Single-family residence* means a noncommercial dwelling that is occupied exclusively by one family.

*State erosion and sediment control program* or *state program* means the program administered by the board pursuant to Code of Virginia § 10.1-561, including regulations designed to minimize erosion and sedimentation.

*State waters* means all waters on the surface and under the ground wholly or partially within or bordering the commonwealth, or within its jurisdiction.

*Transporting* means any moving of earth materials from one place to another, other than such movement incidental to grading, to the extent that erosion and sediment will result from the soil or earth materials over which such transporting occurs.

*Virginia Erosion and Sediment Control Handbook or Handbook, whether the 3<sup>rd</sup> Edition (1992) or a later edition*, means the handbook prepared by the Virginia Department of Conservation that describes the specifications and requirements governing appropriate land-disturbing activities in the commonwealth, including criteria, formulas, calculations, and techniques of control of sediment and erosion.

*Virginia Minimum Standards* means the criteria, techniques, and methods established under § 40 of the Virginia Erosion and Sediment Control regulations at 4 VAC 50-30.

*Virginia Stormwater Management Program* or *VSMP* means the Virginia program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing requirements pursuant to the federal Clean Water Act and article 1.1 (Code of Virginia §§ 10.1-603.1 et seq.), of the Code of Virginia tit. 10.1, ch. 6.

*Water quality volume* means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-126. - Local erosion and sediment control program.

(a) *Program authority*. The City of Petersburg shall act as program authority to implement an erosion and sediment control program for the area of land encompassed by the city boundaries. The city shall

administer the program in accordance with the requirements of this article, and pursuant to any regulations, references, guidelines, standards, and specifications it develops in accordance with, and for use in conjunction with, this article. The program shall be implemented by a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.

(b) *Activities not subject to article.* The following activities do not constitute "land-disturbing activities" as defined in this article, and are not subject to the requirements of this article, except as otherwise provided by article II (section 122-31 et seq.), chapter 22, of the Code of the City of Petersburg, and any other applicable law.

- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work.
- (2) Individual service connections.
- (3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street or sidewalk that is hard surfaced.
- (4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system.
- (5) Surface or deep mining activities authorized under a permit issued by the department of mines, minerals and energy.
- (6) Exploration or drilling for oil and gas including the well site, roads, feeder lines and off-site disposal areas.
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Code of Virginia tit. 10.1, ch. 11 §§ 10.1-1100 et seq.; of this title, or is converted to bona fide agricultural or improved pasture use as described in Code of Virginia, pursuant to § 10.1-1163(B).

The removal or clearing of trees from property zoned for commercial, industrial, or residential use, although such clearing may be a bona fide silvicultural activity, shall not be exempted from the requirements of this section and, except for selective removal of dead or diseased trees, such clearing shall require approval of a land disturbance permit.

The clearing of trees within the "A" agricultural district, as set forth in the zoning ordinance of the City of Petersburg, shall require approval of a Forestry Harvest Plan by the Virginia Department of Forestry. A copy of such plan shall be filed by the owner of any affected property with the City of Petersburg Erosion and Sediment Control Program administrator. Such plan shall provide for Forestry Best Management Practices. All applicable federal, state, and local regulations pertaining to working in or crossing live watercourses shall be met.

- (8) Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company, performed by the railroad company.
- (9) Agricultural engineering operations including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2, (Code of Virginia §§ 10.1-604 et seq.) of Chapter 6, Title 10.1 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation.
- (10) Disturbed land areas of less than 10,000 square feet in size, except that where a series of projects, not otherwise exempt, on any one parcel disturbs an aggregate of more than 10,000 square feet of area within a one-year period, a plan shall be required; however, [the square footage](#)

requirement is reduced to 2,500 square feet within the City's designated Chesapeake Bay Preservation Areas. ~~the~~ The city council may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply.

- (11) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles.
  - (12) Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto.
  - (13) Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.
  - (14) State agency projects, except as provided for in Code of Virginia § 10.1-564.
  - (15) Construction, installation and maintenance of electric transmission, natural gas, and telephone utility lines and pipelines, performed by the regulated utility supplying the associated services.
- (c) *Stream restoration and relocation projects.* In accordance with Va. Code Ann. § 10.1-561, stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to Va. Code Ann. § 10.1-561, § 10.1-562, or § 10.1-570.
- (d) *Natural or manmade channels.* In accordance with Va. Code Ann. § 10.1-561, any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or man-made channels shall be deemed to satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in good forested condition divided by the runoff volume from the site in its proposed condition. Those practices that are designed to accomplish (i), (ii) and (iii) of this subsection shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to Va. Code Ann. § 10.1-562 or § 10.1-570.
- (e) *Public hearing.* Before adopting or revising regulations to implement this article, the city shall give due notice and conduct a public hearing on the proposed new or revised regulations, except that a public hearing shall not be required when the city is amending its program to conform to revisions in the state program.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-127. - Requirement for plan.

- (a) *Erosion and sediment control plan required.* No person may obtain a permit authorizing him to engage in any land-disturbing activity subject to the requirements of this article and lying within the territorial limits of the City of Petersburg, until he has submitted to the administrator an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the plan-approving authority. The requirement for such plan may be modified as follows:

- (1) *Multiple jurisdictions.* Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the board for review and approval rather than to each jurisdiction concerned, however, a copy of such plan must be submitted to the administrator for review.
  - (2) *Agreement in lieu of plan.* Where the land-disturbing activity results from the construction of a single-family residence and affects fewer than 5,000 square feet of land, a properly executed agreement in lieu of plan may be substituted for an erosion and sediment control plan. Where such agreement is substituted, the administrator may permit the applicant to identify in that agreement someone other than a person who qualifies as a responsible land disturber as defined in section 50-124 of this article. If a violation occurs during the land-disturbing activity, the person responsible for carrying out the agreement in lieu of plan shall correct the violation and provide to the administrator the name of an individual holding a certificate of competence. Failure to provide the name of such person shall be a violation of this article and may result in revocation of plan approval and imposition of penalties pursuant to sections 50-134 and 50-135 of this article.
- (b) *Responsibility for submission of plan or agreement in lieu of plan.* The owner of the property included within the land development project shall be responsible for ensuing the preparation, submission and approval of any plan or agreement in lieu of plan required by this article. This responsibility shall not be altered or eliminated where the identity of the person performing the land-disturbing activity is different from that of the owner.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-128. - Contents of plan; submission; fees.

- (a) *Generally.* Plans shall be prepared, submitted, and approved in accordance with the standards contained within the Virginia Erosion and Sediment Control Regulations at 4 VAC 50-30-10 et seq., the Virginia Erosion and Sediment Control Handbook, the Zoning ordinance of the City of Petersburg, and such other guides and publications as the administrator may identify, all of which are available for review in the office of the administrator. When the standards vary between the publications, the state regulations shall take precedence.
- (b) *Contents of plan.* The plan shall contain:
  - (1) A statement that it was prepared by a professional engineer or land surveyor registered in the state, except that the administrator may waive this requirement for projects of less than one acre that do not involve the construction of a building or structure and are not within a Resource Protection Area (RPA) established pursuant to article II (section 122-31 et seq.) of chapter 122 of the Code of the City of Petersburg.
  - (2) A site plan or map which conforms to any plan of development or subdivision plat.
  - (3) The location of resource protection area and resource management area boundaries, including RPA buffers.
  - (34) Identification of the location of all other buffers required by the Code of the City of Petersburg, including buffers associated with the resource protection area buffers, the resource management area, or conditions for zoning, development or use under which land-disturbing activities will occur. The plan also shall contain a certification that prior to any land-disturbing activity (i) all buffer areas and wetlands shall be conspicuously flagged or otherwise identified and not disturbed unless authorized by law; and (ii) the applicant shall notify the administrator upon completion of flagging.
  - (45) Measures to control erosion and sediment.
  - (56) A comprehensive drainage plan.
  - (67) Evidence on the site plan that no more land than is necessary to provide for the proposed use or development shall be disturbed.

- (78) A statement by the permittee that all erosion and sediment control measures shall be maintained and that the permittee will inspect the erosion and sediment control measures at least once in every two-week period and within 48 hours following rainstorm events during construction to ensure continued compliance with the approved plan. Records of self-inspection shall be maintained on the site and available for review by city inspectors.
- (89) A statement by the permittee acknowledging that the U.S. Army Corps of Engineers may have additional jurisdiction over wetlands not regulated by the city.
- (910) A statement by the permittee acknowledging that a VSMP permit application, if required, has been made for land disturbing activities affecting an acre or more of land.
- (4011) A statement incorporating by reference the Virginia Minimum Standards.
- (4412) Environmental site assessment information consisting of:
  - i. Base flood hazard areas (100-year floodplain).
  - ii. Location of all tidal and nontidal wetlands.
  - iii. Location of all tidal shores.
  - iv. Location of all tributary and nontributary streams.
  - v. Location of all resource protection and resource management areas as defined in Petersburg City Code section 122-31.
- (4213) A stormwater management section that includes all components of this subdivision, except that any maintenance, alteration, use or improvement to an existing structure which the administrator determines does not degrade the quality of surface water discharges shall be exempt from the stormwater management requirements of this subdivision:
  - i. Specifies the applicable watershed management area designation and all watershed management practices that will be implemented, including construction of best management practices.
  - ii. Includes calculations and other evidence necessary to show that nonpoint source pollution loads of phosphorous and sediments to receiving surface waters during and after development will be controlled in accordance with regulations implementing the Chesapeake Bay Preservation Act and the VSMP.
  - iii. Shows the location of all planned stormwater control devices.
  - iv. Includes the design of all planned stormwater control devices.
  - v. Includes a verification of structural soundness, including a professional engineer or class IIIB surveyor certification, for all stormwater facilities.
  - vi. Establishes a long-term schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for maintenance.
  - vii. Contains procedures for implementing nonstructural stormwater control practices and technologies.

Any plan establishing a permanent stormwater detention facility shall include, in addition to the components of this subdivision, a guaranty as to the permanent maintenance of the facility in accordance with VSMP law and regulations. The guaranty may be an agreement requiring maintenance of the facility by the owner or his successor and granting the city an easement to perform such maintenance, at the expense of the owner or his successor, in the event of the failure of the owner or his successor to do so. Permanent maintenance responsibility, however, shall remain with the owner and his successors, absent city council acceptance of the facility into the public stormwater drainage system. Such agreement shall be approved by the

administrator as to compliance with this article and by the city attorney as to form and may be accepted by the city manager on behalf of the city.

- (4314) Clear delineation of the preliminary areas of land disturbance necessary for installation of the initial erosion and sediment control measures. The preliminary areas of land disturbance shall be the minimum necessary for installation of the initial erosion and sediment control measures and the delineation shall include all areas necessary for such installation, including stockpiles, borrow areas, and staging areas.
  - (4415) Clear delineation of the ultimate areas of land disturbance.
  - (4516) Information identifying the responsible land disturber.
  - (4617) Mechanisms that will be used to protect any affected erosion impact area consistent with the requirements of Va. Code Ann. § 10.1-563 F.
- (c) *Chesapeake Bay Preservation Areas; additional requirements.* All plans for development on a lot containing a Chesapeake Bay Preservation Area shall, in addition to the requirements contained in subsection (b):
- (1) Identify the location of all Chesapeake Bay Preservation Areas, including all land disturbing activities contemplated therein.
  - (2) Contain a statement that, prior to any land-disturbing activity, all wetlands shall be conspicuously flagged or otherwise identified, and that the applicant shall notify the administrator upon completion of flagging.
  - (3) Contain evidence that:
    - i. All applicable U.S. Army Corps of Engineers and state permits necessary for activities in state waters and wetlands or appropriate waivers of jurisdiction have been obtained.
    - ii. A water quality impact assessment, in the form specified by subsection (c)(4) or (5), has been performed for any proposed development within an RPA, including any buffer area modification or reduction, and for any development in a resource management area which, due to the unique characteristics of the site or intensity of the proposed development, is considered by the administrator to be environmentally sensitive land.
  - (4) A minor water quality impact assessment shall be prepared for land-disturbing activity affecting no more than 2,5005,000 square feet of land within Chesapeake Bay Preservation Areas. A minor water quality impact assessment must demonstrate that the remaining buffer area and additional vegetated area equal to the area of encroachment into the buffer will maximize water quality protection and mitigate the effects of the buffer encroachment.
  - (5) A major water quality impact assessment shall be prepared for land-disturbing activity affecting more than 2,5005,000 square feet of land within Chesapeake Bay Preservation Areas. A major water quality impact assessment must demonstrate that the remaining buffer area and additional vegetated area equal to the area of encroachment into the buffer will maximize water quality protection and will mitigate the effects of the buffer encroachment. In addition, the major water quality impact assessment shall, except by waiver of the administrator:
    - i. Describe the existing topography, soils, hydrology and geology of the site and adjacent lands.
    - ii. Describe the impacts of the proposed development on topography, soils, hydrology and geology on the site and adjacent lands.
    - iii. Describe the:
      - a. Disturbance or destruction of wetlands and justification for such action.
      - b. Disruptions or reduction in the supply of water to wetlands, streams, lakes, rivers or other water bodies.
      - c. Disruptions to existing hydrology, including wetlands and stream circulation patterns.

- d. Source location and description of proposed fill material.
  - e. Location of dredge material and location of dumping area for such material.
  - f. Location of and impacts on shellfish beds, submerged aquatic vegetation and fish spawning areas.
  - g. Estimated pre-development and post-development pollutant loads in runoff.
  - h. Estimated percent increase in impervious surface on the site and types of surfacing materials used.
  - i. Percent of site to be cleared for the project.
  - j. Anticipated duration and phasing schedule of the construction project.
  - k. List of required permits from all applicable agencies necessary to develop the project.
- iv. Describe the proposed mitigation measures for the potential hydrological impacts. Potential mitigation measures include:
- a. Proposed erosion and sediment control steps. Steps may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, and the schedule and personnel for site inspection.
  - b. Proposed stormwater management system.
  - c. Creation of wetlands to replace those lost.
  - d. Minimizing cut and fill.
- (d) *Fees.* An administrative fee of \$250.00, plus \$50.00 for every acre or part thereof in excess of one acre, subject to any limit imposed by state law, shall be paid to the city at the time of submission of the erosion and sediment control plan. No fee shall be required for the execution of an agreement in lieu of a plan.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-129. - Approval of plans.

- (a) *Review period.* The plan-approving authority shall, within 45 days of receipt thereof, provide written approval or disapproval of a plan. An erosion control plan shall not be approved until it is reviewed by a certified plan reviewer, except that if no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.
- (b) *Plan inadequate.* When the plan is determined to be inadequate, the plan-approving authority shall explain the reasons for disapproval and shall specify such modifications, terms, and conditions that will permit approval of the plan.
- (c) *Changes to approved plan.* An approved plan may be changed by the plan-approving authority when:
  - (1) Monitoring or inspection pursuant to section 50-132 of this article reveals that the plan is inadequate to satisfy applicable regulations; or
  - (2) The person responsible for carrying out the plan finds that because of changed circumstances or other reasons, the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article, are agreed to by the plan-approving authority and the permittee.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-130. - Permits.

- (a) *Permit required.* No person shall engage in any land-disturbing activity subject to the provisions of this article until (i) he has acquired a land-disturbing permit, in such form, and in accordance with such applicable requirements as the administrator may establish, (ii) has paid the fees, and (iii) has posted the required surety or bond.
- (b) *Requirements for issuance of permit.* Agencies authorized to issue grading, building, or other permits for activities involving land-disturbing activities shall not issue any such permit unless the applicant submits with his application (i) four copies of an approved erosion and sediment control plan, and (ii) a certification by the proposed permittee that he will perform properly the erosion and sediment control measures included in the plan and will conform to the provisions of this article.
- (c) *Applicant a permittee.* Any applicant who receives a permit to conduct land-disturbing activity shall be deemed a permittee and as such shall be the person responsible for carrying out the plan.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-131. - Bond.

- (a) *Bond required.* All applicants for permits pursuant to section 50-130 of this article shall, at the time of permit application, provide to the city a performance bond, cash escrow, or an irrevocable letter of credit in a form acceptable to the city attorney, to support the cost of measures necessarily undertaken by the city as a result of the applicant's failure to initiate or maintain appropriate conservation measures required of him as a result of his land-disturbing activity. No land-disturbing permit shall be valid until an approved bond has been provided in accordance with this section.
- (b) *Bond amount.* The amount of the bond or other security for performance shall not exceed the total of (i) the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality, and (ii) a reasonable allowance for estimated administrative costs and inflation, which shall not exceed 25 percent of the cost of the conservation action. Should it be necessary for the city to take such conservation action, the city may collect from the applicant any costs in excess of the amount of the surety held.
- (c) *Refund or termination of bond.* Within 60 days of adequate stabilization in any project or section of a project, as determined by the administrator, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. The owner or permittee shall provide written notice to the administrator of completion of any project.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-132. - Monitoring, reports, and inspections.

- (a) *Monitoring by city.* All erosion and sediment control measures and systems shall be maintained, inspected, and repaired as needed to ensure continued performance of their intended function. The permittee shall grant access to the administrator or his designated agent during the construction period and, where maintenance of systems and measures is required thereafter, shall provide for periodic access to the property by the administrator or his agent, for the purpose of inspection of permanent measures and systems.
- (b) *Monitoring by permittee.* The city may require the permittee to monitor the land-disturbing activity. The permittee shall maintain records of inspections and maintenance to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
- (c) *Inspections by certified inspector.* Inspections of land-disturbing activities shall be conducted by a certified inspector. The administrator or his agent shall periodically inspect the land-disturbing activity as required under the state program to ensure compliance with the approved plan and to determine

whether measures required in the plan are effective in controlling erosion and sedimentation. The owner or permittee shall be given notice of the inspection.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-133. - Failure to comply with this article; notice.

- (a) *Notice to comply.* If the administrator determines that there is (i) a failure to comply with the plan, (ii) a failure to prepare a plan or obtain approval of a plan, or (iii) a failure to obtain a permit, notice shall be served upon the owner or the permittee by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. Notice shall also be provided to the issuer of any permit. Such notice shall set forth specifically the measures needed to correct the failures and shall specify the time within which such corrective measures shall be completed.
- (b) *Effect of noncompliance.* If the permit holder fails to comply within the time specified, he may be subject to a stop-work order imposed in accordance with section 50-134 or revocation of the permit, and shall be subject to the penalties or other applicable action imposed in accordance with section 50-135 of this article.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-134. - Failure to comply with plan, obtain plan, or obtain permit; stop work order.

- (a) *Stop work order.* Upon the documented failure to take the specified corrective measures identified pursuant to subsection (a) of section 50-133, the administrator may issue an order requiring that all or part of the land-disturbing activity permitted on the site be stopped until the specified corrective measures have been installed, established, taken or otherwise accomplished.
- (b) *Emergency issuance.* Where the noncompliance is causing or is in imminent danger of causing harmful erosion or sediment disposition in waters within the watersheds of the commonwealth, the administrator may issue a stop work order without issuing a notice to comply in accordance with section 50-133.
- (c) *Service.* The administrator shall cause the stop work order to be served in the same manner as the notice to comply issued pursuant to section 50-133. The order shall remain in effect for a period of seven days from the date of service pending application by the city or permit holder for appropriate relief to the Circuit Court of the City of Petersburg.
- (d) *Disposition of order.* The stop work order shall be disposed of as follows:
  - (1) Upon completion and approval of corrective measures, including obtaining an approved plan or any required permits, the order, with concurrence of the city attorney, shall be rescinded immediately.
  - (2) If, within seven days from the date of service of the order, the alleged violator has not (i) taken the corrective measures to remedy a failure to comply with an approved plan or any approved permits, or (ii) obtained an approved plan or any required permits, the administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until the owner implements corrective measures to remedy the failure of compliance or obtains an approved plan and any required permits. Such an order shall be served upon the owner in accordance with subsection (a) of section 50-133.
- (e) *Enforcement of order.* Any person violating or failing, neglecting or refusing to obey a stop work order issued by the administrator may be compelled in a proceeding instituted in the Circuit Court of the City of Petersburg to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

- (f) *Appeal of order.* The owner may appeal the issuance of an order to the Circuit Court of the City of Petersburg.
- (g) *Other action.* In conjunction with the issuance of a stopwork order pursuant to this section, the administrator may take or seek the authorization of the city attorney to take any other appropriate action specified in section 50-135.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-135. - Failure to comply with this article; penalties, injunctions, civil action.

- (a) *City attorney to enforce.* The city attorney shall, upon request of the administrator, take legal action to enforce the provisions of this article.
- (b) *Civil penalties.* Any person who violates any provision of this article shall, upon finding of the General District Court of the City of Petersburg, be assessed a civil penalty in accordance with the schedule of civil penalties in section 50-138. The civil penalty for any one violation shall be \$100.00, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$1,000.00. Each day during which the violation is found to have existed shall constitute a separate offense.

In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000.00, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.00.

The assessment of civil penalties for an offense shall preclude prosecution of the offense as a criminal offense.

- (c) *Injunctions.* The administrator, or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of the City of Petersburg, to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist.

However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within 15 days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

- (d) *Civil action for damages.* In addition to any civil or criminal penalties provided under this article, any person who violates any provision of this article may be liable to the City of Petersburg in a civil action for damages.
- (e) *Civil penalty for disregard of remedy.* In addition to the remedies which may be obtained pursuant to this section, any person (i) violating, or (ii) failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000.00 for each violation. A civil action for such failure may be brought by the city.
- (f) *Stipulated charges.* With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this chapter, the city may provide for the payment of civil charges for violations in specific sums, not to exceed \$2,000.00. Such civil charges shall be instead of any appropriate civil penalty, however, payment of any such charges shall not nullify or otherwise affect the requirement for compliance with this article.

- (g) *Payment.* Any civil penalties assessed by the court shall be paid into the treasury of the city, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.
- (h) *Effect of compliance.* Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-136. - Failure of plan compliance measures; invocation of bond.

If the erosion and sedimentation control measures required by the plan or agreement in lieu of a plan are not completely constructed, or, if constructed, fail through overload or inadequate maintenance, the city may, if the owner or permittee does not, install ground cover, plants, stabilizing devices or other material to the minimum extent necessary to achieve erosion and sediment control and protect water quality equal to that which would have been furnished by the approved plans or agreement in lieu of a plan. The cost of any such temporary measures taken by the city shall be borne by the owner or permittee, and shall be a charge against the security required by section 50-131. The city may collect any amounts expended which exceed the security provided. Within 30 days of the achievement of adequate stabilization of the land disturbing activity, the security, or the unexpended portion thereof, shall be refunded to the applicant or terminated.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-137. - Appeals and judicial review.

- (a) *Appeal of plan disapproval to city council.* Any applicant under the provision of this article who is aggrieved by any action of the city or its agent in disapproving plans submitted pursuant to this article shall have the right to apply for and receive a review of such action by the city council provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the city council shall be heard at the next regularly scheduled city council public hearing provided that the city council or other involved parties have at least 30 days prior notice. In reviewing the agent's actions, the city council shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the city council may affirm, reverse or modify the action. The city council's decision shall be final, subject only to review by the Circuit Court of the City of Petersburg.
- (b) *Appeal of city council decision.* Final decisions of the city under this article shall be subject to review by the Circuit Court of the City of Petersburg, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-138. - Uniform schedule of civil penalties, and enforcement procedure.

- (a) *Uniform schedule of civil penalties.* A civil penalty in the amount listed on the schedule below shall be assessed for each violation of the respective offenses:
  - (1) Commencement of land disturbing activity without an approved erosion and sediment control plan shall be \$1,000.00 per day.

- (2) Vegetative measures—Failure to comply with items 1, 2 or 3 of the Virginia Minimum Standards shall be \$100.00 per violation/per day.
  - (3) Structural measures—Failure to comply with items 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 or 19 of the Virginia Minimum Standards shall be \$100.00 per violation/per day.
  - (4) Underground utility measures—Failure to comply with item 16 of Virginia Minimum Standards shall be \$100.00 per violation/per day.
  - (5) Tracking dirt onto a paved or public road—Failure to comply with item 17 of the Virginia Minimum Standards shall be \$100.00 per violation/per day.
  - (6) Failure to obey a stop work order shall be \$100.00 per day.
  - (7) Failure to stop work when permit is revoked shall be \$100.00 per day.
  - (8) Failure to maintain a required permanent erosion and sediment control structure, system, or measure, in accordance with 4 VAC 50-30-60, Maintenance and Inspections, this article and the Subdivision Ordinance of the City of Petersburg, shall be \$100.00 per violation/per day.
  - (9) Failure to remove any temporary erosion and sediment control measure in accordance with requirements of an approved plan, or in violation of Virginia Minimum Standard 18, shall be \$100.00 per day.
- (b) *Issuance of summonses for civil offenses.* The administrator may issue a Virginia Uniform Summons or a summons bearing the title "City of Petersburg Erosion and Sediment Control Violation Summons," charging a violation of this article. Service of a civil summons under this article shall be made in the manner established under the Code of Virginia.

(Ord. No. 08-103, § 1, 11-18-2008)

Sec. 50-139. - Article is in addition to other permit requirements.

- (a) *Requirements cumulative.* The requirements of this article are in addition to all other provisions of the Code of the City of Petersburg (2001) (as amended), which relate to the issuance of permits for work involving land disturbing activities, and shall not be construed to otherwise affect the requirements for such permits.
- (b) *Wetland mitigation banks.* In accordance with the procedure set forth by Code of Virginia § 10.1-563(E), any person engaging in the creation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Virginia Department of Environmental Quality, the Virginia Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the board for review and approval consistent with guidelines established by the board.

(Ord. No. 08-103, § 1, 11-18-2008)



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager

**FROM:** Christopher Walker

**RE:** **Consideration of ABC Application for Andrades International LLC**

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**PURPOSE:** To receive comments from City Council on the application for an ABC license for property located at 7 Bollingbrook Street

**REASON:** Except for applicants for wine shipper’s, beer shipper’s, wine and beer shipper’s licenses, and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

**RECOMMENDATION:**

Staff recommends City Council to review information on the ABC license application request and provide comments or questions to the chief law enforcement officer.

**BACKGROUND:** The Petersburg Bureau of Police assigned this application to be reviewed by Captain Chris Walker. Included with attachments are the Criminal Violations that resulted in arrest at Andrade's International Restaurant since January 1, 2020.

**COST TO CITY:** N/A

**BUDGETED ITEM:** N/A

**REVENUE TO CITY:** N/A

**CITY COUNCIL HEARING DATE:** 3/2/2021

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:** N/A

**AFFECTED AGENCIES:** N/A

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:** N/A

**REQUIRED CHANGES TO WORK PROGRAMS:** N/A

**ATTACHMENTS:**

1. Andrades
2. andrades

Virginia Alcoholic Beverage Control Authority

Chief Executive Officer  
Travis G. Hill



**Chair**  
Maria J. K. Everett  
**Vice Chair**  
Beth G. Hungate-Noland  
**Board of Directors**  
William D. Euille  
Gregory F. Holland  
Mark E. Rubin

February 8, 2021

To Whom It May Concern:

This is to inform you that a retail application has been received from an establishment that is located in your city/county. The following is the basic information pertaining to the application:

License Number: 754644  
Company Name: Andrades International LLC  
Trade Name: Andrades International Restaurant  
Address, City, State & Zip Code: 7 Bollingbrook St. Petersburg, VA 23803-4548  
Type of Establishment: Restaurant  
Type of License Applied For: Wine and Beer on Premises/Mixed Beverage Restaurant  
Date of Receipt: February 5, 2021

You are receiving this email notification per Code §4.1-230-B, which states:

“Except for applicants for wine shipper’s, beer shipper’s, wine and beer shipper’s licenses, and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.”

Please feel free to contact our office at (804) 213-4584 if you have any questions, need any further information or wish to file any objections against the above listed application. Please be sure to reference the license number listed above.

Thank you,

*Brian P. Glass*

Licensing Technician

804-213-4584

[brian.glass@virginiaabc.com](mailto:brian.glass@virginiaabc.com)

4857	09-30-2020	2547 - PARKE...	7 BOLLINGBR...	90E - DRUNKE...	STITH, KESHA...				CLEARED B
3086	06-20-2020	2852 - LONG, ...	7 BOLLINGBR...	00210 - INDEC...	THOMPSON, C...				CLEARED B
2845	06-07-2020	2406 - GRIFFI...	7 BOLLINGBR...	90C - DISORD...	JONES, WILLI...				CLEARED B
0864	02-16-2020	2545 - DABNE...	7 BOLLINGBR...	290 - DESTRU...	JONES, MARL...	ZUNIGA, DENI...	ANDRADES INTE...		CLEARED B
0863	02-16-2020	2545 - DABNE...	7 BOLLINGBR...	05104 - VIOLA...	JONES, MARL...		ROBINSON, DIKE...		CLEARED B



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager

**FROM:** Christopher Walker

**RE:** **Consideration of ABC Application for So Fresh Enterprise Inc**

**PURPOSE:** To receive comments from City Council on the application for an ABC license for property located at 1900 W Washington Street.

**REASON:** Except for applicants for wine shipper's, beer shipper's, wine and beer shipper's licenses, and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

**RECOMMENDATION:**

Staff recommends City Council to review information on the ABC license application request and provide comments or questions to the chief law enforcement officer.

**BACKGROUND:** The Petersburg Bureau of Police assigned this application to be reviewed by Captain Chris Walker. Included with attachments are the arrests at this location since January 1, 2020.

**COST TO CITY:** N/A

**BUDGETED ITEM:** N/A

**REVENUE TO CITY:** N/A

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:** N/A

**AFFECTED AGENCIES:** N/A

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:** N/A

**REQUIRED CHANGES TO WORK PROGRAMS: N/A**

**ATTACHMENTS:**

1. SOFRESH
2. SoFresh

Virginia Alcoholic Beverage Control Authority  
Chief Executive Officer  
Travis G. Hill



**Chair**  
Maria J. K. Everett  
**Vice Chair**  
Beth G. Hungate-Noland  
**Board of Directors**  
William D. Euille  
Gregory F. Holland  
Mark E. Rubin

February 8, 2021

To Whom It May Concern:

This is to inform you that a retail application has been received from an establishment that is located in your city/county. The following is the basic information pertaining to the application:

License Number: 754608  
Company Name: So Fresh Enterprise Inc  
Trade Name: So Fresh Food  
Address, City, State & Zip Code: 1900 W Washington St Petersburg VA 23803-2860  
Type of Establishment: Grocery Store  
Type of License Applied For: Wine and Beer Off Premises  
Date of Receipt: February 2, 2021

You are receiving this email notification per Code §4.1-230-B, which states:

“Except for applicants for wine shipper’s, beer shipper’s, wine and beer shipper’s licenses, and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.”

Please feel free to contact our office at (804) 204-2302 if you have any questions, need any further information or wish to file any objections against the above listed application. Please be sure to reference the license number listed above.

Thank you,

*Emma A Mercer*

Emma A Mercer  
Licensing Technician  
804-204-2302

[Emma.Mercer@abc.virginia.gov](mailto:Emma.Mercer@abc.virginia.gov)

Starts with  Date  From    
 Starts with  To    
 Starts with  Offense Code   
 Offense Description   
 Agency status  Shift

2 results found

Number	Reported Date	Officer	Location	Offense	Offenders	People	Victims	Agency Status
64	12-06-2020	2018 - OSBOR...	1900 W WASH...					
24	05-11-2020	2948 - HADDO...	1900 W WASH...	23G - LARCEN...			SONG, KAY KAEUN	INACTIVE



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager

**FROM:** Jeremy Tennant

**RE:** **To schedule a public hearing for the appropriation for a \$2,000,000 grant from the Virginia Economic Development Partnership Authority for the Project Tube project. (1st reading of ordinance)**

**PURPOSE:** To schedule a public hearing for the appropriation for a \$2,000,000 grant from the Virginia Economic Development Partnership Authority.

**REASON:** The Virginia Economic Development Partnership Authority is providing a \$2,000,000 grant to the City of Petersburg for the infrastructure improvements regarding Project Tube.

**RECOMMENDATION:** Recommend City Council schedule a public hearing for March 16, 2021.

**BACKGROUND:** Phlow, Civica, and AMPAC are partnering to design and construct a manufacturing facility for pharmaceutical products upon property that is currently owned by AMPAC at 2620 North Normandy Drive, Petersburg, VA. The project will produce more than 400 new jobs in Petersburg and will have a positive economic impact on the City.

The parties anticipate project funding through the Commonwealth Opportunity Fund (COF) which is detailed in the attached offer from the Virginia Economic Development Partnership entitled "Virginia's Financial Offer for Project Tube." Through this program, the City will receive \$2,000,000.00 grant in support of the project with proportionate clawback provisions should the company not achieve their investment and jobs target within the five year performance period.

The City of Petersburg has agreed to facilitate certain improvements to the utility infrastructure in the area of this property which will accommodate the proposed project contingent upon the representations and mutual promises described in this agreement.

**COST TO CITY:** \$2,000,000

**BUDGETED ITEM:** No

**REVENUE TO CITY:** \$2,000,000

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:** N/A

**AFFECTED AGENCIES:** Economic Development

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:** N/A

**REQUIRED CHANGES TO WORK PROGRAMS:** N/A

**ATTACHMENTS:**

1. A
2. COF Grant Appropriations ordinance



Old Town Downtown Petersburg



Virginia Commonwealth University



Petersburg National Battlefield



Appomattox River, Petersburg

# Virginia's Financial Offer for Project Tube

July 24, 2020

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City of Petersburg Letter of Support .....	
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The Port of Virginia Letter of Support .....	
John Tyler Community College Letter of Support .....	
Sample COF Letter of Support .....	
Sample COF Performance Agreement .....	

This proposal is subject to Section 2.2-3705 of the Code of Virginia, which pertains to the exclusion of proprietary records and other working papers related to economic development activities. No portions of this proposal may be reproduced or given in part or in whole to any entity or person other than staff within the local economic development organization or the company/project designated in the proposal.



Rolls-Royce, Prince George County

# Executive Summary

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## Project Tube: Growing Strong in the City of Petersburg

Virginia stands ready to work with new and expanding businesses in the Commonwealth, like Project Tube, who are providing great job and career opportunities for our residents. It is our belief that no better location exists for the long term success of your business venture.

Project Tube can expect to work closely with local, regional, and state partners to find solutions and leverage resources to ensure that your expansion plans are successful. We are committed to creating a new Virginia economy and the following pages will underscore why Project Tube should place this opportunity in the City of Petersburg.

Virginia's businesses recognize the value of our high-quality workforce, robust economy, strong education system, smart regulatory environment, and excellent quality of life. These critical business factors, coupled with a strong partnership with our localities, solidify Virginia's reputation as a leading state for business today and into the future.

We look forward to announcing Project Tube as our latest success story in the Commonwealth of Virginia.

# Virginia's Financial Offer

Virginia can only achieve its goals of creating a higher standard of living for Virginians and maintaining vibrant local and state economies capable of providing needed services by partnering with companies like Project Tube.

Incentives are Virginia's investment in its economic future and a business decision for both the Commonwealth and the company. Virginia strives to provide financial inducements that make good fiscal sense for all parties by offering a variety of performance-based incentives designed to target the needs of the company and the development plans of localities and the state. From tax credits and exemptions to infrastructure improvement funds to performance grants, Virginia continues to invest in those who invest and reinvest in the Commonwealth.

<b>Project Assumptions (2021-2024)</b>	<b>Amount</b>
Net, New Employment*	186
Average Salary for New Workers, excludes benefits (\$)	83,978
Capitalized Investment in Building Construction (\$)	62,836,887
Capitalized Investment in Production-Related Machinery and Equipment (\$)	60,725,249
Capitalized Investment in Furniture, Fixtures, and Equipment (\$)	1,000,000
<b>Total Capital Investment (\$)</b>	<b>124,562,136</b>

\*Assumes all jobs are new permanent full-time jobs with standard fringe benefits created in the Commonwealth of Virginia by the Company and maintained on the Company's payroll on an ongoing basis.

<b>Potential Incentives for Project Tube</b>	<b>(\$)</b>
Commonwealth's Opportunity Fund	5,700,000
Port of Virginia Economic & Infrastructure Development Grant	46,000
Sales and Use Tax Exemption (up to)	3,218,438
Virginia Talent Accelerator Program OR Virginia Jobs Investment Program (up to)	TBD
City of Petersburg Local Financial Support (see Attached Letter of Support)	2,900,000+
<b>Total Potential State and Local Financial Support</b>	<b>11,864,438</b>

Important Notice: This summary is intended to assist Project Tube with an evaluation of Virginia's incentives. This summary should be used for evaluative purposes and in no way constitutes a commitment or guarantee. The actual value and/or availability of these incentives are contingent upon final negotiations among the Commonwealth, the City of Petersburg, and Project Tube. Further, on an ongoing basis, incentives are subject to appropriation by the Virginia General Assembly and incentive and tax programs are subject to change or elimination.

Virginia's incentives are performance-based and calculations are based upon the Virginia Economic Development Partnership's interpretation of Virginia law as of July 2020 and upon company projections. The financial offerings in this package are valid until January 22, 2021 unless expressly renewed by the Virginia Economic Development Partnership. Any public disclosure concerning this project must be coordinated and publicly announced first by the Office of the Governor in order to take full advantage of these assistance programs.

# Explanation of Benefits

## Commonwealth's Opportunity Fund (COF)

The Commonwealth's Opportunity Fund (COF) is Virginia's "deal closing" discretionary grant. The COF is used as a financial incentive for business opportunities resulting in significant job creation and investment once one Virginia locality has been selected by the company.

# \$5,700,000

Virginia is proposing a \$5,700,000 COF award for Project Tube's operation in the City of Petersburg. These funds will flow from the Commonwealth through the locality and then to the company.

### Performance Metrics:

The performance agreement will document the below milestones and maintenance of the jobs and investment associated with this project.

- \$124,562,136 million in capital investment
- 186 net, new jobs to Virginia
- \$83,978 annual salary (W-2 wages)

The performance criteria must be met and maintained through the 60th month of the project.

### Milestones for Release of Grant:

The COF grant will be released according to the schedule on the next page. The COF grant to the company is structured as a combination of an annual performance grant of \$1,650 for each new job the company creates and maintains and a grant of \$20,000 for each \$1 million the company invests. In addition, a \$2 million grant will be paid upfront to the locality to support the project which a proportionate clawback will be sought should the company not achieve their investment and jobs target within the five year performance period.

### Program Highlights:

- Grant managed through VEDP
- 51% or more of the facility's revenue is generated outside of the Commonwealth
- Minimum investment, employment, and wage threshold to be met within 36 months from when the performance period starts
- Competitive with another state or country for the project
- Funds flow from the state to the locality to offset qualifying, project-related costs, typically real estate and infrastructure improvements
- Community requests and matches the grant
- Signed performance agreement
- Public announcement by the Governor

### Grant Determinations:

- Project location
- 100% local match
- Eligible project expenditures
- Other state incentives offered
- Return-on-investment analysis
- Final approval by the Governor

[Full Details of COF](#)

# Explanation of Benefits

## Commonwealth’s Opportunity Fund (COF)

The Commonwealth’s Opportunity Fund (COF) is Virginia’s “deal closing” discretionary grant. The COF is used as a financial incentive for business opportunities resulting in significant job creation and investment once one Virginia locality has been selected by the company.



### Aggregate Milestones

Calendar Year Performance	Employment (Cumulative)	Capital Investment (Annual) (\$M)	Grant to Company Tied Employment Targets (\$M)	Grant to Company Tied Investment Targets (\$M)	Grant to the Locality for Infrastructure Improvements
2021	46	26.6	0.1	0.5	2.0
2022	135	76.8	0.2	1.6	-
2023	182	16.6	0.3	0.3	-
2024	186	4.5	0.3	0.1	-
2025	186	-	0.3	-	-

# Explanation of Potential Programs

## Port of Virginia Economic & Infrastructure Development Grant

The Port of Virginia Economic and Infrastructure Development Grant Program (POV Grant) provides a grant to qualified companies to locate new maritime-related employment centers or expand existing centers in order to encourage and facilitate the growth of The Port of Virginia.

# \$46,000 (est.)

Based on the net new job creation associated with this project, Project Tube is eligible to receive an award of \$46,000 from the Port of Virginia Economic and Infrastructure Development Grant if the company meets the eligibility requirement below.

### Program Eligibility:

A business entity that meets all four criteria listed below is eligible for a cash grant from The Port of Virginia Economic and Infrastructure Development Fund:

1. Locates or expands a facility within the Commonwealth of Virginia;
2. Creates at least 25 new, permanent full-time positions for qualified full-time employees at a facility within the Commonwealth from commencement of the project through the first full year of operation or during the year when the expansion occurs;
3. Is involved in maritime commerce or exports or imports manufactured goods through The Port of Virginia; and
4. Is engaged in one or more of the following: the distribution, freight forwarding, freight handling, goods processing, manufacturing, warehousing, cross docking, trans loading, or wholesaling of goods exported and imported through The Port of Virginia; ship building and ship repair; dredging; marine construction; or offshore energy exploration and extraction.

### Program Highlights:

- Company must apply to the Virginia Port Authority no later than March 31 in the year immediately following the first full year of operation or expansion within the Commonwealth
- Company must maintain the jobs and continue to move cargo through The Port of Virginia for each of the three years following the receipt of grant
- Signed Memorandum of Understanding with the Virginia Port Authority
- Maximum grant allowed per qualified company in any given fiscal year is \$500,000
- Grants are subject to availability of funds and appropriations

### Grant Determinations:\*

#### Award Calculation

Jobs Created in First Full Year of Operation	Award per job (\$)
25 - 49 new jobs	1,000
50 - 74 new jobs	1,500
75 - 99 new jobs	2,000
100+ new jobs	3,000

\*Please note a company may not claim the POV grant, the Major Business Facility Job Tax Credit, or the International Trade Facility Tax Credit for the same jobs.

[Full Details of POV Grant](#)

# Explanation of Benefits

## Manufacturing Sales and Use Tax Exemption

The combined state and local sales and use tax rate is 5.3 percent in the City of Petersburg. Manufacturing and research and development operations receive some of the broadest sales and use tax exemptions for purchases used directly in production or R&D offered by any state in the U.S. Exemptions begin at the manufacturing line, starting with the handling and storage of raw materials on site, and continue through the last step of production. To claim the exemption, Project Tube will complete tax form ST-11 to give to vendors when purchasing exempt equipment.

# \$3,218,438 (up to)

Based upon Project Tube's investment in production-related machinery and equipment of \$60,725,249 the company may realize a savings from the sales and use tax exemption of \$3,218,438.

### Major Exemptions Include:

- Production-related machinery and equipment
- Equipment used for production line testing and quality control
- Repair parts
- Materials that become a component part of the finished product
- Supplies used for packaging tangible products for shipment or sale
- Certified pollution control equipment
- Utilities used in manufacturing delivered through pipes, lines, or mains
- Equipment, printing, and supplies used to produce publications issued daily or regularly at intervals not exceeding three months
- Research and development equipment

[Full Details of the Sales and Use Tax Exemption](#)



# Virginia Talent Solutions

For eligible new and expanding companies, VEDP's Talent Solutions Division offers recruiting and training assistance in the form of two incentive programs:

- The Virginia Talent Accelerator Program delivers direct recruitment and training services that are fully customized to a company's unique operations, requirements, standards and culture. All program services are provided at no cost to qualified companies as an incentive for job creation.
- The Virginia Jobs Investment Program (VJIP) reduces a company's talent development costs through grant funds, consulting, and coordination with regional partners to streamline company recruitment and training.

Companies have the option to choose the VEDP talent incentive option that best fits their needs.

# Explanation of Benefits

## Virginia's Talent Accelerator Program

Virginia's Talent Accelerator Program delivers direct recruitment and training services that are fully customized to a company's unique operations, requirements, standards, and culture. All program services are provided at no cost to qualified companies as an incentive for job creation. Companies have the option to choose the VEDP talent incentive option that best fits their needs.

### Program Highlights:

Delivered in partnership with the nearest community college, every Virginia Talent Accelerator project begins with a thorough analysis of companies processes, job roles, tasks, and training resources. This is done in close collaboration with company operations and human resource and training leaders along with their designated subject matter experts for each process. The consensus on how to address each need will be documented in a statement of work. For an operation like Project Tube, topics addressed with the customized training may include:

- Company Products & Business Model
- FDA Regulations & Compliance
- Production Process Flow
- Sanitation / Sterilization
- Formulation
- Filling
- Batch Release
- Packaging
- AVI System Operations
- Quality Control
- Shipping
- Troubleshooting
- Changeovers
- Preventive Maintenance Procedures
- Inventory Management
- Roles / Responsibilities
- Key Performance Indicators
- Production / Quality Systems & Data Entry

The training is delivered using methodologies and media determined to be most effective for accelerating learning on a given topic. These can include broadcast-quality videos, hands-on simulations, instructor-led classroom sessions, illustrated work instructions, animations, and e-learning modules. All company-specific materials developed during the project become the property of the client and all proprietary information will be protected by a nondisclosure agreement.

Process and job-specific training is part of a robust package that typically also includes training in:

- OSHA Safety Awareness
- Lift Vehicle Operations
- Clean Room
- Lean Six Sigma
- Statistical Process Control
- 5 S
- Emotional Intelligence
- Team Skills
- Resolving Conflict
- Leadership
- Train-the-Trainer
- Programmable Logic Controllers

# Explanation of Benefits

## Virginia's Talent Accelerator Program

Components of VEDP's customized training can be delivered prior to an employment offer. Customized pre-hire training develops foundational skills and provides an opportunity for companies to observe job candidates' work habits, technical capabilities, and team skills as they perform representative tasks – prior to final employment decisions. Most of the customized job-specific technical training is typically conducted post-employment to protect the confidentiality of company processes.

We understand how important recruiting the right talent is to the success of a major new operation like this. It often involves both leveraging talent from the local area, and attracting talent from elsewhere. Both require a strategic approach built on messaging that resonates with each key target audience. Most major companies have human resource and communication teams adept at recruiting and crafting messaging for attracting talent. However, they may not have the resource availability required to provide optimal support for a large scale recruiting initiative. That's where VEDP's recruiting team can help. We bring resources and expertise to fill these gaps. For a project like Tube, we can:

- Produce broadcast-quality video and digital advertisements to post on internet job boards, social media, etc. to create awareness and generate interest in Project Tube's new Virginia career opportunities. These ads may include:
  - Short videos outlining the vision for the new Virginia operation; featuring the career and the professional growth opportunities it brings
  - Short clips of current employees in various roles telling the story of their career with the company and why they think it's a great place to work
  - Lifestyle videos featuring the local area's unique and most attractive attributes that tell the aspirational story of the career opportunity while painting an intriguing picture of just how good a job candidate's life could be in the new locality
- Perform extensive research in local and national markets to identify clusters of people with the sought after skills and individual candidates with high relocation potential
- Identify innovative ways to reach target audiences through social media, alumni outreach, etc.
- Place targeted ads to drive candidates to the application site
- Set up campaigns and invitational events in external markets rich in target candidates to promote the Virginia opportunity
- Travel to company locations and meet with existing employees asked to relocate to orient them to the community and lifestyle opportunities
- Provide personalized tours and concierge services for key candidates visiting the area for job interviews.
- Build an interactive website highly customized to the new operation's career and the Virginia location's lifestyle opportunities, which can serve as a landing and screening page for interested candidates
- Provide personalized tours and concierge services for key candidates visiting the area for job interviews.
- Build an interactive website highly customized to the new operation's career and the Virginia location's lifestyle opportunities, which can serve as a landing and screening page for interested candidates

# Explanation of Benefits

## Virginia's Talent Accelerator Program

### Estimating the Value of the Customized Training Service Option

One way to measure the value of Virginia Talent Accelerator services is to estimate the price of comparable training services if purchased in the private sector marketplace. To determine the actual scope of services required to provide optimum support for Project Tube's proposed operation, the in-depth training needs analysis is essential. Without the information gained from this analysis, the scope of services and corresponding value must be based on past experience, assumptions and the limited project information provided so far. Using this and Project Tube's proposed 186 new jobs as a basis, we estimate that VEDP's customized workforce solutions could amount to a **private sector market value of \$759,000**. Virginia Talent Accelerator services are offered based on the company's commitment to create the noted full time permanent jobs. Timely fulfillment of this commitment is required in order for VEDP to deliver the services which will be outlined in the scope of work.

### Community College Support

To develop a pipeline of qualified talent and support ongoing workforce needs, the nearest Community College offers programs to both develop a stream of pre-qualified new workers and enhance the skills of existing workers. Credit programs include two-year degrees, one-year diplomas, and fast-track certificates in many relevant fields. The colleges also offer a variety of customized training and workforce support on a contract basis to support Project Tube's ongoing needs.

# Explanation of Benefits

## Virginia Jobs Investment Program - Small Business New Jobs Program

The Virginia Jobs Investment Program (VJIP) provides services and funding to new or expanding companies to reduce human resource development costs. Funding is offered in the form of cash reimbursements for qualified training and recruitment efforts to support Project Tube.

### \$148,800 (up to)

Virginia is proposing a reimbursement grant of \$800 per net, new full-time employee from VJIP's New Jobs Program. Up to \$148,800 may be available to the company based upon the creation of 186 jobs within the first 36 months of the project.

Seasonal, temporary, and contract employees are not included in VJIP support.

#### VJIP Consulting Services Include:

- Evaluation of specific training needs
- Guidance with recruitment and selection
- Assistance with job descriptions and employment advertisements
- Coordination with other state and local training partners
- Assistance with pre-employment assessment programs

#### Program Highlights and Eligibility:

- Per cash grant and consulting services
- 51% or more of the facility's revenue generated outside of the Commonwealth
- Considering another state or country for the project
- Create 5 new jobs within 12 months from the date of the first hire
- Capital investment of at least \$100,000 within a 12-month period
- Reimbursements are issued 90 days after an employee has been on the payroll

[Full Details of VJIP](#)

# Say Yes to Virginia

## Virginia is the Best State for Business

Only a few locations can guarantee the right combination of resources that are crucial to the success of your business. Virginia is such a place. The Commonwealth of Virginia offers a unique combination of assets that have encouraged businesses to prosper within its borders for nearly 400 years.

A multitude of factors contribute to Virginia's pro-business climate. The Commonwealth strives to maintain traditions of sound and enviable fiscal management. Virginia provides recruitment training programs to help new businesses become operational faster, a streamlined permitting process, and programs to help businesses increase international sales – all so that new and growing businesses can experience unparalleled levels of success. The Commonwealth's status as a right-to-work state, as well as low workers' compensation costs, and low unemployment tax rates, support the pro-business environment.

These advantageous attributes, coupled with many other noteworthy characteristics including a strategic location, highly skilled and productive labor force and an excellent quality of life, make the Commonwealth the ideal location for your growing business.

We invite Project Tube to discover all the reasons companies from all over the globe keep saying "Yes" to a Virginia business location.



### Why Businesses keep Saying "YES" to Virginia

- ✓ Business-first values
- ✓ Easy access to domestic and global markets
- ✓ Stable and competitive operating costs
- ✓ Talented and educated workforce



# Contact

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## **Jordan Snelling**

**Business Manager, Business Investment  
Virginia Economic Development Partnership**

804.545.5727 (office) | 804.397.0008 (mobile)

[JSnelling@vedp.org](mailto:JSnelling@vedp.org)

## **Virginia Economic Development Partnership**

901 E. Cary Street, Suite 900

Richmond, Virginia 23219

[VEDP.org](http://VEDP.org)



# City of Petersburg

Office of the City Manager  
135 North Union Street  
Petersburg, Virginia 23803

(804) 733-2301  
Fax 732-9212  
TDD 733-8003

July 24, 2020

Allan Couckell  
Senior Vice President of Public Policy  
2912 Executive Parkway, Suite 325  
Lehi, UT 84043

Dear Allan,

I am excited on behalf of the City of Petersburg to offer the following incentive grant of approximately \$2.9 million using our Technology Zone & Machinery and Tools Tax Grant Program.

This grant will be spread over a 5-year period based on verification of the Machinery & Tools taxes by our Commissioner of Revenue and on the investment, parameters provided by Civica.

In addition, the City of Petersburg is committed to assist Civica on other yet to be determined infrastructure needs. Please keep in mind that these actions will require approval by the City Council.

This truly is a transformational opportunity for Petersburg and the Commonwealth. We are proud that Civica is considering our City for this facility.

Sincerely,

A handwritten signature in cursive script that reads "Aretha R. Ferrell-Benavides".

Aretha R. Ferrell-Benavides  
City Manager

July 24, 2020

Mr. Allan Coukell  
Senior Vice President, Public Policy  
Civica Rx  
2912 Executive Parkway  
Lehi, UT 84043

Dear Mr. Coukell,

On behalf of the Virginia's Gateway Region Economic Development Organization (VGR), thank you for considering Petersburg's Technology Zone in Virginia's Gateway Region for Project Tube. As you know, the site Petersburg is an ideal match for your pharmaceutical manufacturing operation due to its incredible logistical advantage and proximity to a dynamic, growing talent pool.

VGR is aware that a revolution in pharmaceutical manufacturing in the United States is imminent. We have no doubt that your company will be part of this groundbreaking work to re-establish the manufacture of critical active pharmaceutical and chemical ingredients to the United States. VGR is confident that Project Tube will help our region be an integral part of this growing innovational cluster.

The Gateway Region offers many attributes that foster measurable growth for companies that choose to locate and continue to expand here. With a population exceeding 1.3 million, our region is adept at training and supplying well-prepared talent for local employers like AMPAC Fine Chemicals, Amsted Rail, Virginia Abrasives, BleachTech, Dupont, Gerdau and AdvanSix.

VGR pledges to work closely with the City of Petersburg and the Commonwealth of Virginia to be sure that Project Tube is informed of the vast array of benefits, resources, and programs available to you. I am confident that our region can provide Project Tube with the workforce, technical expertise, infrastructure, pro-business environment, and community support to help you succeed. Should you choose to make our region your next corporate home, the collective experience and expertise of our community and corporate partners is available to you so that your company can achieve a rapid start.

Thank you for the opportunity to work with you. Please know that our entire region enthusiastically supports your project and is ready to assist you and your team to bring your plans to fruition. Should you need anything from the Gateway Region, please contact me at [kboswell@gatewayregion.com](mailto:kboswell@gatewayregion.com) or 804-732-8971.

Sincerely,



Keith Boswell  
President and CEO

July 23, 2020

Ms. Jordan Snelling  
Business Manager, Business Investment  
Virginia Economic Development Partnership  
901 E. Cary Street  
Richmond, VA 23219

Dear Jordan:

The Port of Virginia is pleased that Project Tube is looking to locate a facility in Virginia and we hope to earn the opportunity to handle your cargo through our terminals. The Port of Virginia is a vital component of the Commonwealth's economy, with services to over 45 countries and more than 36 cargo ships from across the world calling weekly on our terminals. In CY19, the port moved a record-setting 2.94 million 20-foot equivalent units (TEUs) of import and export cargo. These record volumes have been achieved while nearing completion of a \$750 million expansion to increase annual capacity by 1 million containers. Matching the Port of Virginia's best in class service, we offer a cash grant and three tax credit incentives that Project Tube may be able to take advantage of.

The Port of Virginia Economic and Infrastructure Development cash grant (POV Grant) is based on job creation resulting from a new location or expansion by a port user. For this grant, the company should apply to the Port of Virginia by March 31 in the year following creation of the jobs. For example, if the proposed facility in Virginia were to create 50 new, permanent, full-time jobs in the first full year of operation, then Project Tube may be eligible for the maximum cash grant of \$75,000. In order to receive the grant, the company must enter into a Memorandum of Understanding with the Virginia Port Authority and agree to keep all the jobs created within that year for each of the three years following receipt of the grant. The company must also continue to move cargo through the Port of Virginia, import and/or export, for each of those three years. If the jobs are not retained as promised or cargo is not moving through the Port of Virginia during any of those three years, the company would be responsible for returning a portion or all of the POV Grant to the Virginia Port Authority.

The scale for determining grant payout under the POV Grant is:

25-49 new jobs: \$1,000 per job  
50-74 new jobs: \$1,500 per job  
75-99 new jobs: \$2,000 per job  
100+ new jobs: \$3,000 per job

Project Tube may also be eligible to take advantage of the POV Tax Credits. Below are descriptions of the three Virginia Port Tax Credits. These tax credits are available to companies that have an individual or corporate income tax liability in the Commonwealth and utilize Virginia port facilities for import and/or export.

**Port Volume Increase Tax Credit (Code of Virginia Section 58.1-439.12:10)**

- Tax credit for taxpayers engaged in the manufacturing of goods or the distribution of manufactured goods, agricultural entities, or mineral or gas entities that use public or private port facilities located in Virginia and increase port cargo at these facilities by a minimum of 5% in a single calendar year over their base year cargo volume.
- Credit is **\$50 per TEU** in excess of the base year cargo; tonnage conversion rate is 16 tons = 1 TEU
- Apply to the Virginia Port Authority using Form PVI by March 1 of the calendar year following the calendar year during which the credits were earned.

**Barge and Rail Usage Tax Credit (Code of Virginia Section 58.1-439.12:09)**

- Tax credit for usage of barge or rail to move cargo rather than by truck or other motor vehicle on Virginia's highways.
- Credit is **\$25 per TEU** or 16 tons of noncontainerized cargo in excess of the number of containers shipped by barge or rail by the taxpayer during the immediately preceding taxable year.
- Apply to the Department of Taxation using Form BRU by April 1 of the year following the taxable year during which the credits were earned.

**International Trade Facility Tax Credit (Code of Virginia Section 58.1-429.12:06)**

- Tax credit for either creating new jobs or capital investment in an international trade facility as a result of moving 5% more cargo through port facility than in the preceding taxable year.
- Credit is either (i) \$3,500 per qualified full-time employee that results from increased qualified trade activities by the taxpayer or (ii) an amount equal to 2% of qualified capital investment expenses made by the taxpayer to facilitate increased qualified trade activities.
- Apply to the Department of Taxation using Form ITF by April 1 of the year following the taxable year during which the credits were earned.

The Port of Virginia looks forward to assisting Project Tube with this opportunity and being a partner in their business success here in the Commonwealth. Please contact me with any questions about the Port of Virginia or the port incentive programs.

Best regards,



Russell Held  
Vice President, Economic Development

July 23, 2020

Civica Rx  
2912 W Executive Parkway  
Suite 325  
Lehi, UT 84043



Office of the President

To whom it may concern:

It is with great enthusiasm that we express our support for Civica Rx's first pharmaceutical manufacturing facility in Petersburg, Virginia. We understand that Civica is considering creating 186 jobs in the Gateway Region, and by way of this letter, we are committing the resources of our educational institution to ensure your success in recruiting and training the best available talent pool for your new facility.

Virginia will provide Civica access to an unrivaled talent pool with over 16,000 relevant credential holders entering the market every year. In particular, the educational assets in the Gateway Region are well prepared to train the human resources that are critical to support your growth. We have a significant number of large, medium, and small manufacturers and healthcare providers for whom we have provided customized pre-employment training. We also conduct a number of on-the-job, managerial, quality and apprentice training programs, as well as proven success in customizing training for employers across a wide variety of employment sectors.

In addition, we have maintained a strong partnership with our K-12 school partners across the region. One of our top regional priorities is to maintain a qualified workforce, and we know that starts well before high school graduation.

John Tyler Community College (JTCC) and our workforce development division; Community College Workforce Alliance (CCWA), pledge to work with you to directly support Civica's workforce needs. We look forward to working directly with your leadership and the staff of VEDP's Virginia Talent Accelerator Program, and Virginia Commonwealth University (VCU) on any and all recruitment and training strategies that could include, but not be limited to, the promotion of job and internship opportunities to our alumni with appropriate degrees, the planning and execution of targeted career events on our campuses with current students, and the development of customized degree, credentialing, or on-the-job training programs to address skills gaps throughout Civica's workforce.

We proudly declare our intention to work with our partners to provide Civica a successful operation for years to come. Please contact us at any time we can answer questions or provide assistance.

Sincerely,

Edward "Ted" Raspiller  
President

[www.jtcc.edu](http://www.jtcc.edu)

804-594-1578

800-552-3490

TDD: 804-796-4197

**Midlothian Campus**

800 Charter Colony Parkway

Midlothian, VA 23114-4383

**Chester Campus**

13101 Jefferson Davis Highway

Chester, VA 23831-5316

An equal opportunity  
and affirmative action  
educational institution

SAMPLE INDUSTRY LETTER  
FOR COF FUNDS

COMPANY LETTERHEAD

Date:

Inside Address

(Local economic development agency or local government address)

Dear:

(Company name) has been evaluating a number of locations for its (describe type of facility and if it is new or expanded). We have narrowed the location to the (list the specific site location) in (name of Virginia community) and a potential site in (name of another state).

If (name of Virginia community) receives an award from the Commonwealth's Opportunity Fund (COF) in the amount of (amount of COF request) to assist us with (use of funds), we are prepared to select (name of Virginia community) for this project. We understand that any public announcement of this project must be coordinated with the Governor's Office.

We are very optimistic about our company's growth and development in (name of Virginia community). We will begin the project in (month or quarter and year) and create at least (number) of jobs within 36 months. The average annual salary for the new jobs will be (average annual salary). Additionally, we offer a standard fringe benefits package. The project's investment will be a total of (insert investment here, broken down by land, building and machinery & tools) within 36 months (company may instead attach an estimated breakdown). Over 51% of this new operation's revenues will be derived from out of state sources.

In the past 30 months (name of company) has not downsized, closed or consolidated operations that resulted in employment layoffs.(If the company has existing VA operations use: No change in existing operations, including loss of jobs, in any of our other Virginia locations will occur in the next year as a result of this new project. If the company is new to VA use: The company does not currently have operations in other locations in Virginia.) (Name of company) is a (describe organizational structure – corporation, LLP, etc.) headquartered in (name of location of headquarters). The company is not currently involved in any merger or acquisition, which would alter the nature of our corporation for the next 12 months.

Attached is a Form W-9 for the company.

We appreciate your consideration of our request and will be happy to provide additional information as needed.

Sincerely,

Chief Executive Officer

Company

cc: NAME OF VEDP PROJECT MANAGER

**COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND**

**PERFORMANCE AGREEMENT**

This **PERFORMANCE AGREEMENT** (the "Agreement") made and entered this \_\_\_\_ day of \_\_\_\_\_, 2020, by and among the [CITY/COUNTY OF \_\_\_\_\_, VIRGINIA] (the "Locality"), a [municipal corporation/political subdivision] of the Commonwealth of Virginia (the "Commonwealth"), \_\_\_\_\_, a [state of creation] [type of entity] [if a foreign entity: authorized to transact business in the Commonwealth] (the "Company"), the **VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP AUTHORITY** ("VEDP"), a political subdivision of the Commonwealth, and the [INDUSTRIAL/ECONOMIC DEVELOPMENT AUTHORITY OF \_\_\_\_\_ [, VIRGINIA] (the "Authority"), a political subdivision of the Commonwealth. [THE "COMPANY" IS THE ENTITY OR ENTITIES THAT WILL BE MAKING THE CAPITAL INVESTMENT AND HIRING THE WORKERS.]

WITNESSETH:

WHEREAS, the Locality has been awarded a grant of and expects to receive \$ \_\_\_\_\_ (the "COF Grant") from the Commonwealth's Development Opportunity Fund (the "Fund") through VEDP for the purpose of inducing the Company to [acquire land] [and an existing facility] and to [construct, expand, equip], improve, and operate a \_\_\_\_\_ facility in the Locality (the "Facility"), thereby making a significant Capital Investment, and creating and Maintaining a significant number of New Jobs, as such capitalized terms are hereinafter defined;

WHEREAS, the Locality is willing to provide the funds to the Authority with the expectation that the Authority will provide the funds to or for the use of the Company, provided that the Company meets certain criteria relating to Capital Investment and New Jobs;

WHEREAS, the Locality, the Authority, the Company, and VEDP desire to set forth their understanding and agreement as to the payout of the COF Grant, the use of the COF Grant proceeds, and the obligations of the Company regarding Capital Investment and New Jobs;

WHEREAS, the [acquisition, construction, expansion, equipping,] improvement, and operation of the Facility will entail a capital expenditure by or on behalf of the Company of approximately \$ \_\_\_\_\_, of which approximately \$ \_\_\_\_\_ will be invested in machinery and tools, approximately \$ \_\_\_\_\_ will be invested in furniture, fixtures and business personal property, approximately \$ \_\_\_\_\_ will be invested in the acquisition of land and an existing facility, and approximately \$ \_\_\_\_\_ will be invested in the construction, expansion and up-fit of the buildings for the Facility;

WHEREAS, the [acquisition, construction, expansion, equipping,] improvement, and operation of the Facility will further entail the creation and Maintenance of \_\_\_\_ New Jobs at the Facility; and

WHEREAS, the stimulation of the additional tax revenue and economic activity to be generated by the Capital Investment and New Jobs constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the COF Grant:

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

**Section 1. Definitions.**

For the purposes of this Agreement, the following terms shall have the following definitions:

“Capital Investment” means a capital expenditure by or on behalf of the Company in taxable real property, taxable tangible personal property, or both, at the Facility. The purchase or lease of machinery and tools or furniture, fixtures, and business personal property, including under an operating lease, and expected building [construction, expansion, improvement] and up-fit by or on behalf of the Company will qualify as Capital Investment. [MODIFY FOR CAPITAL LEASE BY INSERTING, AS APPROPRIATE: A capital expenditure related to a leasehold interest in real property will be considered to be made “on behalf of the Company” if a lease between a developer and the Company is a capital lease, or is an operating lease having a term of at least ten years, and the real property would not have been constructed or improved but for the Company’s interest in leasing some or all of the real property. Only the capital expenditures allocated to the portion of the real property to be leased by the Company will count as “Capital Investment.”] The Capital Investment must be in addition to the capital improvements at the Facility as of \_\_\_\_\_, 2020. [GENERALLY, AROUND THE DATE OF THE ANNOUNCEMENT]

“Capital Investment Target” means that the Company has made or caused to be made and retained Capital Investments of at least \$ \_\_\_\_\_.

“Fund” means the Commonwealth’s Development Opportunity Fund.

“Maintain” means that the New Jobs will continue without interruption from the date of creation through the Performance Date. Positions for the New Jobs will be treated as Maintained during periods in which such positions are not filled due to (i) temporary reductions in the Company’s employment levels (so long as there is active recruitment for open positions), (ii) strikes, and (iii) other temporary work stoppages.

“New Job” means new permanent full-time employment of an indefinite duration at the Facility for which the standard fringe benefits are provided by the Company for the employee, and for which the Company pays an average annual wage of at least \$ \_\_\_\_\_. Average annual wage means the average annual salary of full-time positions at the Facility determined by dividing total payroll (of a type included in W-2 compensation) provided to full-time positions at the Facility by the number of full-time positions at the Facility. Each New Job must require a

minimum of either (i) 35 hours of an employee’s time per week for the entire normal year of the Company’s operations, which “normal year” must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as New Jobs. [IF APPLICABLE: Net new jobs in the Commonwealth for contractors or employees of contractors who provide dedicated full-time service to the Company may count as New Jobs, even though the Company is not directly paying the wages or providing the fringe benefits, if the other conditions set forth in this paragraph have been satisfied.] [The New Jobs must be in addition to the \_\_\_ full-time jobs at the Facility as of \_\_\_\_\_, 20\_\_.] [GENERALLY, THE SAME DATE AS THE START DATE FOR COUNTING CAPITAL INVESTMENT -- AROUND THE DATE OF THE ANNOUNCEMENT]

“New Job Target” means that the Company has created and Maintained at least \_\_\_ New Jobs.

“Performance Date” means \_\_\_\_\_, 20\_\_. [GENERALLY, THE LAST DAY OF A CALENDAR QUARTER ABOUT 3 YEARS FROM THE DATE OF THE ANNOUNCEMENT] If the Locality, in consultation with VEDP, deems that good faith and reasonable efforts have been made and are being made by the Company to achieve the Targets, on or before the Performance Date the Locality may request an extension of the Performance Date by up to 15 months. Any extension of the Performance Date shall require the prior approval of the Board of Directors of VEDP (the “Board”). If the Performance Date is extended, the Locality shall send written notice of the extension to the Authority, the Company and VEDP and the date to which the Performance Date has been extended shall be the “Performance Date” for the purposes of this Agreement.

“Performance Report” means a report to be filed by the Company in accordance with Section 5. The “Final Performance Report” is to be filed within 90 days after the Performance Date. As noted in Section 5, the Locality, the Authority and VEDP may each request a Performance Report at other dates prior to the Performance Date.

“Targets” means the Capital Investment Target and the New Jobs Target, all to be achieved as of the Performance Date.

“Virginia Code” means the Code of Virginia of 1950, as amended.

## **Section 2. Targets; Statutory Criteria.**

(a) *Targets:* The Company will [acquire, construct, expand, equip,] improve, and operate the Facility, and achieve the Targets.

(b) *Encouragement to Offer New Jobs to Residents of the Commonwealth:* The Locality, the Authority, and VEDP hereby strongly encourage the Company to ensure that at least 30% of the New Jobs are offered to “Residents” of the Commonwealth, as defined in Virginia Code Section 58.1-302. In pertinent part, that definition includes natural persons domiciled in

Virginia or natural persons who, for an aggregate of more than 183 days of the year, maintained a place of abode within the Commonwealth, whether domiciled in the Commonwealth or not.

(c) *Prevailing Wage; Unemployment and Poverty Rates:* The average annual wage of the New Jobs of at least \$\_\_\_\_\_ is [more/less] than the prevailing average annual wage in the Locality of \$\_\_\_\_\_ [, but is more than 85% of that prevailing average annual wage (\$\_\_\_\_\_)]. The Locality is [not] a high-unemployment locality, with an unemployment rate for 20\_\_\_, which is the last year for which such data is available, of \_\_\_% as compared to the 20\_\_\_ statewide unemployment rate of \_\_\_%. The Locality is [not] a high-poverty locality, with a poverty rate for 20\_\_\_, which is the last year for which such data is available, of \_\_\_\_\_% as compared to the 20\_\_\_ statewide poverty rate of \_\_\_\_\_%.

(d) *Disclosure of Political Contributions:* The Company acknowledges that the name of the Company will be shared by VEDP with the Governor of Virginia, and any campaign committee or political action committee associated with the Governor. The Company acknowledges that within 18 months of the date of this Agreement, the Governor, his campaign committee, and his political action committee will submit to the Virginia Conflict of Interest and Ethics Advisory Council a report listing any contribution, gift, or other item with a value greater than \$100 provided by the Company to the Governor, his campaign committee, or his political action committee, respectively, during the period from the date of the Company's application for the COF Grant through the one-year period immediately after the date of this Agreement.

(e) *Support for Virginia's and Locality's Economic Development Efforts:* Recognizing that it is in the best interest of all parties for the Commonwealth and the Locality to achieve sustained economic growth, the parties will periodically engage with one another to advise on economic development strategies and initiatives for the Commonwealth and the Locality, such as promoting the attributes of the Commonwealth and the Locality as places to do business, or highlighting important industry trends and/or business development opportunities that the Commonwealth or the Locality may wish to pursue. Such engagement would include the Company's participation in occasional business retention and expansion visits from VEDP personnel, as deemed appropriate based on the project parameters and nature of the incentives provided to the Company.

[IF APPLICABLE. (f) *MEI Project Approval Commission:* Pursuant to Virginia Code Sections 2.2-115 and 30-310, the MEI Project Approval Commission ("MEI Commission") must review economic development incentive packages in which [a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality] [the aggregate amount of incentives to be provided by the Commonwealth in the incentive package is in excess of \$10 million in value]. The MEI Commission has reviewed and approved the state-level incentives offered in conjunction with the Company's Capital Investment and creation and Maintenance of New Jobs at the Facility.]

[IF APPLICABLE: (g) *Relocation:* The Commonwealth's Secretary of Commerce and Trade has delivered to the Co-Chairs of the Senate Finance and Appropriations Committee and the Chair of the House Appropriations Committee a letter indicating that, although the Company is

relocating a portion of its operations from \_\_\_\_\_ to the Locality, the reasons for the move and the desire to retain the Company's operations in Virginia justify the use of incentives to move such facility from one Virginia locality to another. The Locality and VEDP have informed \_\_\_\_\_ of the move and of the use of incentives. \_\_\_\_\_ has indicated to VEDP that it is supportive of these efforts.]

[IF APPLICABLE: (h) *Other Performance Criteria*: IF THE COF GRANT IS ALSO PREDICATED ON OTHER FACTORS, SUCH AS ESTABLISHING AND MAINTAINING THE COMPANY'S CORPORATE HEADQUARTERS IN VIRGINIA, ADD HERE LANGUAGE REQUIRING THE COMPANY TO DO THOSE OTHER THINGS.]

**Section 3. Disbursement of COF Grant.** The disbursement of the COF Grant proceeds to the Company will serve as an inducement to the Company to achieve the Targets.

The COF Grant is to be allocated as \_\_\_% (\$ \_\_\_\_\_) for the Company's Capital Investment Target, and \_\_\_% (\$ \_\_\_\_\_) for the Company's New Jobs Target. [THE %% WILL DEPEND ON VEDP'S ROI ANALYSIS OF THE REVENUES TO BE DERIVED BY THE COMMONWEALTH FROM THE CAPITAL INVESTMENT AND NEW JOBS.]

The statutory minimum requirements for a COF Grant in the Locality require that the Company (1) make or case to be made and retained a Capital Investment of at least [\$5,000,000/\$2,500,000/\$1,500,000] and (2) create and Maintain at least [50/25/15] New Jobs (the "Statutory Minimum Requirements"). [STATUTORY MINIMUM REQUIREMENTS WILL DEPEND ON THE FACTS PROVIDED IN SECTION 2(c)]

The COF Grant proceeds shall be retained in the Fund until needed for disbursement or the COF Grant is withdrawn in accordance with the terms of this Agreement.

[THIS FOLLOWING VERSION OF SUBSECTION (a) WILL BE USED IN THOSE INSTANCES IN WHICH THE COF GRANT WILL BE PAYABLE IN ONE INSTALLMENT FOLLOWING THE PERFORMANCE DATE. IT IS EXPECTED THAT THIS WILL BE THE MOST COMMON TIMELINE FOR DISTRIBUTION OF COF GRANTS:

(a) *Disbursement of the COF Grant*: Within 90 days after the Performance Date, the Company will deliver the Performance Date Report. Through this report, the Company will provide notice and evidence satisfactory to the Locality, the Authority and VEDP of the amount of Capital Investments made or caused to be made and retained, and the number of New Jobs created and Maintained, by the Company as of the Performance Date. The Performance Date Report will be subject to verification by the Locality and VEDP.

Upon such verification, the amount of the COF Grant proceeds to be disbursed to the Company, if any, shall be determined as follows:

(i) *If Statutory Minimum Requirements Not Met*: If, as of the Performance Date, the Company has not achieved both of the Statutory Minimum

Requirements, the Company will not receive any of the proceeds of the COF Grant.

(ii) *If Targets Met:* If, as of the Performance Date, the Company has achieved the Capital Investment Target and the New Jobs Target, the Company will receive all \$\_\_\_\_\_ of the proceeds of the COF Grant.

(iii) *If Statutory Minimum Requirements Met, but Targets Not Met:* If, as of the Performance Date, the Company has achieved both of the Statutory Minimum Requirements, but has not achieved the full Capital Investment Target and the full New Jobs Target, the Company will qualify for a reduced disbursement of the COF Grant, reflecting a proportional amount of the Target or Targets for which there is a shortfall. For example, if as of the Performance Date, only \$\_\_\_\_\_ of the Capital Investment has been retained (reflecting achievement of [90]% of the Capital Investment Target), only \_\_\_ New Jobs have been created and Maintained (reflecting achievement of [75]% of the New Jobs Target), the Company will receive \$\_\_\_\_\_ (reflecting [90]% of the \$\_\_\_\_\_ of the COF Grant allocated to the Capital Investment Target), *plus* \$\_\_\_\_\_ (reflecting [75]% of the \$\_\_\_\_\_ of the COF Grant allocated to the New Jobs Target), for a total of \$\_\_\_\_\_. These amounts reflect the percentages of the shortfall from the Capital Investment Target and the New Jobs Target, each such shortfall multiplied by the portion of the COF Grant proceeds available to the Company allocated to that Target.

Within 30 days after verification of the Performance Date Report, if any amount of COF Grant proceeds are available for disbursement to the Company, as determined in accordance with the foregoing calculations, VEDP will disburse that amount to the Locality. Within 30 days after receipt of such amount, the Locality will disburse such COF Grant proceeds to the Authority. Within 30 days after receipt of such amount, the Authority will disburse such COF Grant proceeds to the Company.

If any amount of COF Grant proceeds have not been earned by the Company, the amount not disbursed will be retained in the Fund and will be available for other economic development projects.

[THIS FOLLOWING VERSION OF SUBSECTION (a) WILL BE USED IN THOSE INSTANCES IN WHICH THE COF GRANT WILL BE PAYABLE IN MORE THAN ONE INSTALLMENT PRIOR TO THE PERFORMANCE DATE, WITH VARIATIONS TO REFLECT THE NUMBER, TIMING, AND VALUE OF THE PLANNED DISBURSEMENTS. IT IS NOT EXPECTED THAT THIS WILL BE THE MOST COMMON METHODOLOGY FOR DISTRIBUTION OF COF GRANTS:

(a) *First Disbursement:* If a Performance Report indicates that the Company has made or caused to be made and retained Capital Investments of at least \$\_\_\_\_\_, and has created and Maintained at least \_\_\_ New Jobs [OR, INDICATE OTHER MILESTONES, SUCH AS A CERTIFICATE OF OCCUPANCY], the Company will qualify for a disbursement of

\$ \_\_\_\_\_ of the COF Grant proceeds. Then, within 30 days of the verification of that Performance Report by the Locality and VEDP, VEDP will disburse \$ \_\_\_\_\_ of the COF Grant proceeds to the Locality (the "First Disbursement"). Within 30 days of its receipt of such COF Grant proceeds, the Locality will disburse such COF Grant proceeds to the Authority. Within 30 days of its receipt of such COF Grant proceeds, the Authority will disburse such COF Grant proceeds to the Company.

*Final Disbursement; Final Performance Report:* In the Final Performance Report, the Company will provide notice and evidence reasonably satisfactory to the Locality, the Authority and VEDP of the amount of Capital Investments made or caused to be made and retained and the number of New Jobs created and Maintained at the Facility as of the Performance Date. The Final Performance Report will be subject to verification by the Locality and VEDP.

The remaining amount of the COF Grant proceeds to be disbursed shall be calculated as follows:

If Targets Fully Achieved: If, as of the Performance Date, the Company has achieved the Capital Investment Target and the New Jobs Target, the Company will receive all of the remaining proceeds of the COF Grant: \$ \_\_\_\_\_ less the amount of the First Disbursement, if previously paid.

If Statutory Minimum Requirements have been Achieved, but full Targets have not been Achieved: If, as of the Performance Date, the Company has achieved both of the Statutory Minimum Requirements, but has not achieved the full Capital Investment Target and the full New Jobs Target, the Company will receive additional proceeds of the COF Grant, calculated as follows:

The Company shall be entitled to receive that part of the COF Grant that is proportional to the achievement of each Target. For example, if as of the Performance Date, the Company has made or caused to be made and retained Capital Investments of only \$ \_\_\_\_\_ (reflecting achievement of [75]% of the Capital Investment Target), and only \_\_\_ New Jobs have been created and Maintained (reflecting achievement of [80]% of the New Jobs Target), the Company shall have earned \$ \_\_\_\_\_ (reflecting [75]% of the \$ \_\_\_\_\_ of the COF Grant proceeds allocated to the Capital Investment Target, *plus* \$ \_\_\_\_\_ (reflecting [80]% of the \$ \_\_\_\_\_ of the COF Grant proceeds allocated to the New Jobs Target) for a total of \$ \_\_\_\_\_. These amounts represent the percentages of the shortfall from the expected amount of Capital Investment and expected number of New Jobs, each multiplied by the portion of the COF Grant proceeds allocated to that Target. In this example, if the Company had not received any proceeds of the COF Grant from the First Disbursement, the Company would be entitled to receive all \$ \_\_\_\_\_. If, however, the Company had received \$ \_\_\_\_\_ of the proceeds of the COF Grant from the First Disbursement, the \$ \_\_\_\_\_ would be reduced to \$ \_\_\_\_\_. If the amount earned by the Company under this subparagraph is less than the amount previously paid to the Company from the

First Disbursement, the Company shall owe a repayment to the Authority under Section 7 equal to the amount of overpayment.

Within 30 days after verification of the Performance Date Report, VEDP will disburse to the Locality any earned COF Grant proceeds yet to be paid. Within 30 days after receipt of such amount, the Locality will disburse such COF Grant proceeds to the Authority. Within 30 days after receipt of such amount, the Authority will disburse such COF Grant proceeds to the Company.

If any amount of COF Grant proceeds have not been earned by the Company, the amount not disbursed will be retained in the Fund and will be available for other economic development projects.

(b) *Use of the COF Grant Proceeds:* The [Company / Locality / Authority] will use the COF Grant proceeds to pay or reimburse the cost of [public and private utility extension or capacity development for the Facility, whether on or off site,] [public and private installation, extension, or capacity development of high-speed or broadband Internet access for the Facility, whether on or off site,] [road, rail, or other transportation access costs supporting the Facility beyond the funding capability of existing programs,] [site acquisition,] [grading, drainage, paving, and any other activity required to prepare the Facility site for construction,] [construction or build-out of publicly or privately owned buildings for the Facility, and] [recruitment and training], [all] as permitted by Section 2.2-115(D) of the Virginia Code.

**Section 4. Break-Even Point; State and Local Incentives.**

(a) *State-Level Incentives:* VEDP has estimated that the Commonwealth will reach its “break-even point” by the Performance Date. The break-even point compares new revenues realized as a result of the Capital Investment and New Jobs at the Facility with the Commonwealth’s expenditures on discretionary incentives, including but not limited to the COF Grant. With regard to the Facility, the Commonwealth expects to provide discretionary incentives in the following amounts:

<u>Category of Incentive:</u>	<u>Total Amount</u>
COF Grant	\$ _____
Virginia Jobs Investment Program (“VJIP”) (Estimated)	
Tobacco Region Opportunity Fund Grant (“TROF”)	
Enterprise Zone Real Property Investment Grant (“EZRPIG”) (Estimated)	
Enterprise Zone Job Creation Grant (“EZJCG”) (Estimated)	
Virginia Investment Performance Grant (“VIP Grant”)	
VEDP Talent Accelerator Program (“VTAP”) (Approximate Value)	
Major Eligible Employers Grant (“MEE Grant”)	
Virginia Economic Development Incentive Grant (“VEDIG”)	
Major Business Facility Job Tax Credit (“MBFJTC”) (Estimated)	

Port of Virginia Economic and Infrastructure Development Grant  
("POV Grant")  
[Other]

The proceeds of the COF Grant shall be used for the purposes described in Section 3(b). The VJIP grant proceeds shall be used by the Company to pay or reimburse itself for recruitment and training costs. [The proceeds of the TROF Grant [shall][may] be used for \_\_\_\_\_ [any lawful purpose].] [The proceeds of [the EZRPIG,] [the EZJCG,] [the VIP Grant,] [the MEE Grant,] [the VEDIG,] [and the Port Grant] may be used by the Company for any lawful purpose.] [The MBFJTC will serve as an offset to Virginia corporate income taxes that may be owed by the Company.] The VTAP represents the value to the Company of workforce development services expected to be provided by VEDP to the Company for recruitment and training.

(b) *Local-Level Incentives:* The Locality and the Authority expect to provide the following incentives, as matching grants or otherwise, for the Facility by the Performance Date:

<u>Category of Incentive:</u>	<u>Total Amount</u>
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[IF THE LOCAL-LEVEL INCENTIVES ARE NOT BEING PROVIDED UP-FRONT:]  
If, by the Performance Date, the total of all Local-Level Incentives disbursed or provided, or committed to be disbursed or provided, by the Locality to the Company is less than the \$ \_\_\_\_\_ COF Grant local match requirement, the Locality, subject to appropriation, will make an additional grant to the Company of the difference promptly after Performance Date, so long as the Company has met its Targets.

[The \_\_\_\_\_ will reflect cost savings to the Company.] [The proceeds of the \_\_\_\_\_ [may/shall] be used by the Company for [any lawful purpose/ \_\_\_\_\_].]]

(c) *Other Incentives:* This Agreement relates solely to the COF Grant. The qualification for, and payment of all State-Level Incentives and Local-Level Incentives, except for the COF Grant, will be governed by separate arrangements between the Company and the entities offering the other incentives.

**Section 5. Company Reporting.**

(a) *Performance Reporting:* The Company shall provide, at the Company's expense, in the form attached hereto as Exhibit A, detailed Performance Reports satisfactory to the Locality, the Authority and VEDP of the Company's progress on the Targets. The Performance Reports are due by each \_\_\_\_\_ 1, commencing \_\_\_\_\_ 1, 20\_\_ [ABOUT 90 DAYS

AFTER THE FIRST ANNIVERSARY OF THE MONTH/DATE OF THE PERFORMANCE DATE], reflecting the Company's progress toward the Targets as of the prior \_\_\_\_\_ [SAME CALENDAR DATE AS THE MONTH/DATE OF THE PERFORMANCE DATE]. Further, the Company shall provide such Performance Reports at such other times as the Locality, the Authority or VEDP may require.

[IF APPLICABLE: If the Company wishes to count as Capital Investments the capital expenditures made on its behalf by a lessor or a developer of the Facility, the Company is responsible for assembling and distributing the documentation necessary to verify the capital expenditures made on behalf of the Company.]

[IF APPLICABLE: If the Company wishes to count as New Jobs employees of contractors, to the extent permitted in the definition of "New Jobs" in Section 1, the Company is responsible for assembling and distributing the documentation necessary to verify such New Jobs, including whether such jobs are net New Jobs in the Commonwealth.]

(b) *Final Performance Report:* The Company shall provide, at the Company's expense, in the form attached hereto as Exhibit B, a detailed Final Performance Report satisfactory to the Locality, the Authority and VEDP of the Company's achievement of the Targets as of the Performance Date. This Performance Date Report shall be filed within 90 days after the Performance Date.

Should the Company be unable to file the Final Performance Report within the 90-day timeframe, the Company may request a 60-day delay in filing the Final Performance Report. VEDP will require a \$3,000 fee, payable to VEDP, to process the request for the filing delay. Should the Company not file the Final Performance Report within the 90-day window nor request a filing delay (including payment of the required fee), or if the Company requests a filing delay but does not file the Final Performance Report prior to the new filing deadline, VEDP will withhold any COF Grant payment that might otherwise be due and all rights of the Company under this Agreement will automatically terminate.

(c) *Virginia Corporate Income Tax Information:* With each such Performance Report or Final Performance Date Report, the Company shall report to VEDP the amount paid by the Company (or for a pass-through entity, by its shareholders, members or partners) in the prior calendar year in Virginia corporate (or for a pass-through entity, personal) income tax. VEDP hereby represents to the Company that it considers such information to be confidential proprietary information that is exempt from public disclosure under the Virginia Freedom of Information Act and that such information will be used by VEDP solely in calculating aggregate return on invested capital analyses for purposes of gauging the overall effectiveness of economic development incentives.

**Section 6. Verification of Targets.**

(a) *Verification of Capital Investment:* The Company hereby authorizes the Locality, including the Locality's Commissioner of the Revenue and Treasurer, to release to VEDP the Company's real estate tax, business personal property tax and machinery and tools tax

information. Such information shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the Capital Investment Target. If the Locality, the Office of the Commissioner of the Revenue or the Office of the Treasurer should require additional documentation or consents from the Company to access such information, the Company shall promptly provide, at the Company's expense, such additional documentation or consents as the Locality or VEDP may request. In accordance with Virginia Code Section 58.1-3122.3, VEDP is entitled to receive the Company's real estate tax, business personal property tax and machinery and tools tax information from the Locality's Commissioner of the Revenue. Attached hereto as Exhibit C is a form to be completed by the Company regarding access to the Company's tax information.

(b) *Verification of New Jobs and Wages:* The Company must submit a copy of its four most recent Employer's Quarterly Tax Reports (Form FC-20) with the Virginia Employment Commission with [each Performance Report] [the Final Performance Report]. The forms shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the New Jobs Target. In accordance with Virginia Code Section 60.2-114, VEDP is entitled to receive the Company's employment level and wage information from the Virginia Employment Commission.

The Company agrees that it will report to the Virginia Employment Commission with respect to its employees at a facility-level, rather than at the company-level.

(c) *Additional Documentation:* In addition to the verification data described above, in the sole discretion of the Locality, the Authority or VEDP, the Locality, the Authority or VEDP, may each require such other documentation or audits as may be required to properly verify the Capital Investment or New Jobs.

[USE THIS FOLLOWING VERSION OF SECTION 7 IF THERE IS ONLY ONE DISBURSEMENT OF THE COF GRANT PROCEEDS FOLLOWING THE PERFORMANCE DATE]

**Section 7. Possible Termination of this Agreement and Redeployment of COF Grant Proceeds.** If the Locality, the Authority or VEDP shall determine at any time prior to the Performance Date that the Company is unable or unwilling to meet and Maintain its Targets by and through the Performance Date, and if the Locality, the Authority or VEDP shall have promptly notified the Company of such determination, this Agreement will be terminated, no further disbursements of the COF Grant proceeds will be made to the Company, and the amount not disbursed will be retained in the Fund and made available for other economic development projects. Such a determination will be based on such circumstances as a filing by or on behalf of the Company under Chapter 7 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of the Facility by the Company or other similar significant event that demonstrates that the Company will be unable or is unwilling to satisfy the Targets for the COF Grant.

[USE THIS FOLLOWING VERSION OF SECTION 7 IF ANY OF THE PROCEEDS OF THE COF GRANT MAY BE DISBURSED PRIOR TO THE PERFORMANCE DATE AND, THEREFORE, MAY BE SUBJECT TO REPAYMENT, WITH VARIATIONS TO TAKE INTO

ACCOUNT THE NUMBER, NATURE AND AMOUNT OF DISBURSEMENTS MADE PRIOR TO THE PERFORMANCE DATE:

**Section 7. Repayment Obligation.**

(a) *If Statutory Minimum Eligibility Requirements are Not Met:* Section 2.2-115 of the Virginia Code requires that the Company achieve both of the Statutory Minimum Requirements in order to be eligible for the COF Grant. If the Company received the First Disbursement, but fails to meet both of the Statutory Minimum Requirements as of the Performance Date, the Company will be considered to have breached this Agreement and the Company must repay to VEDP all of the COF Grant proceeds previously disbursed to the Company.

(b) *If Statutory Minimum Eligibility Requirements are Met:* The provisions of this subsection (b) shall become applicable only if the Company has met the Statutory Minimum Requirements, and has received the First Disbursement of \$\_\_\_\_\_ of the proceeds of the COF Grant prior to the Performance Date, in accordance with Section 3(a).

If the Company has not met either or both of its Targets as of the Performance Date, the Company shall repay to VEDP that part of the COF Grant previously disbursed to the Company that is proportional to the Target or Targets for which there is a shortfall. For example, if as of the Performance Date, the Company has received \$\_\_\_\_\_ of the COF Grant proceeds, but only \$\_\_\_\_\_ of the Capital Investment has been made and retained (reflecting achievement of [60]% of the Capital Investment Target), and only \_\_\_ New Jobs have been created and Maintained (reflecting achievement of [50]% of the New Jobs Target), the Company shall repay to VEDP \$\_\_\_\_\_, reflecting [40]% of the \$\_\_\_\_\_ of the COF Grant proceeds that it received allocated to the Capital Investment Target, *plus* \$\_\_\_\_\_, reflecting [50]% of the \$\_\_\_\_\_ of the COF Grant proceeds that it received allocated to the New Jobs Target, for a total repayment amount of \$\_\_\_\_\_. These amounts represent the percentages of the shortfall at the Performance Date from the expected amount of Capital Investment and expected number of New Jobs, each multiplied by the portion of the COF Grant proceeds that the Company received allocated to that Target.

(d) *Determination of Inability to Comply:* If the Locality, the Authority or VEDP shall determine at any time prior to the Performance Date (a “Determination Date”) that the Company is unable or unwilling to meet and Maintain its Targets by and through the Performance Date, and if the Locality, the Authority or VEDP shall have promptly notified the Company of such determination, the Company must repay to VEDP all of the COF Grant proceeds, if any, previously disbursed to the Company. Such a determination will be based on such circumstances as a filing by or on behalf of the Company under Chapter 7 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of the Facility by the Company or other similar significant event that demonstrates that the Company will be unable or is unwilling to satisfy the Targets for the COF Grant. If the Determination Date is after the First Disbursement, the Company will repay to VEDP all of the COF Grant proceeds previously disbursed to the Company. If the Determination Date is prior to the Disbursement, this Agreement will be

terminated, and the amount not yet disbursed will be retained in the Fund and will become available for other economic development projects.

(e) *Repayment:* The Company shall be liable for any repayment of all or a portion of the COF Grant, to the extent described in this Section 7. ***Such repayment shall be due from the Company to VEDP within ninety days after the Performance Date or the Determination Date, as applicable.*** Any moneys repaid by the Company to VEDP shall be redeposited by VEDP into the Fund. The Locality and the Authority shall use their best efforts to recover such funds, including legal action for breach of this Agreement. In any such matter, the Company shall be liable to pay interest, administrative charges, attorneys' fees and other applicable fees. Neither the Locality nor the Authority shall have any responsibility for the repayment of any sums payable by the Company hereunder unless said sums have been received by the Locality or the Authority from the Company.

(f) *Failure to Repay:* If any repayment due from the Company pursuant to this Section 7 is not made by the Company when due, the Board may determine that further collection action is required, and the Board may refer the matter to the Office of the Attorney General (the "OAG") for collection pursuant to Section 2.2-518 of the Virginia Code. In such event, by their signatures below, the Locality and the Authority will be deemed to have assigned to the Commonwealth all of their rights, title and interest in and to this Section 7. In any matter referred to the OAG for collection, the Company shall be liable to pay interest, administrative charges, attorneys' fees and other applicable fees. Interest on any outstanding repayment referred to the OAG shall accrue at the rate set forth in Section 6.2-301 A. of the Virginia Code (currently 6.0% per year) for the period from the Performance Date or the Determination Date, as applicable, until paid.

**Section 8. Notices.** Formal notices and communications between the parties shall be given either by (i) personal service, (ii) delivery by a reputable document delivery service that provides a receipt showing date and time of delivery, (iii) mailing utilizing a certified or first class mail postage prepaid service of the United States Postal Service that provides a receipt showing date and time of delivery, or (iv) delivery by electronic mail (email) with transmittal confirmation and confirmation of delivery, addressed as noted below. Notices and communications personally delivered or delivered by document delivery service shall be deemed effective upon receipt. Notices and communications mailed shall be deemed effective on the second business day following deposit in the United States mail. Notices and communications delivered by email shall be deemed effective the next business day, not less than 24 hours, following the date of transmittal and confirmation of delivery to the intended recipient. Such written notices and communications shall be addressed to:

if to the Company, to:

with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
Email: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
Email: \_\_\_\_\_

Attention: \_\_\_\_\_

Attention: \_\_\_\_\_

if to the Locality, to:

with a copy to:

[City/County/Town] of \_\_\_\_\_, Virginia

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

Attention: \_\_\_\_\_

Attention: \_\_\_\_\_

if to the Authority, to:

with a copy to:

[Industrial/Economic Development Authority  
of \_\_\_\_\_, [Virginia]

[City/County/Town] of \_\_\_\_\_, Virginia

c/o [City/County/Town] of \_\_\_\_\_, Virginia

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

Attention: \_\_\_\_\_

Attention: \_\_\_\_\_

if to VEDP, to:

with a copy to:

Virginia Economic Development Partnership  
One James Center, Suite 900  
901 East Cary Street  
Richmond, Virginia 23219  
Email: moret@vedp.org  
Attention: President and CEO

Virginia Economic Development Partnership  
One James Center, Suite 900  
901 East Cary Street  
Richmond, Virginia 23219  
Email: smcninch@vedp.org  
Attention: General Counsel

**Section 9. Miscellaneous.**

(a) *Entire Agreement; Amendments:* This Agreement constitutes the entire agreement among the parties hereto as to the COF Grant and may not be amended or modified, except in writing, signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Locality, the Authority and VEDP.

(b) *Governing Law; Venue:* This Agreement is made, and is intended to be performed, in the Commonwealth and shall be construed and enforced by the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Circuit Court of the City of Richmond, and such litigation shall be brought only in such court.

(c) *Counterparts*: This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

(d) *Severability*: If any provision of this Agreement is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

(e) *Attorney's Fees*: [Except as provided in Section 7,] [a]ttorney's fees shall be paid by the party incurring such fees.

(f) *Force Majeure*: Notwithstanding the foregoing provisions of this Agreement, if the Company does not achieve a Target or take any action required under this Agreement because of an "Event of Force Majeure" (as defined below), the time for achieving the applicable Target or taking such action will be extended day-for-day by the delay in meeting the applicable Target or taking such action caused by the Event of Force Majeure. "Event of Force Majeure" means without limitation, any of the following: acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; pandemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals not caused by the Company; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Company.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the parties hereto have executed this Performance Agreement as of the date first written above.

**[CITY/COUNTY/TOWN OF \_\_\_\_, VIRGINIA]**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**[INDUSTRIAL/ECONOMIC DEVELOPMENT  
AUTHORITY OF \_\_\_\_\_, VIRGINIA]**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**[COMPANY]**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**VIRGINIA ECONOMIC  
DEVELOPMENT PARTNERSHIP  
AUTHORITY**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

- Exhibit A: Performance Report Form
- Exhibit B: Final Performance Report Form

**PERFORMANCE REPORT  
COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND**

**PROJECT SUMMARY:**

Project	
Location	
Amount of Grant	
Performance Reporting Period	
Performance Date	

**PROJECT PERFORMANCE<sup>4</sup>:**

<b>Performance Measurement</b>	<b>Target</b>	<b>As of _____</b>	<b>% Complete</b>
<b>New Jobs</b> (over _____ baseline) <sup>1</sup>			
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Capital Investment</b> (provide breakdown below) <sup>2</sup>			
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Average Annual Wage</b>			<b>N/A</b>
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Standard Fringe Benefits</b> (check one)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<b>N/A</b>
<b>Virginia Corporate Income Tax Paid in Prior Calendar Year<sup>3</sup></b>	\$		

<sup>1</sup>Data will be verified using Virginia Employment Commission records. Attach the company's four most recent Quarterly Tax Reports (Form FC-20) filed with the Virginia Employment Commission.

<sup>2</sup>Data will be verified with locality records.

<sup>3</sup>This confidential information is protected from disclosure pursuant to § 2.2-3705.6 of FOIA.

<sup>4</sup>Final, actual performance will be reported on VEDP's public reporting website.

<b>Capital Investment Breakdown</b>	<b>Amount</b>
Land	\$
Land Improvements	\$
New Construction or Expansion	\$
Renovation or Building Up-fit	\$
Production Machinery and Tools	\$
Furniture, Fixtures and Equipment	\$
Other	\$
<b>Total</b>	<b>\$</b>

**COMMENTS:**

Discuss project status, including the current level of new jobs and capital investment, progress on targets, changes or likely changes in project's nature that may impact achievement of targets, and other information relevant to project performance. If the project is not on track to meet targets, please provide an explanation.

**TO BE CERTIFIED BY AN OFFICER OF THE COMPANY:**

I certify that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete.

Company: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
Signature of Official

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

Title: \_\_\_\_\_

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

Please return to:

Kim Ellett, Incentives Compliance Manager, Virginia Economic Development Partnership,  
804.545.5618, kellett@vedp.org

## FINAL PERFORMANCE REPORT COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND

### PROJECT SUMMARY:

Project	
Location	
Amount of Grant	
Performance Date	

### PROJECT PERFORMANCE:<sup>1</sup>

Performance Measurement	Target	As of _____, 20__	% Complete
<b>New Jobs</b> (over ___ baseline) <sup>2</sup>			
<b>Capital Investment</b> (provide breakdown below) <sup>3</sup>			
<b>Average Annual Wage</b>			N/A
<b>Standard Fringe Benefits</b>			
<b>Virginia Corporate Income Tax Paid in Prior Calendar Year</b> <sup>4</sup>	\$		

Capital Investment Breakdown	Amount
Land	\$
Land Improvements	\$
New Construction or Expansion	\$
Renovation or Building Up-fit	\$
Production Machinery and Tools	\$
Furniture, Fixtures and Equipment	\$
Other	\$
<b>Total</b>	<b>\$</b>

<sup>1</sup>Final, actual performance will be reported on VEDP's public reporting website.

<sup>2</sup> Attach the company's four most recent Quarterly Tax Reports (Form FC-20) filed with the Virginia Employment Commission.

<sup>3</sup> Data will be verified using records from the Commissioner of the Revenue and invoices.

<sup>4</sup>This confidential information is protected from disclosure pursuant to § 2.2-3705.6 of FOIA

**LOCAL MATCH:**

Goal	
Actual	

**COMMENTS:**

Discuss Project status or the importance of the Project to the locality and region.

**TO BE CERTIFIED BY AN OFFICER OF THE COMPANY:**

I certify that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete.

Company: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
Signature of Official

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

Title: \_\_\_\_\_

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

Please return to:

Kim Ellett, Incentives Compliance Manager, Virginia Economic Development Partnership,  
804.545.5618, [kelllett@vedp.org](mailto:kelllett@vedp.org)

**AN ORDINANCE, AS AMENDED, SAID ORDINANCE  
MAKING APPROPRIATIONS FOR THE FISCAL YEAR  
COMMENCING JULY 1, 2020, AND ENDING JUNE 30, 2021  
FOR THE GRANTS FUND.**

---

BE IT ORDAINED by the City Council of the City of Petersburg, Virginia:

I. That appropriations for the fiscal year commencing July 1, 2020, in the Grants Fund are made for the following resources and revenues of the city, for the fiscal year ending June 30, 2021.

<b>Previously adopted</b>	<b>\$0</b>
ADD:	
3-200-24040-0615-0-314 COF Grant	<b><u>\$2,000,000.00</u></b>
<b>Total Revenues</b>	<b><u>\$2,000,000.00</u></b>

II. That there shall be appropriated from the resources and revenues of the City of Petersburg for the fiscal year commencing July 1, 2020 and ending June 30, 2021, the following sums for the purposes mentioned:

<b>Previously adopted</b>	<b>\$0</b>
ADD:	
4-200-71330-31090-0-101 COF Grant	<b><u>\$2,000,000.00</u></b>
<b>Total Expenses</b>	<b><u>\$2,000,000.00</u></b>



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager  
Lionel Lyons, Deputy City Manager of Development

**FROM:** Reginald Tabor

**RE:** **A request to schedule a Public Hearing and consideration of an Ordinance authorizing the City Manager to approve the reduction of Site Plan Review and Land Disturbance Permit Fees when offset by in-kind Staffing Augmentation, in an amount not to exceed 30 percent of the total fees.**

---

**PURPOSE:** For the City Council to schedule a Public Hearing and consideration of an Ordinance authorizing the City Manager to approve the reduction of site plan review and land disturbance permit fees when offset by in-kind staffing augmentation, in an amount not to exceed 30 percent of the total fees.

**REASON:** To comply with code and procedural requirements for authorizing fee reductions.

**RECOMMENDATION:** It is recommended that the City Council adopts an Ordinance authorizing the City Manager to approve the reduction of site plan review and land disturbance permit fees when offset by in-kind staffing augmentation, in an amount not to exceed 30 percent of the total fees.

**BACKGROUND:** The City Council referred a proposal to the Planning Commission for a recommendation regarding an ordinance authorizing the City Manager to approve the reduction of site plan review and land disturbance permit fees when offset by in-kind staffing augmentation in an amount not to exceed 30 percent of the total fees.

The City of Petersburg receives Site Plan applications and Land Disturbance Permits for development projects in the City of Petersburg.

The City has received offers to augment City staffing to expedite the review and approval processes. Expedited review and approval processes can benefit the City by reducing staff time required for the processes, and the expedited processes can serve as incentives for additional development.

The augmented staffing would be provided by the property developer at their expense. The augmented staffing would be provided in lieu of additional staffing that would be reflected in a reduction in fees and would reflect the reduction in City Staff resources necessary for the review and approval processes. The reduction in fees would not exceed 30 percent of the total permit fees.

The current fee for a site plan submittal and approval is \$800 per submittal and \$50 for each additional acre. A 30% reduction of the site plan fee for a 1-acre site is \$560.00.

The current fee for a land disturbance permit is \$250.00, plus \$50.00 for every acre or part thereof in excess of one acre. A 30% reduction of the land disturbance permit fee is \$175.00.

The Planning Commission considered the item during the February 17, 2021 meeting and voted to recommend approval.

**COST TO CITY:** Reduction in Fees received.

**BUDGETED ITEM:** Anticipated Fee Revenues

**REVENUE TO CITY:** Fee for Site Plans and Land Disturbance Permits.

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:** N/A

**AFFECTED AGENCIES:** Department of Planning and Community Development, Department of Public Works, Department of Budget and Procurement, Department of Finance

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:** N/A

**REQUIRED CHANGES TO WORK PROGRAMS:** N/A

**ATTACHMENTS:**

1. 0217\_2021ResolutionFeeReduction

**AN RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE AUTHORIZING THE CITY MANAGER TO APPROVE THE REDUCTION OF SITE PLAN REVIEW AND LAND DISTURBANCE PERMIT FEES WHEN OFFSET BY IN-KIND STAFFING AUGMENTATION, IN AN AMOUNT NOT TO EXCEED 30 PERCENT OF THE TOTAL FEES.**

**WHEREAS**, The City Council referred a proposal to the Planning Commission for a recommendation regarding an ordinance authorizing the City Manager to approve the reduction of site plan review and land disturbance permit fees when offset by in-kind staffing augmentation in an amount not to exceed 30 percent of the total fees; and

**WHEREAS**, The City of Petersburg receives Site Plan applications and Land Disturbance Permits for development projects in the City of Petersburg; and

**WHEREAS**, The City has received offers to augment City staffing to expedite the review and approval processes. Expedited review and approval processes can benefit the City by reducing staff time required for the processes, and the expedited processes can serve as incentives for additional development; and

**WHEREAS**, The augmented staffing would be provided by the property developer at their expense. The augmented staffing would be provided in lieu of additional staffing that would be reflected in a reduction in fees and would reflect the reduction in City Staff resources necessary for the review and approval processes. The reduction in fees would not exceed 30 percent of the total permit fees.

**WHEREAS**, The current fee for a site plan submittal and approval is \$800 per submittal and \$50 for each additional acre and a 30% reduction of the site plan fee for a 1-acre site is \$560.00; and

**WHEREAS**, The current fee for a land disturbance permit is \$250.00, plus \$50.00 for every acre or part thereof in excess of one acre. A 30% reduction of the land disturbance permit fee is \$175.00; and

**WHEREAS**, The item was on the posted February 3, 2021 Planning Commission Meeting Agenda, and on the February 17, 2021 Planning Commission Meeting Agenda.

**NOW THEREFORE BE IT RESOLVED** that Planning Commission does hereby recommend approval of an Ordinance authorizing the City Manager to approve the reduction of Site Plan review and Land Disturbance Permit fees when offset by in-kind staffing augmentation, in an amount not to exceed 30 percent of the total fees.



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager

**FROM:** India Adams-Jacobs

**RE:** **A resolution of the City of Petersburg City Council in support of HB1800, Item 114 #11h Infrastructure upgrades for the Petersburg Pharmaceutical Park**

**PURPOSE:** To provide formal support for of HB1800, Item 114 #11h Infrastructure upgrades for the Petersburg Pharmaceutical Park via City Council resolution.

**REASON:** The current budget amendment is under consideration by the General Assembly House and Senate budget conferees for inclusion in the final budget. If passed by Council, this resolution will be shared with our state delegation for additional support as additional support for this much-needed infrastructure funding.

**RECOMMENDATION:** Staff recommends approval of resolution at the next regular City Council meeting.

**BACKGROUND:** N/A

**COST TO CITY:** N/A

**BUDGETED ITEM:** N/A

**REVENUE TO CITY:** \$10,000,000

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:** Virginia General Assembly

**AFFECTED AGENCIES:** Economic Development, Utilities, Public Works, Planning

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:** N/A

**REQUIRED CHANGES TO WORK PROGRAMS:** N/A

**ATTACHMENTS:**

1. Resolution\_ Support for Petersburg Pharma Park Infrastructure Bill (HB1800, Item 114 #11h)

**A RESOLUTION OF THE CITY OF PETERSBURG  
CITY COUNCIL IN SUPPORT OF HB 1800, ITEM 114 #11h INFRASTRUCTURE  
UPGRADES FOR THE PETERSBURG PHARMACEUTICAL PARK**

**WHEREAS**, the City of Petersburg's intentional economic development efforts has led to significant opportunities for our Pharmaceutical Park;

**WHEREAS**, in the past year, one of our largest employers in the Pharmaceutical Park, Phlow, received a \$354 million in federal Health and Human Services (HHS) / Biomedical Advance Research and Development Authority (BARDA) four-year grant (with the option to expand to \$812 million) to address deficiencies in the domestic production of generic pharmaceuticals; and

**WHEREAS**, this opportunity is critical to continue our revitalization efforts in Petersburg and makes Virginia and the region a national pharmaceutical manufacturing leader; and

**WHEREAS**, the City of Petersburg strongly supports the budget amendment, HB 1800, Item 114 #11h Infrastructure Upgrades for Pharmaceutical Manufacturing Economic Development for the \$10,000,000 from the general fund to fund expenses incurred from the installation of a water tank and associated infrastructure at the Pharmaceutical Park complex in the City of Petersburg; and

**WHEREAS**, we respectfully request that both the Senate and House budget conferees support the City of Petersburg with the much-needed infrastructure funding for the total \$10,000,000 from the general fund budget for FY22; and

**WHEREAS**, the City understands that these funds' disbursement is contingent upon the City of Petersburg executing a loan through the Department of Environmental Quality's Virginia Clean Water Revolving Loan Fund to address sewer improvements at the Pharmaceutical Park complex and is committed to pursuing this loan; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Petersburg approves and adopts the resolution.

\_\_\_\_\_  
Samuel Parham, Mayor

ATTEST:

\_\_\_\_\_  
Nykesha D. Jackson, Clerk of Council

Adopted by the Council of Petersburg, Virginia, this \_\_\_\_ day of \_\_\_\_\_, 2020



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager  
Lionel Lyons, Deputy City Manager of Development

**FROM:** Reginald Tabor

**RE:** Request for the City Council to schedule a public hearing and consideration of an ordinance authorizing the City Manager to execute a Memorandum of Understanding regarding a proposal to lease City-owned property located at 1555 Flank Road.

### PURPOSE:

Request for the City Council to schedule a public hearing regarding a Proposal to lease City-owned property located at 1555 Flank Road and to consider an Ordinance authorizing the City Manager to execute a Memorandum of Understanding towards the Lease of the City-owned property.

### REASON:

To schedule a public hearing and consider an Ordinance that authorizes the City Manager to execute a Memorandum of Understanding towards the Lease of the City-owned property.

### RECOMMENDATION:

The Department of Economic Development recommends approval of the proposed lease of City Owned property located at 1555 Flank Road to the Appomattox Regional Governor's School to expand athletic and recreational activities for its students.

**BACKGROUND:** The Department of Economic Development received a proposal and draft Memorandum of Understanding from the Appomattox Regional Governor's School (ARGS) requesting the use of City-Owned property located at 1555 Flank Road to further expand its athletic and other recreational activities for its student; including for soccer, flag football, cross country, and other athletic and recreational activities and other school-related programs, and to make gradual upgrades to the Property over time.

**COST TO CITY:** NA

**BUDGETED ITEM:** NA

**REVENUE TO CITY: NA**

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:**

**AFFECTED AGENCIES:**

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:**

**REQUIRED CHANGES TO WORK PROGRAMS:**

**ATTACHMENTS:**

1. 1555 Flank Road Ordinance
2. ARGS MOU Presentation

## **ORDINANCE**

### **AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF PETERSBURG AND THE APPOMATTOX REGIONAL GOVERNOR'S SCHOOL TOWARD THE LEASE OF CITY-OWNED PROPERTY LOCATED AT 1555 FLANK ROAD**

**WHEREAS**, the City of Petersburg has received a proposal from the Appomattox Regional Governor's School (ARGS) to lease the City-owned property located at 1555 Flank Road (097010004) for an athletic field; and

**WHEREAS**, the Appomattox Regional Governor's School does not possess any athletic facilities, apart from the gymnasium at the school building; and

**WHEREAS**, the Appomattox Regional Governor's School wishes to use the Property to further expand its athletic and other recreational activities for its students, including for soccer, flag football, cross country, and other athletic and recreational activities and other school-related programs, and to make gradual upgrades to the Property over time; and

**WHEREAS**, it is the continuing commitment of the Appomattox Regional Governor's School and the City to support the public education for the good of the community, and to foster collaboration and a positive learning environment for the Appomattox Regional Governor's School students.

**NOW THEREFORE BE IT ORDAINED**, that the City Council of the City of Petersburg hereby authorizes the City Manager to execute a Memorandum of Understanding with the Appomattox Regional Governor's School toward the lease of City-owned property at 1555 Flank Road.

# Appomattox Regional Governor School MOU

Presented by:

Department of Economic Development

# Introduction

In the following presentation:

- Background on 1555 Flank Road
- Action Items
- Outline of Proposed Athletic Field

# Background Information

**The City of Petersburg received a proposal from the Appomattox Regional Governor School to purchase City owned property.**

**Location:** 1555 Flank Rd

**Current Use:** Private Little League recreational programs

**Prospective Purchaser:** The Appomattox Regional Governor's School (ARGS)

**Proposed Use:** Athletic Field

The proposed Memorandum of Understanding (MOU) would allow continued use of the field by the private little league.

# Action Items

**March 2, 2021** - Presentation to the City Council of the MOU between the City and the ARGs

**March 19, 2021** - Completion of the proposed MOU

**April 6, 2021** – Request to schedule a public hearing

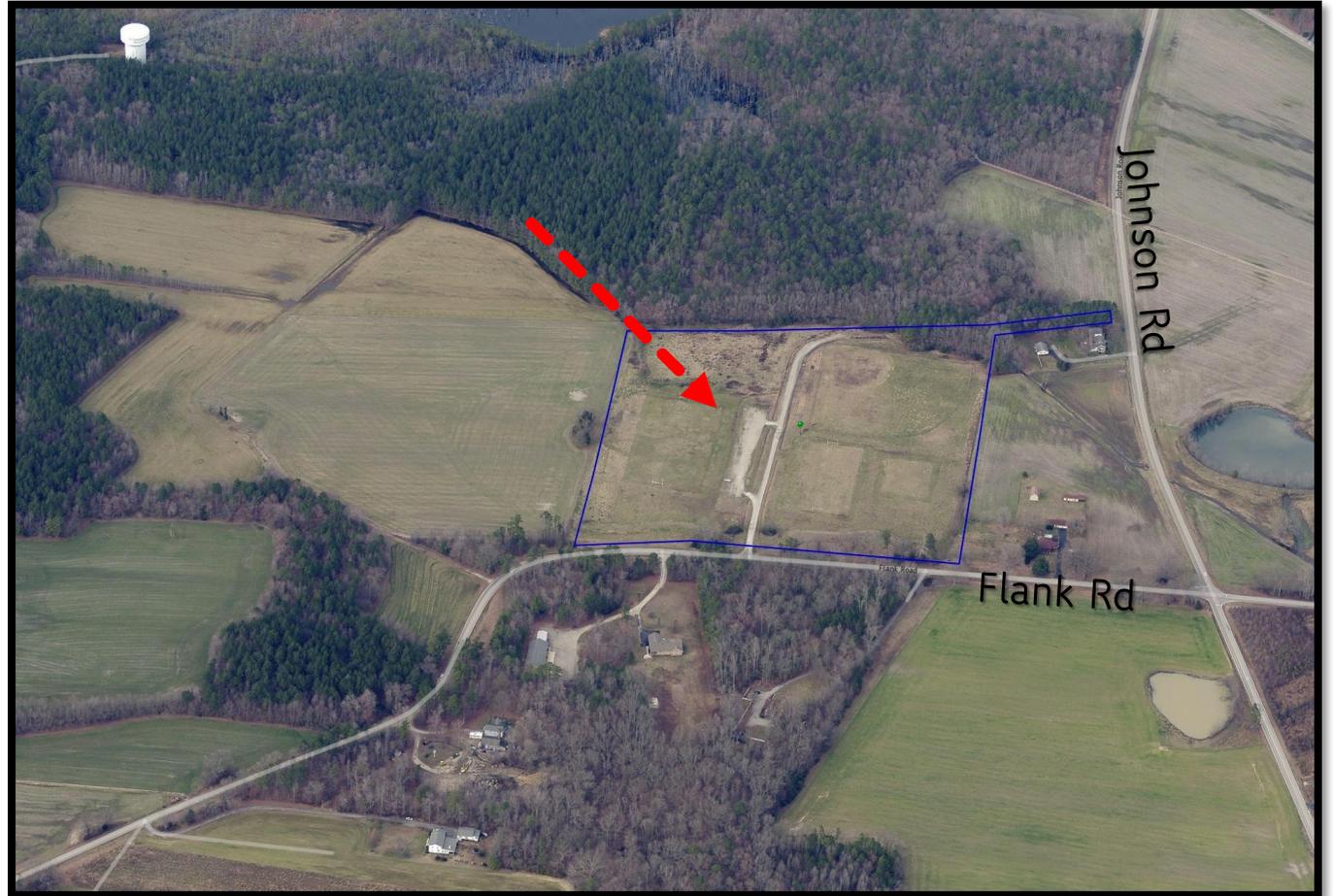
**April 20, 2021** – Public hearing and City Council consideration of an ordinance to convey the parcel located at 1555 Flank Road from the City to the ARGs

# 1555 Flank Rd

**Parcel ID:** 097010004

**Size:** 20 acres

**Zoning:** A - Agriculture



# Proposed Athletic Field



# Questions & Comments?





# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:**

**FROM:**

**RE:** City Council Minutes of January 28, 2021, February 2, 2021, February 9, 2021; February 10, 2021(closed session); February 10, 2021 (special meeting)

**PURPOSE:**

**REASON:**

**RECOMMENDATION:** Approval

**BACKGROUND:** City Council Minutes from previous City Council Meetings.

**COST TO CITY:**

**BUDGETED ITEM:**

**REVENUE TO CITY:**

**CITY COUNCIL HEARING DATE:** 3/2/2021

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:**

**AFFECTED AGENCIES:**

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:**

**REQUIRED CHANGES TO WORK PROGRAMS:**

**ATTACHMENTS:**

1. January 28, 2021 Closed Session Meeting Minutes
2. February 2, 2021 Work Session City Council Meeting Minutes
3. February 9, 2021 Special City Council Meeting Minutes
4. February 10, 2021 Closed Session Meeting Minutes
5. February 10, 2021 Special City Council Meeting Minutes



The Special Called Closed Session Meeting of the Petersburg City Council was held on Tuesday, January 28, 2021, on live stream. Council Member Parham called the Special Called Closed Session Meeting to order at 1:39p.m.

**1. ROLL CALL:**

Present:

Council Member Charles H. Cuthbert, Jr  
Council Member Treska Wilson-Smith  
Council Member W. Howard Myers  
Council Member Darrin Hill  
Vice Mayor Annette Smith-Lee  
Mayor Samuel Parham

Absent: Council Member John A. Hart, Sr.

Present from City Administration:

City Attorney Anthony Williams  
Clerk of Council Nykesha D. Jackson

**2. CLOSED SESSION:**

Council Member Hill made a motion to add the language of Virginia Avenue title and the Petersburg Public Library to the closed session. The motion was seconded by Council Member Myers. There was no discussion on the motion, which was approved on roll call vote.

On roll call vote, voting yes: Cuthbert, Wilson-Smith, Myers, Hill, Smith-Lee and Parham; Absent: Hart

- a. The purpose of this meeting is to convene in the closed session pursuant to §2.2-3711(A)(1) of the Code of Virginia for the purpose of discussions pertaining to performance, assignment, and appointment of specific public employees of the City of Petersburg specifically including but not limited to discussion of the assignment, appointment, and performance of specific public employees including Interim City Manager appointment; under Section §2.2-3711(A)(6) for the purpose of discussion and consideration regarding the subject matter of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the government unit would be adversely affected; and under Section §2.2-3711(A)(7) and (8) of the Code of Virginia for the purpose of receiving legal advice and status update from the City Attorney and legal consultation regarding the subject of specific legal matters requiring the provision of legal advice by the City Attorney specifically including but not limited to matters requiring legal advice from the City Attorney as it relates to Virginia Avenue title issues and Petersburg Public Library.

Council Member Myers made a motion that the City Council go into closed session for the purposes noted. The motion was seconded by Council Member Hill. There was no discussion on the motion, which was approved on roll call vote.

On roll call vote, voting yes: Cuthbert, Wilson-Smith, Myers, Hill, Smith-Lee and Parham; Absent: Hart

City Council entered closed session at 1:43p.m.

**CERTIFICATION:**

\*Audio available upon request.

Mr. Williams stated, "The Mayor would entertain a motion to conclude the closed session called this evening to certify in accordance with §2.2-3712 that the Code of Virginia that to the best of each members knowledge that only public business matter lawfully exempted from the opening meeting requirements were discussed and that only such public business matters were identified in the motion by which the closed meeting was convened, heard, discussed, or considered. If any member believes that there was a departure from the foregoing requirements should so state prior to the vote indicating the substance for departure that in his or her judgment has taken place. This requires a roll call vote Mr. Mayor."

Council Member Hill made a motion to return City Council into open session and certify the purposes of the closed session. The motion was seconded by Vice Mayor Smith-Lee. There was no discussion on the motion.

The motion was approved on roll call vote.

On roll call vote, voting yes: Cuthbert, Wilson-Smith, Myers, Hill, Smith-Lee and Parham; Absent: Hart

**21-R-12 A RESOLUTION CERTIFYING, AS REQUIRED BY THE CODE OF VIRGINIA, SECTION 2.2-3712, THAT TO THE BEST OF EACH MEMBER’S KNOWLEDGE, ONLY PUBLIC BUSINESS MATTERS LAWFULLY EXEMPTED FROM OPEN MEETING REQUIREMENTS OF VIRGINIA LAW WERE DISCUSSED IN THE CLOSED SESSION, AND ONLY SUCH PUBLIC BUSINESS MATTERS AS WERE IDENTIFIED IN THE MOTION CONVENING THE CLOSED SESSION WERE HEARD, DISCUSSED, OR CONSIDERED.**

City Council returned to opened session at 3:02 p.m.

**3. ADJOURNMENT:**

City Council adjourned at 3:02 p.m.

\_\_\_\_\_  
Clerk of City Council

APPROVED:

\_\_\_\_\_  
Mayor

\*Audio available upon request.

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The Work Session meeting of the Petersburg City Council was held on Tuesday, February 2, 2021, live streamed. Mayor Parham called the meeting to order at 12:03p.m.

**1. ROLL CALL:**

Present:

Council Member Charles H. Cuthbert, Jr.  
Council Member Treska Wilson-Smith  
Council Member W. Howard Myers  
Council Member Darrin Hill  
Vice Mayor Annette Smith-Lee  
Mayor Samuel Parham

Absent: Council Member John A. Hart, Sr (arrived after roll call)

Present from City Council Administration:

City Manager Aretha R. Ferrell-Benavides  
City Attorney Anthony C. Williams  
Clerk of Council Nykesha D. Jackson

**2. PRAYER:**

Mayor Parham stated, "Councilman Hill will lead us in our opening prayer."

Council Member Hill led the council meeting in prayer.

**3. PLEDGE OF ALLEGIANCE:**

Mayor Parham led council and the citizens in the pledge of allegiance.

**4. DETERMINATION OF THE PRESENCE OF A QUORUM:**

A quorum is present. Council Member Hart is absent.

**5. SPECIAL REPORTS:**

a. Report and Discussion on Boards and Commission

Council Member Treska Wilson-Smith gave an update on boards and commissions.

Key points:

- City needs to move forward with selecting and filling out boards and commissions.
- List in packet details all the boards and commissions that are listed on the back of the application.
- The boards in yellow are the current active boards and commissions.
- Needs to be stated and discussed of how many people are needed on the boards and commissions and if it is staff or citizens.
- Suggestions of rules and regulations have been sent to council and need to be looked on what changes that suggest or agree with.
- By the next meeting would like to vote on draft information pertaining to process of the

\*Audio available upon request.

regulating the boards and commissions.

- Clerk of Council redid the layout of the application for boards and commissions.

Ms. Jackson stated, "Also, with the list that you have up, most of the boards are actually other entities that are outside of the City. The ones that are in the City like Social Services, Planning Commission, ARB and Economic Development Authority. All the other boards on that list are different organizations in which we do not control how they run their board. But as far as like the Planning Commission and ARB, they already have in place that if you miss three meetings, they automatically send a letter to our office, in which I send out, removing them from the board."

Council Member Wilson-Smith stated, "Thank you. Can you send that in writing because I will not remember that right now?"

Ms. Jackson stated, "Yes."

Council Member Wilson-Smith stated, "Thank you. So, you will have that information as well from Ms. Jackson. Mrs. Benavides, did you have something to say?"

Mrs. Benavides stated, "Yes. Part in what I think in what we have been going back and forth on this is that I think in some City's that I have seen in the best practice is that on an annual basis and even when you do your business meeting every year that you review that list and make sure that there are vacancies, and it becomes a natural process. When I was over intergovernmental before what we would do on an annual basis, even if the appointee stays it is still that review. And the final thing that is missing and I think that me and Mrs. Treska spoke about it, is that another thing that we have not done a good job of and we need to add and possible to the work session is an update from each of these committees at least one a month. Because we will give you an update like on ARWA, but we are not doing it regularly. Same thing with Riverside and the ones that I even do as City Manager. I think that it is important for you to know. Because the things that are happening could impact our budget as well as even having the Planning Commission here to give an update at your work session quarterly if nothing else."

Council Member Wilson-Smith stated, "Thank you. And Gerrit has put on our page so that you can see the proposed process and proposed rules. This is all a draft, and this is not concrete. This is a draft for us to look at and we can make changes to the process and rules. Please send any changes to Ms. Jackson as well as me and to Aretha. And I believe that concludes my report."

Mayor Parham stated, "Thank you Council Member Wilson-Smith. Currently, I was just looking at several of the ones that I sit on which was Gateway and Crater Planning. I do not see the ones like Workforce Development Board that I sit on here listed. Am I missing it?"

Council Member Wilson-Smith stated, "No. I do not think that you are missing it. I think that it is not on there. I apologize for that."

Mayor Parham stated, "We want to add that one as well. And the next one is that I sit on the MPO Transit Committee with Charles Koonce. If you can add that one as well."

Council Member Wilson-Smith stated, "Does that go under boards and commissions? MPO?"

Mayor Parham stated, "Yes, it is because we have a staff member on it. And we also have a member of council that sits on it. I have been sitting on it for the last four or five years. And I think one of the biggest things that we need to look at as well is to create alternates for when someone who is serving especially on council who cannot be at the meeting to have an alternate council person that can sit in. I know that at past meetings

\*Audio available upon request.

of the Workforce Development, Councilman Myers has set in some when I was not able to make it. They kind of coincide. I would like to also get a fill from members of council of any of them that you would be willing to serve as an alternate or serve as the council designee as well to keep everyone involved.”

Council Member Wilson-Smith stated, “You want to people to send you an email if they want to do that?”

Mayor Parham stated, “Yes, that would be great.”

Mrs. Benavides stated, “As the Mayor started thinking I just thought about it that PART is not on there, the regional tourism, which I think that I sit on and others attend. On my transition plan, I had a list of all the different things that I go to, whether they are committee or not. But I think that it is important, some of them require you all to formally appoint and some of them are virtual title. I think that it is important from a tracking standpoint that we know what is out there. So, I thought about PART and there is one other that I do not remember but I will find it. We will send it out to staff and with staff if they are on something, we may not even realize that they represent the City, but we try to get that so that it will be in front of council too.”

Council Member Wilson-Smith stated, “We will add Workforce Development, MPO, PART and Regional Tourism. And if you think of anymore, please send the email to Nykesha, me, and Mrs. Benavides so, that we can complete the list. Once the list is complete, we will send it to you again by way if email so that you can have a full look at it and make some decisions about that list. Because that is the first step. We have got to have a list that includes everything. Thank you. Thank you, Nykesha.”

Council Member Hill stated, “I am glad that we are doing this. And thank Treska Wilson-Smith, councilwoman, for taking the initiative. My man concern, and the City Manager hit on it, is them reporting back to us. Even if it is done through the individual that is on there. Where we can at least get a quarterly report if not a monthly report on where they are with their meetings and things like that and whatever it is that they are working on. We pretty much know with the planning department because it particularly comes before us. But a lot of these other boards and commissions they do not come before us unless something comes in our packet. So, that is my main concern and making sure that we have diversity on these boards and commissions and diversity within the City. Meaning throughout the wards. We should not have four people from one ward on a particular board or anything like that. I just want it to be balanced throughout the whole City. So, those are my concerns, and I will bring those up at the appropriate time in the email or whether at our next meeting. But thank you.”

#### b. COVID-19 Update

Darnetta Tyus, Deputy City Manager, gave an update on COVID-19.

##### Key points:

- Council received a report in their email.
- Petersburg case are now at 2,437 and the death total continues at 37.
- Of the 2,437 cases, 1,959 have now been cleared. There are 107 active cases.
- There is a system called BAMS that helps with getting people registered for the vaccine that the City is using. The State is switching to a system that is user friendly than what the City experienced in this first round.
- Testing is continuing to happen in the Crater District and in the City of Petersburg. Testing is taking place at 400 Farmer Street as drive-up testing. You must register at 804-862-8989 (central number to register)
- Petersburg is giving vaccinations on Saturdays consistently. Crater District, starting today, there will be ten vaccination sites and events for about a week. There will three additional Saturdays and sites for vaccinations for the school system.

\*Audio available upon request.

- Health Department has agreed to allow each jurisdiction to assist by setting up call centers that are devoted to registering for the vaccinations.
- The Health Department's Team is in a planning session to be able to provide the various sites for vaccinations, so they are not able to attend.
- The State has set up a centralized system that they will all be feeding from with the same data and information.

Council Member Wilson-Smith stated, "The VAMS site that is being changed to something more user friendly. Keeping in mind that we are trying to get citizens 65 and over vaccinated. Did you all consider that they may not be computer savvy no matter friendly you make it."

Ms. Tyus stated, "The whole purpose of setting up the call center is that if they have a phone, we can help do it ourselves. So, when you call the way that it will conceptually work is that you call into the health department center. And you identify what jurisdiction that you are calling from. So, you press number one for Petersburg and those calls will come to our call center. Where the team that is working there is registering you over the phone. So, that is the exact reason why we ask them to allow us to help so that we can accommodate our seniors who may not be computer savvy."

Council Member Wilson-Smith stated, "There is a big difference in the numbers that you send us and the numbers that VDH put out. I do not understand why."

Ms. Tyus stated, "Can you give me an example? So, there is a timing difference. There is a timing difference between information being dumped into the central state system and the information that we get here. They have explained it to us several times that there will always be a timing difference. And so, you can give me an example of something, and we can try to help understand why something. But there is always going to be a timing difference between getting information out of the statewide system. The statewide system must get information from localities to create their numbers. Whereas the locality the numbers that we are doing are more localized."

Mrs. Benavides stated, "Ms. Tyus this is not our form. This is the form that comes straight from our Crater District, right?"

Ms. Tyus stated, "Exactly."

Mrs. Benavides stated, "So, this is the Crater form. They give this to us on our daily briefing."

Council Member Wilson-Smith stated, "I know that we said previously, and I know that we do have the once a person has COVID then there someone from the health department who does the contact tracing. So, we are addressing the issue after we know something about the person. I have asked a couple of times before what we are doing to prevent or something at the other end. And so, I came up with an idea, if you do not mind, and that is that we establish a COVID Taskforce. And those persons would be within the community. They would go around different sites in the community to see if there is a congregation of more people than we should have such as eateries and clubs. Those people go to various churches on Sunday to see about congregations if they are doing it. Those people who would go to the hotels. See if they are following protocol. Those people would always be armed with mask and hand sanitizer to need wherever they go. But it would put us ahead of the people who are getting COVID. We pay the money through the COVID funding for the contact tracers. Would there be enough left to put such a plan in place. And is the idea valuable?"

Ms. Tyus stated, "I would want to talk to you a little more about that. So, COVID is real. So, let us talk a little bit more about that. I am not sure how to envision that right now."

\*Audio available upon request.

Council Member Wilson-Smith state, "And the last thing, thank you for contacting the health department. I want to be polite and certainly understanding but the citizens are coming to us with questions. It is difficult to give anyone an honest answer. And I am only going to give an answer if it is honest if we do not know. And I can tell people to go on this website or make this call but that is not an answer to me. I would like to give answers that let the citizens know that I truly understand what you are going through. For someone who has had COVID I understand what you are going through. But although your report is good, I have no answers really. And I wanted the health department here or somebody. It did not have to be the whole team but one person to come out and ask us things and answer things for us. So, it becomes a little unacceptable that nobody could come."

Mayor Parham stated, "I just wanted to chime in on that. I have had the same concerns about not having a clear message to give to our citizens here. And I talked with Senator Joe Morrissey office and we are setting up to do a COVID answer zoom on next Wednesday at 9:00am. I just talked to his office this morning and I was asking him. Because the Crater Health District works for the State. And Senator Morrissey is the Senator for the State and he says that he will have a zoom with us next Wednesday at 9:00am. If you can be there and state a lot of concerns and hopefully get some of our questions answered as far as getting a clear and precise message out to the citizens of Petersburg."

Council Member Wilson-Smith stated, "I thank you for that. I did get the email and I did put that on my calendar to meet with him then. But in between now and February 10<sup>th</sup> when we meet, we still have no answers for the citizens. That is the sad part."

Mrs. Benavides stated, "In our Crater Regional City Management call that has been the biggest challenge that we are having. And not throwing rocks at anyone but I do believe that a part of that challenge is that everyone is looking for answers. And as we start to try to get those answers it is not that they do not have them its that they do not know. And they do not have the staff to answer some of them. And working on getting to this process that is why the call center came up is that the elected officials, city manager, and everyone is tired of getting beat up because we just do not know. And I think that the Crater District is trying to answer what they know but they do not know either and they have some limits in what they can do as a district. And that is where we do not want to get them in trouble with their bosses at the state. But Senator Morrissey and these other folks are trying to help us to get what we need. From testing, from follow-ups, from all the immunization that is necessary and how this process is being rolled out it has become a big question. If we can schedule something with them, and I can tell you that we met with him yesterday and listened to what they said, and it did not make me feel better. Because I realized that they just do not have answers that we are looking for. But if we can even keep trying to get them on schedule, I know that I mentioned to the Mayor on possibly having a special council meeting on next week to have as part of a topic."

Council Member Wilson-Smith stated, "Can anyone tell me when the health department was contacted to attend this meeting."

Ms. Tyus stated, "I think that I mentioned it to them earlier. I focused on it earlier this week. They did not have a lot of time. If the manager can chime in, we are in at least four standing meetings with the health department every week and it is exhausting. And the information that is coming out of there is the information that we are giving. And many of the questions they do not have answers for. I will acknowledge that when you reiterated to me a couple of days ago, I did follow up with them then. They did not have weeks for it. So, I will take the responsibility for the fact, but they would not have been able to make it today anyway."

Council Member Wilson-Smith stated, "They may not have been able to make it, but it would not have been on us that we did not contact them in a timely manner. We can go public. This is a public meeting. So, what we are saying is that the health department could not come today because they had meetings and things. And that is the actual answer for them. That is not fair to them and that is why they could not come. Okay I am

\*Audio available upon request.

done.”

Council Member Hill stated, “Thank you for your report Ms. Tyus. One of my questions was do we know how many people have been vaccinated in the City of Petersburg thus far.”

Ms. Tyus stated, “I can get you that number. What they have been sharing with us is the number of doses that they are getting on a weekly basis. So, I can get you the number. I do not have that here with me.”

Mrs. Benavides stated, “So, that is one of the conversations that we have been having. And in all fairness to them. They have focused very heavily, and I have even put my foot in my mouth with working with the City of Petersburg. Some of the other localities are having a lot of difficulties than we are. In fact, I mentioned that we had actually moved it into our public safety to realize that we were the only ones who had our public safety group completely vaccinated.”

Council Member Hill stated, “okay. If you could give me a percentage of how many people in the City of Petersburg that are getting vaccinated daily. If you can get that number. Also, I know that we try not to throw people up under the bus, but had Petersburg not done something right or something like that we would be the first ones that people be throwing Petersburg up under the bus. So, although you say that they do not know they can appear before us. Even if they are giving the same numbers that the Deputy City Manager has given us, they can appear before us. They have responsibility to this community, to this region and to this area. So, for us to sit up here and say that we were not giving them enough notice they should want to get out before this. Because the Governor, he has briefings all the time. Briefings in which he gives and brings it down here to us. Someone needs to come before this council and tell us something. And I understand that you all are in meetings, but I am just like all the other members of council. We get phone calls every day saying where can I get vaccinated and who do I go see and what is the number. Everybody wants this vaccination. Especially with us being a predominantly African American area. We are high risk in everything, and we are at the bottom of everything. Our area should get that focus. I am not beating up on anybody, but I do know whenever something goes on in the City of Petersburg we get thrown up under the bus. And I am tired of being everybody’s whipping board especially when they are not stepping up to the plate and doing what they get paid to do. They have a responsibility to the citizens of Petersburg. And Crater District along with our Health Department, Dr. Hart, and all of them. I am not talking about this call. We have been dealing with COVID ever since eight or nine months. And we have not heard anything in person from them. That is unsatisfactory and we pray that this meeting and we should not have to call Senator Morrissey. It should be automatic. So, I am hoping that this meeting on next Wednesday will be a positive one but a serious one. Because our citizens need this vaccination. And we are talking about opening schools here soon. I am glad to hear that the school system will be getting vaccinated. Hopefully, bus drivers and everybody who is in the school system. But thank you for what you are doing Ms. Tyus. I am not whipping up on you. But be careful about what you say with saying that was on you. Because at the end of the day they are health professionals, and you are not. You just help facilitate. Thank you, Mr. Mayor and Members of Council.”

Council Member Cuthbert stated, “Thank you. I share the frustration that has been expressed here. I am going to withhold putting my frustrations into words until I see how the meeting goes Wednesday of next week. But I trust that it will be a productive meeting because the goal of all of us at this point is to be effective in helping our citizens. And I struggle with the question of how do I be most effective. Do I lay my frustrations on the table in public or do I see what happens Wednesday week? Right now, I am in the mode to see what happens Wednesday week. I share the frustration for good reason. We have people dying and we have people in great fear of dying and it is probably the most serious issue that has become before this council in 50 or 25 years. It is a matter of life and death. So, it well deserves everyone attention and we all need to work towards finding a solution. Ms. Tyus let me turn to your comment about vaccinations that are going in Petersburg this Saturday. I have had three members of the public contact me in the over 65 age group. They are quite concerned. They have not been able to get the vaccine. They dearly want to receive the vaccine. Is there place

\*Audio available upon request.

that they can sign up for this coming Saturday to receive the vaccine or the Saturday after that. Or do they forgotten and have to hope for the best?"

Ms. Tyus stated, "There are probably two answers to that. If you are in Phase 1A or Phase 1B and they are in Phase 1B, you can call 862-8989. But that is what we are trying to help relieve. You are getting frustrated calling that number and the system is overwhelmed. What we are sharing with people is that we are setting up call centers now. We are working out the details so that we can help assist with the registration. The call center focus right now will be on the 65 plus. And that is because we recognize that even with the simpler system that is still not going to get us where we need to be in terms of assisting our 65 and plus and getting them registered."

Mrs. Benavides stated, "Ms. Tyus, I think what will help, because we talked, and I assume that everyone understands that 1A and 1B and all the conversation, who did the classifications and how was that 1A and 1B done?"

Ms. Tyus stated, "That is a State mandate. The State determined what the phasing would be and who would be in those categories. Category 1A was intended to be your hospital, your medical workers, your long-term care facilities, and that kind of thing. Category 1B was to start your emergency, EMS, and critical staff. In our region we started prematurely with the emergency, police, fire, and EMS crew. We started on those but that is defined by the state and not by Crater Region or us."

Mrs. Benavides stated, "But the Governor then came back and said on the Virginia Department of Health, and I am looking at this site now, it has a break down of how the citizens are being rolled out. Some groups finished one category faster because some individuals were simply not interested in going through and doing the vaccination. But there is a 1A, 1B and even a 1C plan. The Governor has recently announced about moving seniors up faster. As we remember, when they started out, they started out just strictly healthcare workers. But what you are discovering and even in our category is that there are individuals even healthcare workers that are saying I am not interested in this phase in having the COVID vaccination. So, versus holding onto them what they are looking at moving into other phases and moving through it. The other challenge you have with this is that you have is right now is that there are two approved vaccinations out there. One is the Moderna and the other is the Pfizer. We are now going to be receiving the Pfizer vaccination which I think that they are going to specifically focus on with us with the educational group and school aids. They have different maintenance requirements as far as the storage and things like that that are required. And so, as you look at this process and how is being rolled out the people that have the first COVID show would have to have a second. So, there has been discussion on the news about holding off for the people to have enough for the second vaccination. I think that the Governor's Office, and I think that is why the Senator is important in this conversation, is trying to find their way through this process on how to handle this in making sure that they have enough vaccinations coming to cover both does which are required. And I think that with the Senator the conversation is that I do not believe that there was any conversation with staff including our staff of elected officials when they started coming up with this phase approach. This is the same approach that is not just being used in the State of Virginia but throughout the United States."

There was discussion among City Council and staff.

c. Update on Petersburg Public Library

Wayne Crocker, Director of Petersburg Public Library, gave a PowerPoint presentation on the Petersburg Public Library.

Key points:

- There is a rear entrance on the center.

\*Audio available upon request.

- They have added about 35 more parking spaces. There are almost 65 spaces on the grounds now and once completed there will be about 100 parking spaces in the lot. There is also on street parking as well.
- There will not be fixed seating in the conference and event center. They can accommodate auditorium style and seat 375 people and banquet style that would seat about 200 people. There can be training in the space as well.
- The acoustic will be great.
- There is a stage in the center, and they have chosen to raise the height of the stage so everyone in the back can see as well.
- The kickoff was May 2019. There was a check presentation in July 2019.
- Major donors were The Cameron Foundation, The Cabell Foundation and The City of Petersburg. They have raised \$1.7 million dollars of the \$2.5 million dollar goal from 143 donors.
- Groundbreaking was October 29, 2020 and the construction began on November 16, 2020. The site work has been done, installed site utilities, excavated, and poured concrete footings, erected structural steel, installed roof decking, and poured concrete slab.
- The project is on schedule to receive its certificate of occupancy June 17, 2021. It depends on the weather and fundraising.

There was discussion among City Council and staff.

d. Update on Social Services Department

Norris Stevenson, Director of Social Services, gave a PowerPoint presentation on the social services department.

Key points:

- From 2010 to 2018 there was reduced population.
- The current poverty level for the City of Petersburg is 22%. The poverty level for children is 35%. 13% of the residents in Petersburg do not have health insurance.
- The number of people accessing the benefits from the Petersburg Department of Social Services (PDSS) has grown. Currently there are more than 20% people that use the PDSS programs. That is 64% of the City's population.
- SNAP Population has only increased by 2%.
- Medicaid population increased by 11% from last year.
- There were challenges of COVID-19, relocating agency to 3811 Corporate Road, Standardization of Operations, and staffing.
- PDSS accomplished restructuring the benefits program workflow, steady increase in key performance indicators and staff adapting to telework.

There was discussion among City Council and staff.

e. Future of the City of Schools Partnership

Leanne Lytle, Director of Community Impact, gave an update on the future of the City of Schools Partnership.

Key points:

- It was founded in 2015 from Governor McAuliffe Children's Cabinet to address chronic absenteeism in Petersburg.
- An accomplishment of the program is the development of the "Petersburg Magic Card".

\*Audio available upon request.

- Have a partnership through the Department of Housing and Community Development and St. Joseph Villa.
- Had successful advocacy in bringing commercial workers into schools through the Department of Social Services.
- Crimson Clinic at Petersburg High School has come on board that addresses the mental and emotional behavior and medical needs of students at the high school. It is a partnership with Central Virginia Health Services who is now the medical sponsor of this project.

Dr. Maria Pitre-Martin, Superintendent of Petersburg Public Schools, gave an update on the future of the City of Schools Partnership.

Key points:

- Thanked United Way for their assistance in facilitating this process through the years. It is a sign as progress in working with the City that they are ready to take on this process.
- The mission is to create the climate and conditions for every child to succeed by providing a sustainable, coordinated system of supports and access.
- Vision is to support the Petersburg City Public School Division in providing a quality education that ensure every child is college ready with marketable skills and industry certification.
- Goal of advance a shared agenda for child and family success.
- Provide technical assistance to identify or develop effective programs, strategies, and models for child and family success.
- Assist partners and diverse stakeholder groups in attracting resources to programs and support activities directly related to the Partnership's mission-driven agenda.
- Advocate for policy changes to ensure resources and direct support for child and family uplift and pathways out of poverty.
- Monitor the environment for emerging issues and trends to be more proactive than reactive to potential risks and opportunities.
- The priorities consist of bridging the gap between workforce and the high school, attendance and trauma-responsive and resiliency in Petersburg.

Ms. Tyus gave an update and some key points with the PowerPoint presentation.

Key points:

- The Minority Strategy Committee Members were created with members from throughout the City.
- Participated in Governor Northam Petersburg Health Equity Pilot Project.
- Presented COVID 19 Petersburg Resource Guide in English and Spanish.
- Presented a Back-to-School Backpack Initiative.
- Assisted in contacting students, who were "no shows" at beginning of the school year.
- Assisted in connecting students to the Crimson Clinic for overdue school vaccination.
- Assisted School Department with Feed the Need Initiative.

Mayor Parham stated, "Thank you for the presentation it was wonderful. I would like to thank the United Way, Ms. Lytle, Dr. Pitre-Martin, and Ms. Tyus for taking the lead on the City's behalf in coordinating and keeping all these good works on moving down the road. We just want to keep the momentum that we have going."

## 6. MONTHLY REPORTS:

a. General Assembly Legislative Update

\*Audio available upon request.

India Adams-Jacobs, Assistant to City Manager, gave a PowerPoint presentation on the legislative agenda.

Key points:

- Session began on January 15<sup>th</sup> and is slated to end on February 11<sup>th</sup>.
- The Crossover is on Saturday, February 6<sup>th</sup>
- This is a short session (30 days, instead of 45 days); 2021 is off budget year.
- There are bill limits for both Senate and House.
- The House is meeting virtually and Senate meeting in person with limitations due to COVID.
- The legislative items are criminal justice, social justice, and economy.
- There are four active bills that are dealing with legalization of marijuana. Some were killed and there are some still active.
- Legislative request for infrastructure upgrades for pharmaceutical manufacturing economic development in the amount of \$10,000,000 from the general fund to fund expenses incurred from the installation of a water tank and associated infrastructure at Pharmaceutical Park complex in the City of Petersburg.
- Delegate Aird- The School Equity & Staffing Act (HB1929) to amend the SOQ to establish units in the Department of Education to oversee Work-Based Learning, Principal Mentorship, Teacher Leader and Teacher Mentor Programs. The physical impact is \$462.3 million dollars.
- Senator Morrissey – Criminal records, certain; established a process for the automatic expungement report (SB1339) for the expungement and sealing of police and court records. The physical impact is \$50,000.
- Bill HB2333 on COVID Administration of the Vaccine and it was passed on yesterday. It increases the ability for increased volunteers to allow for the administration of the vaccine. They allocated \$119,000 for this year as well as \$432,000 for next year.

## 7. FINANCE AND BUDGET REPORT:

Mrs. Benavides stated, “We are in the process of scheduling to present the CAFR to council in a special council meeting hopefully prior to our next business meeting on the 16<sup>th</sup>, preferably about 10:00am. We have received the first draft of the document. They are still working. Mrs. Adams-Jacobs will you give us an update? We have the first draft, and we are just working on a response and we will have more information. But the draft is complete. We will be presenting the formal CAFR to council on February 16<sup>th</sup>, prior to our regular business meeting. Ms. Patrice, is there anything that you need to add from a finance standpoint?”

Ms. Elliott stated, “Thank you for providing the CAFR update. I just want to let everyone know that we did issue the w-2’s for this year. So, those have been sent out to all the employees. We did issue the 1099s to all the vendors this year as well. We gave an update at the last meeting about the lending and bank accounts. I spoke with SunTrust yesterday and they are pleased with the progress that we have been making.”

Council Member Wilson-Smith stated, “At the last council meeting I asked for a report on all of the grants that had been given. The total amount that had been given to us for grants. So, I am looking for that at this meeting.”

Ms. Elliott stated, “Okay council member I do not see Robert Floyd on the line.”

Mrs. Benavides stated, “Oh I am sorry. I need to apologize. There is a reason why. Mr. Floyd had a family issue that he had to deal with, so he is not on this call. As she said that I remembered that he did. We will get that information to council for a formal presentation at the next presentation meeting. When the conversation first came about on CARES funding it was scheduled to end initially on the 21<sup>st</sup> in January. At this  
\*Audio available upon request.

point of time, we have through the end of the year. So, we have not returned any funding. There is no funding to expire. But he was working on that and he did have a family issue.”

Council Member Wilson-Smith stated, “Thank you.”

## **8. CAPITAL PROJECTS UPDATE:**

- a. PowerPoint Presentation on St. Andrews Street Bridge Replacement, Park-N-Ride, and Citywide LED Streetlight Conversion.

Mr. Lyons stated, “Mr. Mayor, I have asked Mrs. Innis to do the presentation. She and her staff, Mr. Temi, have been doing an outstanding job. Some of you have also, as we get through this presentation will have specific questions more than that I know as it relates to LED lighting. We have been moving forward with all three of these projects. Mrs. Innis will lead us through it and I standby to assist if you all have any questions. As Gerrit moves forward with bringing Mrs. Innis in as well as putting her PowerPoint presentation up I would ask her to take the lead on this. After each of those presentations we will entertain any questions that you may have.”

Tangela Innis, Director of Utilities, stated, “Good afternoon. We bring before you our first presentation which is going to be on the St. Andrew Street Bridge. And the project manager for this project is going to be Mr. William Riggelman, Capital Improvement Project Manager.”

Mr. Riggelman gave an update on the St. Andrews Street Bridge Project.

Key points:

- Existing bridge structurally deficient and closed to traffic in 2007.
- Timmons Group began design engineering in August 2019.
- An IFB was advertised in March 2020.
- Contract was awarded to Franco’s Liberty Bridge, Inc in September 2020. The contractor is based in Maryland.
- The contractor began work in September 2021.
- Project will maintain existing lane widths, sidewalks, existing roadway profile and existing fieldstone walls.
- There are two waterlines that will have to be relocated.
- The new bridge will be constructed of concrete and will have metal railing.

There was discussion among City Council and staff.

Temidre Okeowo, Capital Projects Manager, gave a briefing on Petersburg Park-N-Ride

Key points:

- Guernsey Tingle was awarded the contract to handle the architectural design for the project.
- 100% design documents have been submitted for review and cleared.
- An invitation for bid (IFB) has been put on the City’s website. The solicitation release was December 23, 2020. The pre-bid was January 7, 2021. Questions were due on January 28, 2021. Pre-bid receipts are on February 17, 2021 and the bid opening is February 18, 2021.
- The project team agreed to select Precast Construction. A site visit was done to see how the process works.
- It was agreed to have three electrical car charging stations in the construction plan.
- The Right-of-Way document has been signed and given back to Dominion Energy.

\*Audio available upon request.

- The total cost of the project is \$8,000,000 and it is still going on as scheduled.
- The project is funded by Department of Railroad and Public Transportation.

Mrs. Innis stated, "Good afternoon Members of Council. As previously stated during our meeting in June 2016, we did start out LED project in Ward 4. But Mr. Temi is going to go over the project details and then we will tell you what we are proposing to do in our next phase. This is highlighting our first phase of the project. Where Dominion has ordered the parts for the first phase of the project. But we will entertain any questions that you have of this project at the end. Thank you.

Temidre Okeowo, Capital Projects Manager, gave a briefing on Citywide LED Light Conversion.

Key points:

- The Department of Utilities and Capital Projects has initiated a project to convert outdated incandescent street lighting to modern LED street lighting.
- The purpose of this project is to increase lighting, ensure safety and enhance the various landmarks.
- There are 3,199 streetlights to be converted. The cost of conversion is \$503,581.36 and the monthly savings is \$10,637.15. The yearly savings is \$127,645.80.
- In Phase One there are 163 lights to be converted with a total of 34 streets.
- City staff is also recommending continuing with Ward 5 in conjunction with the City's Public Safety recommendations.
- The project will be paid through the City's Urban Allocation Dollars. If all lights are converted in a 1-year period, the payback period is 3.9 years.

Council Member Cuthbert stated, "Thank you Mr. Mayor. This is a great project, and it is remarkable to have a project with a payback of less than four years. I cannot think of any downside to what is happening. While I have the microphone, let me tell everyone about a phone that I received during this meeting. It was from Judge Lupold from Petersburg General District Court and he told me that he had called the City last week to tell them there was a small leak in the courtroom and would they please tend to it. He had not received any response. He told me that now that it is a lot more than a small leak. That carpet has been ruined and ceilings are falling or threatening to fall. It sounds like real mess. It started in the courtroom and now it has extended to some extent into the clerk's office. So, I thought while I had all of the people on this zoom call who could make a difference that I would ask that they would address this as soon as feasible."

Mrs. Benavides stated, "We are going to give an update on this council member during the City Manager's update."

Council Member Cuthbert, "Great. Thank you."

There was discussion among City Council and staff.

There was discussion among City Council and staff.

## 9. UTILITIES:

- a. An update on the South Crater Road Emergency Waterline Replace Project.

Mrs. Innis stated, "If we may Mr. Mayor go on to the Water and Sewer Presentation. I am going to ask Mr. Andrew Barnes and Mr. Ronell Johnson if they will participate in this presentation on the South Crater Road Emergency Waterline Replace Project. This project started during the winter month of December and it is \*Audio available upon request.

still an ongoing project and process. So, they are going to do the presentation for us.”

There was discussion among City Council and staff on the water main break.

Andrew Barnes, General Manager of Public Utilities and City Engineer, gave a briefing of the PowerPoint presentation.

Key points:

- In mid-December there were complaints from customers between Maycox Street and Glenroy Street about low pressure.
- Staff identified that the customers were serviced by 2” waterlines that ran behind the property. Staff also attempted to identify any visible leakage along the alignment. They tested some residents and discovered that they had low pressure.
- They looked at a couple of options. One option was replacing the existing 2” water line which was not possible. Fences, sheds, and derelict vehicles would have to be moved or replaced, no record of easements and not a location of a water line.
- They developed an idea to install a new waterline behind the sidewalks via Horizontal Directional Drilling, set new meters in the front and reconnect the homes to the new line.
- They contacted Rain for Rent, which is an emergency utility solutions company, for an above ground bypass.
- In Phase 2, the City obtained a new vendor, JCR Underground, to install a new waterline behind the sidewalk via Horizontal Directional Drilling. This is the same technique used for fiber optic and cable installation along the side of the road.
- In Phase 3, Causeway Plumbing will reconnect all of the homes between Maycox Street and East South Boulevard to the new 4” waterline. They will set up new services taps and meter pits. The City will cap or abandon the service connections in the rear of the house and install meters in front. It should be a two-week process.
- The City will clean, disinfect, flush, and sample the new line. They will also clean up debris and reseed denuded areas.
- Total cost of project is estimated at \$210,135. All work was procured through emergency procurement.
- The 2” Galvanized Iron water line was installed behind the S. Crater Road properties before 1950. The pipe is about 70 years old. South Crater Road was not apart of the City until 1956. The typical life span is 60 years for the pipe.
- Develop Emergency Response Plan and Standard Operating Procedures.

There was discussion among City Council and staff.

City Council Members thanked staff for a job well done with fixing the emergency waterline project.

**10. STREETS:**

\*No items for this portion of the agenda.

**11. FACILITIES:**

Mrs. Benavides stated, “This would be a perfect time Mrs. Innis, if you would give us on the facilities update on what is happening with the courts building.”

Mrs. Innis stated, “Yesterday, we were notified that there was an extensive amount of water in the General District Court. The roof fell in several areas. I contacted a contractor yesterday to come out and do a  
\*Audio available upon request.

brief assessment of the roof. We have since received a proposal for \$43,000 to have the full roof replaced. That process can possibly take two to three weeks for the actual contractor to perform the replacement of the roof. We initiated an emergency purchase through our procurement team. We anticipate having the purchase order within the next 24 to 48hrs and for the contractor to begin that process. That is the most update that we have ma'am."

Mr. Lyons stated, "Mrs. Innis and I and we are inviting Mr. Williams to join us, soon we finish this meeting we are heading over to Judge Lupold's Office to talk about this. And for us to figure out what the other options are. If you have visited the site yesterday it is principally in the General District Court. Which is Judge Lupold's piece. The initial thing that came about was a roof collapsed. It is not a roof collapse it is a compromise, which is not uncommon. We have had problems all along. There are pictures that staff and others have taken of roof that as a part of this process, a roof replacement is our only option for this building right now. However, if you put the weight of the ice and snow on it. "It compromised the court room. But we are still going to go over to Judge Lupold's and let him know about all the options for housing his court and to allow him to tell us what works for him. And our staff will do everything that we possible can to provide for him what him and his staff needs."

## 12. ECONOMIC DEVELOPMENT:

### a. Update and information on the Technology Zone Expansion.

Jeremy Tenant, Assistant to the City Manager, gave a PowerPoint presentation on the Technology Zone Expansion.

#### Key points:

- Any City, county or town can establish, by ordinance a technology zone. Each locality may grant tax incentives and provide certain regulatory flexibility in a technology zone.
- Tax incentives may be provided for up to ten years and may include, but not limited to, reduction of permit fees, reduction of user fees and reduction of any type of gross receipts tax.
- The governing body may also provide for regulatory flexibility in such zone which may include special zoning for the district.
- There are 79 Technology Zones Statewide in Virginia Economic Development Partnerships (VEDP).
- They consist of technology research: Data Centers, Software, Cybersecurity, and unmanned systems. They consist of design and manufacturing: advanced materials, aerospace, automotive, wood products and food and beverage processing.
- The purpose of the City of Petersburg Technology Zone is to allow and encourage certain classes of high technology business activities that have special economic significance to the City due to the nature of the technology and potential for high growth in employment and capital investment.
- The intent and three elements for the technology zone is to improve economic conditions, hasten redevelopment and benefit the welfare of its citizens.
- A list of issues to be considered regarding the site at 801 South Adams Street: a) Residential land uses adjacent to the property will be impacted by operations, therefore development and site use will need to consider and potentially mitigate impacts, b) The current zoning, residential business district permits laboratories but does not permit industrial/ manufacturing uses, c) road and signal improvements may be required to accommodate an increase in traffic and, d) uses and site specification requirements associated with Technology Businesses are unknown.
- Staff recommends a study regarding the site specifications and land uses of technology businesses by the Economic Development Authority (EDA).
- Staff recommends a study regarding the potential impacts of a technology business

\*Audio available upon request.

development on the adjacent neighborhoods.

- Staff recommends business site specifications and land uses are identified and an impact study is completed. They also recommend city council consider an ordinance establishing a Technology Zone at 801 South Adams Street.

There was discussion among City Council and staff.

Council Member Cuthbert asked Mr. Lyons how much time he will need to bring City Council back a report.

Mr. Lyons stated that it would be roughly 60 to 90 days if not before then.

### **13. CITY MANAGER'S AGENDA:**

Mr. Lyons stated, "There are several things that the City Manager asked me to note today. We did talk about the district court issue and we are going to try and resolve that. The second thing that is a part of the report is that you all should have gotten an updated email report from me yesterday about the Jarratt House. A big thank you to Ms. Sangregorio and Mr. Tabor for that updated report and moving us forward. Earlier last week, I know that there have been several questions about CDBG and what is the process for moving that forward. Mr. Tabor and I sent you all a calendar last week that should have been reflective in your email that highlights some of the issues. I want to go back, as we were even talking about the issue just a moment ago about the technology zone and Mr. Tennant kept talking about the involvement and engagement of the need for EDA. As you all were talking earlier, and you were talking about the committees and subcommittees and who is on it and who is not. One of the things that I want to give a big kudos to is to Mr. Tennant, Mr. Tabor, Mr. Claiborne, and Ms. Cynthia Boone. January EDA meeting, I can say to you all that since I been here has probably been the most informative and engaging meeting that has happened. The members were engaged in the conversation. I left there that night and told Mr. Tennant and others that those are the way that we do meetings because we give members of the commission a reason to come back. With that being said I also am working with Mr. Tennant and others, that we are working on the February 18<sup>th</sup> EDA meeting. One of the things, as a part of this conversation we were just on the phone today about doing some one-on-one training which will take place. But the second thing is that we also got a proposal from South Central Water Authority with property over at Roper that needs to be involved in that process. I think I shared a little bit with the Mayor and council members as to how we engage the community in that process. The other view things that I have is that this week we spent a lot of time and Chief Christian and his staff along with Mr. Gerrit VanVoorhees and Mr. Robert Slovak are doing an excellent job with the conversion of the police department cad system. We were on the phone with some of the vendors trying to get all of that crystalized for a rollout. It is a transition and sometimes there are hiccups and shake-ups. But I am really pleased with the progress that we are making. Mr. Christian has already articulated the fact that there are some concerns. But we are moving forward to get that conversion taken place. We have been spending a lot of time with our Interim Fire Chief. I can tell you all that we did not get a fire chief out of our recruitment but one thing we got is a fire expert that is helping us in terms of reshaping and figuring out how to address the internal inequity, recruitment and staffing issues within the department in working with the consultant firm. He and I and Mrs. Robinson have been meeting on an ongoing basis so I cannot say enough about him in terms of that process. One of the things that I mentioned before is that we do have, and I shared information with each of you, about the potential and next planning commission meeting that talks about information about report on small box discount stores and alternate financial institutions. That item is scheduled to go in front of the planning commission tomorrow. That group will meet and have a recommendation to get back to you all as soon as possible to provide a presentation and update on that piece. But finally, as a part of this process as we move forward with work study sessions, I think that it

\*Audio available upon request.

is important, if we are open to it, to bring you project updates about planning and economic development. For the first time, we can tell you about everything that is going on in this City. Second, we can talk to you about the disposal and process on the latest as it relates to the sale of City owned properties. Thirdly, we can bring you all of you up to date as it relates to blight log and code in that process. Last, but not least some of the financial things as well as our desire to continue and constantly improve our collection for utilities. So, at your future work study there are some items that are very critical, and I hope that it helps on behalf of the manger as a part of her report.”

Mayor Parham stated, “Thank you Mr. Lyons. We have a tentative council meeting scheduled for next Tuesday at 12pm to go over the rate study and get bond counsel to the table if that works with them.”

Mr. Lyons stated, “Yes, sir. We will work with them. Internally, we are scheduled to meet on Monday. We were trying to do it this week but Monday we will go over our internal piece. We will engage bond counsel in that process along with staff to be able to provide that update to you on next week.”

Council Member Wilson-Smith stated, “Mr. Lyons, you said something about the consulting firm with the fire department.”

Mr. Lyons stated, “Yes ma’am. One of the things that we are working with is an outside group because when we initially went out, we started to talk about a lot of things that we have going on. We started out trying to hire a chief. And that is a separate issue. One of the things that we have been working on for a period is that there have been some internal challenges and equity about, we have several people in the fire department and in the police department that have served an interim role for long periods of time. And that has created some grievance and equity issues. And instead of just hiring a position what we have asked and what we are working with Chief Liebold on and this outside group that sets the standard. Whenever you hire or promote there must be standards. And one of the things that have been unfortunate about our organization is that our standards that we have been using are outdated. And so, we need a consultant that is working with us to help and make sure that we roll out positions for recruitment that we have updated them to meet the standards for the process of solving a problem and resolving an issue. We are not creating additional issues which have manifested itself here in our City for a period. The City Manager who is back on the line, she may have additional comments on that. But in terms of working with an outside consultant group to help us, we think that it will ultimately move us in the right direction in that process.”

Council Member Wilson-Smith stated, “So, you started off talking about people who had served interim roles but aren’t there HR laws, policies and rules which dictate how long a person can stay in an interim position before they would start getting a salary of the person who they replaced for a while and how long they can actually stay in that position if the job is open to them without having to go to a consultant to address that issue.”

Mrs. Benavides stated, “So, the consultant is addressing the issue. Our organization has a history of keeping people in long term interim roles unfortunately. I believe that the requirement is a year. But there has been some movement in fire, for example, where folks would serve for an amount of time and they would be moved around. They never get to that full length of time. Part of what is required is a steep promotional process. Chief Miller when he was here put together a promotional process to kind of address those issues. So, we started down that route, but we have so many people serving in provisional roles that it is a roll down. So, if you look at fire your highest position is your chief and then you have your provisional chief and then you have the division director and then the battalion chief. We have battalion chiefs who served for a long period of time, but they were captains. So, what we are doing is that we started internally on updating the promotional process and found that there are a lot of standards especially dealing with public safety that you must adhere to. So, in with Chief Liebold we are working on updating those promotional policy process to ensure that this does not continue to happen. It has been a long-standing issue and it predates any of use as far as the

\*Audio available upon request.

interims. It started when I first got here under Chief Rubin to start the promotion process but there were some challenges that came up even considering that promotional process. So, our goal is not to get it done but to get it done right and to make sure that it is without flaw. So, we are working with our City Attorney to get some updates to our policy. We are not just reviewing the promotional process we are also going back and reviewing all positions to see if there are things that slipped through the cracks where people have been serving not officially as an interim but during the function of the job and not being compensated and not being credited. So, we are working on an overall audit starting with fire to make sure that we address that through human resource department.”

There was discussion among City Council and staff.

**14. BUSINESS OR REPORTS FROM THE CLERK:**

Ms. Jackson stated, “I have no items, but I would like to have Mr. Williams if possible, on his portion to give just a briefing on items that are voted on during the work session, like the 1<sup>st</sup> readings or the scheduling of public hearings. So, that all the department heads in this meeting and council can understand it. Because there were questions on it. But if he can explain it on his portion that would be helpful.”

**15. BUSINESS OR REPORTS FROM THE CITY ATTORNEY:**

- a. First Reading and request to schedule a public hearing on or before March 14, 2021. The Continuity of Government Ordinance previously adopted by Council expires on March 14, 2021. This Ordinance replaces the prior ordinance and will extend the emergency operation provisions through August 16, 2021.

**BACKGROUND:** Council’s current Continuity of Government Ordinance expires on March 14, 2021. To continue operating under the emergency provisions, council must schedule a public hearing and adopt this ordinance on or before March 14, 2021. If adopted, council may continue to operate under the emergency provisions through August 16, 2021, unless rescinded prior to that date by council through adoption of a rescission ordinance.

**RECOMMENDATION:** Adopt ordinance.

Mr. Williams stated, “So, the clerk kind of foreshadowed what I was planning to do in the report today. And that is that if you notice on the agenda that item 15a we have got the first reading and a request to schedule a public hearing under my business report. And the question came up during the agenda review meeting as to the extent to which or what council can be doing in terms of voting. As this is council’s first work session it certainly would be a good idea to share that with you. I have discussed this with council previously and at the time that this was presented the rule that council was operating under was presented to council. This was something that came up and one of the questions that came up is that if we adopt this process is it going to slow down what council currently does. Some of your agenda items, ordinances require two readings. It requires a first reading and then a second reading. So, the language that council adopted in it is amended rules provides that no formal action for council shall occur in a work session. So, there is something in the law that is known as the rule plain reading for statutory construction. And what that means is that if an item is not defined in a statute expressly then a court or in this case city council will give it its plain meaning. And so, the issue that you are faced with is what is the plain meaning of a formal action. And I would say that the plain meaning is what is currently considered in just about in any other locality. So, formal action is typically defined as the adoption or the resolution of an ordinance or the approval by motion of any motion other than procedure motion for the purpose of conduction of the meeting. It is typically to not include things like first reading or to schedule public hearings when you are given direction to staff. Where you are telling someone to research this further and bring it back with information for adoption. So, the purpose of the work session is to do exactly what

\*Audio available upon request.

happen in that last presentation that Jeremy made. And that was to give you information in advance before you called upon to take a vote and act. And so, the current language that you have is sufficient. It says no formal action of council can occur in a work session. Which means that you can do scheduling of a public hearing and you can do first readings and you can direct staff, just like you did in the last presentation that Jeremy did to proceed to come back with something to you. Or you can direct us to research an item. So, that is what should be presented in a work session. If you do not, otherwise your items are going to be slowed instead of enhanced by having work sessions. Because items that ordinarily would have taken two meetings in a month. So, one to complete will take double that time. This item that I have listed on the agenda, this is the ordinance that would allow council to hold these remote meetings. It also suspends certain deadlines. This must be adopted by council on or before March 14, 2021. So, you would think that we would have plenty of time to adopt that. We do not unless you have the first reading at this meeting. Because if you have the first meeting at your next regular scheduled meeting you would not be able to adopt it until the 16<sup>th</sup>. Which you are going to miss your deadline for adopting these things before it expires. So, by a necessity council must present and receive presentations and scheduling public hearings at its work session. So, if council was inclined to direct me as you certainly can do in a work session to bring this back to you at your business meeting for consideration with the amendment we can. Legally it is not necessary but if council would like that included for clarification, I would certainly be glad to do that. I would lay that before council as to whether you want me to do that. Certainly, give me your directions going forward.”

There was discussion among City Council Members and staff.

Mayor Parham stated, “Mr. Williams you can prepare this, and we will adopt this at the next meeting.”

Mr. Williams stated, “Yes sir. I will prepare the amendment to the Rules of Council, but I would ask that council direct that the public hearing be scheduled for the next business meeting on the emergency operations ordinance for your consideration of adoption at that meeting.”

Council Member Wilson-Smith stated, “Just question and I think that it goes to the City Attorney, but I am not sure and that is why I am asking you now. I would like for us, and I guess it would have to be in closed session, to have an update on the City Manager position. Do we ask in this meeting to have that update in closed session at the next meeting?”

Mr. Williams stated, “Yes ma’am. You can direct that I schedule that or have that item prepared for your discussion at the next meeting in a closed session.”

Mayor Parham stated. “Okay. We will make sure that we have a closed session before the meeting on next Tuesday.”

Council Member Hill made a motion to set the public hearing for February 16, 2021, for the second reading and adoption for the continuity of government ordinance. The motion was seconded by Vice Mayor Smith-Lee. There was discussion among City Council Members and staff. The motion was approved on roll call vote. On roll call vote, voting yes: Cuthbert, Wilson-Smith, Myers, Hill, Hart, Smith-Lee, and Parham

Council Member Cuthbert stated, “What is your thought and what are the thoughts of council in general on bringing the Virginia Employment Commission lot public hearing before council. Is that something also that we can schedule for February 16<sup>th</sup> or do you have some other time in mind for that?”

Mayor Parham stated, “I plan on adding that at the next meeting on the 9<sup>th</sup> before the meeting on the 16<sup>th</sup>. Because we have a special called meeting on the 9<sup>th</sup>.”

Council Member Cuthbert stated, “Will that give us enough time if we decide on the 9<sup>th</sup> to advertise for  
\*Audio available upon request.

the 16<sup>th</sup> to go into the newspaper on the 10<sup>th</sup>. Is that going to be enough time Mr. Williams?”

Mr. Williams stated, “I would defer to the clerk. She is going to need at least once a week for two consecutive weeks. And I am not sure what lag time she would have getting it the newspaper and the process.”

Council Member Cuthbert stated, “Well she is sure not going to be able to get it in two weeks between February 9<sup>th</sup> and February 16<sup>th</sup>. I am not sure she is able to get it in if it goes in the newspaper tomorrow. It is not going to be two weeks.”

Ms. Jackson stated, “That is correct. If I get it would have to go in tomorrow and it would have to go in on Tuesday, the 9<sup>th</sup>. But I can see because I did talk to them today and told them that I would sending them another legal ad. Because they have branched out to another agency that is running their classified ad.”

Council Member Cuthbert stated, “If you would, would you let us know. I have a feeling that the answer is going to be no.”

Ms. Jackson stated, “I would let you know.”

#### **16. PUBLIC COMMENTS:**

Barbara Rudolph, 1675 Mt. Vernon Street, stated “This new format of having the work session meeting was very good. These reports were so informative that I look at the agenda and got a lot of it and even more out of the meeting today. So, I wanted to thank everyone and hope that you continue it. And that it remains as informative and helpful as it was today. One thing that was touched upon was boards and commissions. I think Councilwoman Treska Wilson-Smith brought that up. Remember Attorney Williams had a proposal about that. And I hope that it has not died off because that was good. And when you talk about it, I hope that is part of the conversation. I also wanted to specifically point out that the legislative report that was in the packet and not the one that you talked about today because I realized what is in the packet was helpful. But I want to comment Mrs. Adams-Jacobs for that it was good. And finally, on the rate study that you mentioned having a meeting about in a week. I hope that is something that the public will have plenty of time to be exposed too. Last time we had a rate study and a rate increase there was two public meetings and I think a public hearing too. I believe there must be a public hearing with that. So, I am looking forward to a lot of information on that. Anyway, it was a very good meeting and thank you very much for allowing us to participate.”

Mr. Lyons stated, “Yes Mr. Mayor, I want to say one thing. I sent you all an email from Mr. Travis Christian. And it talked about the issue of illegal dumping. The two of us met last week. And I want to give him and his crew a big kudos. It is something that needs to be applauded because we spent a lot of man and woman power and dollars and cents cleaning that up. And this issue is not just limited to that location.”

Mayor Parham stated, “Yes Mr. Lyons. That is something that is very important. Because that is a problem that we have had here for quite some time. Which is people illegal dumping in the area at night. And it is just kudos to our Petersburg Police Force for catching one of the corporates in that. And hopefully we can prosecute to the full extent of the law to set that bar that we are not going to allow people to come to Petersburg and just dump. Because this has been going on for years. And like you said we have been at so much of a reactive state after it happens trying to clean up things like tires and mattresses and things of that nature.”

Council Member Wilson-Smith stated, “I had sent an email about the fire hydrant on South Boulevard and a big, gigantic tank truck which was in the vacant parking lot of the former plaza. And whoever it was had a pipe or hose leading from that truck to the fire hydrant. Did anyone ever go look at it?”

\*Audio available upon request.

Ms. Tyus stated, "Yes ma'am. Chief Christian sent someone by and if he is on the line, he can update us on whether he saw anything. He sent someone by the very next morning to see if we can see if this was going to be a repeat offender. If Chief Travis is on the call, he might can give you an update, but we absolutely sent someone out to look at it for the next two days after you called us."

Council Member Wilson-Smith stated, "Thank you. And I can talk to Chief Christian later. I just thought about."

**17. ADJOURNMENT:**

City Council adjourned at 4:15 p.m.

\_\_\_\_\_  
Clerk of City Council

APPROVED:

\_\_\_\_\_  
Mayor

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The Work Session meeting of the Petersburg City Council was held on Tuesday, February 9, 2021, live streamed. Mayor Parham called the meeting to order at 11:02a.m.

1. **ROLL CALL:**

Present:

Council Member Charles H. Cuthbert, Jr.  
Council Member Treska Wilson-Smith (left at 12:43pm)  
Council Member Darrin Hill  
Vice Mayor Annette Smith-Lee  
Mayor Samuel Parham

Absent: Council Member W. Howard Myers  
Council Member John A. Hart, Sr (left at 12:35pm)

Present from City Council Administration:

City Manager Aretha R. Ferrell-Benavides  
City Attorney Anthony C. Williams  
Clerk of Council Nykesha D. Jackson

2. **UPDATES AND DISCUSSION:**

Mayor Parham stated, "I thank everyone for joining us here to have some updates and discussion. I know that we have a marathon of meetings and we have a lot going on. And we have a lot to catch up to and we want to take advantage of our time with having with our City Manager here with us. I know that time is ticking so we are going to be working right on up until that day. So, this is council's marathon of meetings to get council as well as constituents caught up on the things that is going on here in Petersburg. We are going to start off with 'Item A'."

a. Information on the Rate Study

Mrs. Benavides stated, "I am going to turn this over to Mr. Lyons. Because what we wanted to do was to give you just an overview of the process that we are undertaking. Annually, we look our water rates and billing rates and understanding that this has been an unusual year given the COVID Pandemic. Some of the orders which have come from the Governor's Office, which affect our water collection as well as the tragedy that many people are facing due to COVID. So, what we have done is that we are starting this process. Mr. Lyons has taken the lead in this process. I am going to ask him to take you through and give you an update on what is happening. They will come back to you with more information and more data. This is a preliminary discussion that is happening. Mr. Lyons will talk about it."

Mr. Lyons stated, "Mr. Mayor and council, I just want to bring you up to speed to where we are. Mr. Floyd and this team as well as our finance team, Mr. Floyd along with Randall Williams and his budget team have been working to provide some needed information to our financial advisors to look at. This is for where we are with our collection rates and where do we need to be moving forward. We also have a number of scheduled meetings with our financial advisors and others. We want to provide them additional information as well for them to evaluate and plug whatever holes for them to be able to come back to us. That would allow us to come back and talk with you all more specifically in terms of what we are seeing. What we are seeing right now is just like anyone else around the country. Some of our numbers may not be where we want to be but until we are able to do that final calculations with our financial advisor, we cannot give you a more holistic perspective. But we anticipate being back in front of you with more detailed information on where we go within the next 30 days. It is a priority issue that we are all looking at and following their lead. No doubt based on

\*Audio available upon request.

what COVID has impacted in some way, shape, and form but we also talking about collection rates in specific areas. There are things that we start to look at the numbers and we need to have a better explanation for. We meet with our financial advisors, Mr. Floyd, Mr. Williams, Mr. Gerrit, Ms. Patrice, and others, have all put their hands in this along with Mrs. Adams. I anticipate coming back within the next 30 days to bring back something much more concrete and solid in terms of where we are and where we go from here.”

Mrs. Benavides stated, “To tie into this Mayor, one of the conversations that we are having is not only the water rate from our collection but also det requirements from both ARWA South Central Wastewater. And we have been working with the state for financial support for necessary upgrades to go into that collection. We know that this is something that is very important to our residents. We have been able to hold our rates steady though there were some projected increases necessary based on our collections pre-COVID. Our concerns now are what is that impact of the COVID. When we submitted officially to the State for support for the utility assistance, we did a primarily run to identify how many individuals fell between the March and December and around that time October deadline of individuals who had fallen behind with their water payments. We were awarded around \$398,000. However, it was based on submitting somewhere close to over a million dollars in uncollectable during that time. This may have changed but that is transforming as part of where we are also going to look for more support from the State to help our residents who may have fallen behind this time.”

Mr. Lyons stated, “During this time, Mrs. Adams, Ms. Patrice and others are working on a formula to make sure that the allocation of the \$382,000 that the manager is speaking about meets the guidelines that have been set up by the State. Second, we will be able to show you all the details in terms of the allocations. The one thing that the manager talked about, our application was in tune and we made the request and got about \$1.4 million and we got \$382,000 for utility assistance. The other thing as we move forward with the rate study and collection, we also got to evaluate what the \$382,000 do for us in terms of the collection rate as we provide that information to our rate study financial evaluators. And Mr. Floyd and others have been doing an excellent job in terms of keeping that conversation going and open and providing the necessary information that the financial advisors are seeking. The last thing that I would say along those lines are to keep in mind that the manager just alluded to with ARWA and South Central, which is our regional partners, a part of our letter to the State is requesting a total of \$125 million dollars for upgrades to South Central and ARWA. If we get what we hope that will probably 90% of those dollars and cents. That would still leave us with \$30 million dollars. We have to figure out the additional cost along with our debt service that would be associated with what we pay for South Central and others as it relates to collection for water and sewer in that process.”

There was discussion among City Council and staff.

Council Member Cuthbert asked can this item be brought back at the March 2<sup>nd</sup> Work Session Meeting for further discussion and until they develop a consensus of where they want to go and when the City go back into doing cut-offs like other jurisdictions.

Mayor Parham stated that they will add this to the March 2<sup>nd</sup> agenda.

b. Technology System Update-ERP (Enterprise Resource Planning System) Project

Mrs. Benavides stated, “I am going to have India take you. When we met before we discussed one of the challenges we have had and responsibility that we must accept is that we have been operating on antiquated technology. Mrs. India Adams-Jacob will have the project lead on rolling out our new enterprise resource system. And so, part of what we are looking at is one identifying and two is talking about the funding and three is making sure that post my departure this project moves forward. And so, we know that we have a great team with Gerrit and Robert and Patrice and all those guys. We want to have a point person who is not only going to take this football and pass it along but keep us moving forward. I am going to turn it over to India to talk a little bit and I will chime in when necessary.”

\*Audio available upon request.

Mrs. Adams- Jacobs gave PowerPoint presentation on the ERP Project.

Key points:

- Enterprise resource planning refers to a type of software that organization use to manage day-to-day business activities such as accounting, procurement, human resources, risk management and asset management.
- It manages the processes for local government agencies.
- Manages utility billing, tax collection, code enforcement, fund accounting and more.
- Tracks budget spending to ensure the right amount of money is being allocated to the right departments.
- Tracks collection of taxes and fees associated with services, licensing and permits.
- Makes sure that the City can streamline money collections.
- Project will take three to four years to complete.
- Phase 1 will take place in 2021 which is the planning phase. Phase 2 will take place in 2022 which is the pre-implementation phase. Phase 3 will take place in 2023 which is the actual implementation phase of human resource, payroll, and taxes. Phase 4 will take place in 2024 which is the implementation of utility billing and the remaining modules.

Mrs. Benavides stated, "Just to tie into what she mentioned. I spoke with Davenport a little bit about the funding opportunities with it and they were favorable with this opportunity. One of the key criteria's that we must focus on is although we will have India as the project manager, I strongly recommend that we bring in an outside technology firm to help with India and Gerrit in this process. Because it really is going to take some heavy lifting. We are a very lean IT organization currently and, in that organization, you have got Mr. Gerrit, Robert Slovak, Mr. Booker and one employee who has left. And so, we have two vacancies. But they still have day to day technology management in the City. I think that in making sure that this happen because this is the most important system that we will implement, and we have learned a lot of lessons from our last technology implementation with or water system. And so, I think that it is going to be at the top of the list of things to do in having a partner to assist with this. In rolling it out in a phased approach, I think that would be valuable to the City. And the most important thing that both teams are going to have to work on is data cleansing. The key to any system is making sure that the information that goes to the new system is clean data that will not start the problems that we have seen in the past where we start looking at accounts and start noticing multiple accounts and multiple account numbers that are assigned to people. SO, that is a heavy lift project. I do think that we have the dedication to keep this moving. My farewell to you all is that this is something that will transform our operation. I believe that talking to our financial managers and hearing that and even discussing it with our S & P Group on our bond, they recognize that this is very important for the City moving forward."

There was discussion among City Council and staff.

c. Status of Conversion of Wythe Street and Washington Street to two-way conversion

Mr. Lyons stated, "I apologize, I sent each and every one of you all the latest report in this process that we did back in August 2018. In addition to that Mrs. Innis provided a brief response to some of the more specific questions that was asked by a council member at the last meeting. As I am talking Gerrit, please allow Mrs. Innis to host and to share her slides. In excess and while she is pulling this up, really Timmons, we paid them an amount of money to come back and tell us about where we were in this process. Basically, to move forward with the next study, we were talking about \$110,000 for the next phase of the study. As Mrs. Innis, walks you through the process, not just Washington and Wythe, the report will also walk you through that they will have to do a review of intersections in 23 additional spots. The last thing that I would say before I let Mrs. Innis take us through this process, it is not just a one-way or conversion of those into one, we also have major utility challenges in the way that the streetlights are done. And the last piece was that if you move you are

\*Audio available upon request.

going to have major construction during this process.”

Mrs. Innis gave updated information on the scope of work.

Key points:

- Phase 1 Study would include compiling available VDOT average traffic and hourly directional traffic data on road sections and ramps located with the study area.
- Second phase would be a study to analyze different traffic as well as the pedestrian sidewalk and parking, etc.
- It would take 23 streets and intersections to be reviewed if council chooses to move forward with this. The City has not moved forward with this because funds have not been identified and they did not receive instruction on whether this is something of the council that the choose to move forward with.
- The total amount that would be spend for this scope of service should be approximately \$120,000 to complete the study of both phases.

Council Member Cuthbert asked that between now and March 2 to get information on grants for the study and potential grants for implementation for the conversion and bring back to council.

Council Member Wilson-Smith stated that she would like a study on the safety of a two-conversion and data from other surrounding areas that have done a similar study and conversion.

There was discussion among City Council and staff.

d. Update on long term fund balance goals.

Mrs. Benavides stated, “Well, Mayor we will probably have a lot more on that next week. We have made great strides as an organization in rebuilding our fund balance. If you can recall we talked about before the Bobb Group left, we were at a negative \$7 million dollar fund balance. We ultimately improved that to our last CAFR and reported a positive of \$8 million. As a result of that we wanted to make sure that we aired some caution on seeing this happening and making sure that we reestablish and increase our goal. We have talked a little bit, and I will ask Mr. Floyd to join me in this conversation about a 30-60 day, 90-day cashflow balance. And then we also have upgraded our policies to state some things to include the policies that we were initially budgeting a million dollars for the fund balance and in our new policies we moved to \$500,000 towards fund balance and \$500,000 toward capital improvements. Which is some of the things that we have been talking about today. Next week, we anticipate, at this time when we started this, we were not sure if we would have it ready, we anticipate bringing to council and the public our final CAFR which is a little past due. That will talk about where we are as a City as a whole. I need to start by saying that this CAFR is for ending on June 30<sup>th</sup>. So, it only covered a few months of COVID, so things were much better during that timeframe leading up to it. Most importantly as we start to move forward is where does that put us in respect to increasing our overall credit rating worthiness and credit rating. And so, we will be having discussions this week with the S&P to talk about our long-term financial plan, which we have updated recently. But also, where our draft CAFR is going to be and our final CAFR that will be presented next Tuesday to council and the citizens. As soon as, we get a final document and the reason that I would say to council you have not received it is that they are tweaking it and making sure that all the numbers are correct when presented. And once we receive that we will make that available to staff and council. Our auditors are anticipating being at our Tuesday meeting to present to us what they found for further discussion and then we can go from there with the next steps for staff. One of the main things is that we now have a fund balance that we must work collectively with our treasurer on is our investment policy. And part of that investment policy does fall under our treasurer and now that we have funds to work with the financial planners on not only having that fund balance but building that fund balance for the future. And I know that Mr. Pritchett has had some discussion and looked it, but we have not had much to work

\*Audio available upon request.

with. Starting out with at least an \$8 million dollar fund balance I think that we are at a point right now that we are available. The other thing is that we have taken the need away of the RAN which was the high interest short-term loan. At that is a beauty and part of that is having a fund balance that supports us through the ups and downs of our cashflow. So, I think that most of this conversation will happen next Tuesday. And what we look at as we get out final number is if we need to do any of the changes to our policies which I do not see right now but we also want to move out of dollar figure which we used to talk about \$6 and \$7 and \$8 million to making sure that we can adequately state 30-day, 60 day, 90 days. And have a policy for once you reach that 30, 60, or 90 day or whatever we decide on, where the funding would be used for. Because what we do not want to do is to immediately start spending funds just because we have it in our savings account. Mr. Floyd, I know that you are there can you add anything to that conversation.”

Mr. Floyd stated, “No, ma’am. I think that you wrapped that up well. But I think that it is important that we move into the development of the 2021-2022 budget and that we do start having a lot of these conversations as it relates to the use of the fund balance and things of that nature. It was very timely that this was put on the agenda at least to bring to the attention of council knowing that we will be coming back on the 16<sup>th</sup> with the results of the CAFR.”

Mrs. Benavides stated, “And Mr. Floyd has already kicked off the budget process. We are now looking more apprehensively at our budget to not just budgeting but also tying this and linking this to our strategic plan. He is meeting with the staff one-on-one and having some very meaningful discussions. If you want to mention that Mr. Floyd.”

Mr. Floyd stated, “I was actually going to do a nice little presentation on March 2<sup>nd</sup> for our Work Session to actually go through methodically what we are doing this year as it relates to the budget process and what our goals and objectives are for the budget process are as it relates to that.”

e. Future Development Plan in City with regards to restaurant, housing, and jobs

Mayor Parham stated, “We put this on Mrs. Benavides, just to get your insight. You have been here for some time now and I would like to just pick your brain on this topic of the things that we can do to grow these areas in the City.”

Mrs. Benavides stated, “As we talk about what the future of Petersburg looks like I think that building up our planning and economic development team has been really important to this. Looking at our comprehensive plan and our future land use planning it is important not only to focus on where we are right now and where we want to be. And that is a strategic conversation not just with the City Council but with citizens and our business community. As we start focusing on developing and redevelopment, which is what we are focusing on heavily in our City is how do we make sure that we have the proper balance between our housing mix and our industrial mix. We have been fortunate enough to have a strong economic development partner that has come in most recently, AMPAC, and the jobs that are being created. But we also must create the synergy to think about what the things are they need in order to attract the people that work there to also not only work in Petersburg but reside in Petersburg. And that is going to be focusing on two parts. One is or housing component and our housing availability. But our housing is only as important as working with our public schools. We have got to continue our relationship with our schools. When people look to relocate to a community, they are looking not only at the low cost of living that we have available here but what about the educational opportunities that we have available. We got to continue to not only work with our public schools but even our governor school to make sure that we are creating those environments. And economic development is based on those components. When we look at our downtown development, we brought a lot of businesses in. and one of the conversations that we have had there is not only that we need to bring those businesses in but that we must focus on the retention. And we got to focus on what are those things that prevents them from closing when we get to a pandemic because we do not have the support structure and

\*Audio available upon request.

early on identification. As we are transitioning our Chamber of Commerce, I believe that it is important that the role that they play when I got here was vital to support in our local businesses. So, we have got to keep that component tied back into it. We have had unlike most communities; I can say at least four ribbon cuttings during this pandemic of new businesses opening in our community. Now, our goal is to not only cut the ribbon but to come back a year later to celebrate their one-year or two-year anniversary. And so, that targeted effort is important for us to start back marketing that we are open for business so come join us and come be apart of our community. And that is the holistic thing that must happen. And when I got here, we had merged and talked about planning and economic development. those two things go hand in hand. You are not going to economic development without planning and vice versa. And creating that creates synergy there for both.”

Council Member Cuthbert stated, “I think that we need some outside help in devising a plan for our future. We are so used to looking around Petersburg and thinking that it is just great because it is so comfortable. But you get an outside in here and I think that we might get a different assessment. And with that different assessment, I think will come more imaginative and aggressive ideas for turning this City around. If we drop back and look at what we have accomplished as four years in the way of planning, it is meager. We have certainly been blessed with AMPAC. I do not know if that is due to anything other than good fortune. But I think that we need to take our future into our hands and try to shape that future. And I do not know when council did that. I think back over Petersburg history for the last 75 years I do not see any evidence of long-term planning from City Council. I think City Council has reacted rather than led and I think that we need to be the first City Council in a long time to lead the direction of the City. Now, I suspect that everyone would agree with that. Then the question is going to come in how we lead this City. And I would welcome the thoughts of everyone on this council. And maybe my perception is challenged. Maybe everyone thinks that council is taking an aggressive proactive approach to planning for the future. But it is more than just a comprehensive plan every five years. We have got problems that we need to recognize and address. The problems with the health of our citizens 133 out of 133 at the very bottom of the heap. We have got an extremely high rate of illiteracy within our public schools. We have got a mind-numbing amount of poverty. The numbers that were given to us in the most recent meeting of council about the different measures of poverty in Petersburg. There is the product of a very sick economy. And we need to recognize those facts and try to change them. But how do we go about changing them. I think that we would benefit from somebody coming here with Virginia experience and not somebody from California or Indiana. But Virginia law, Virginia possibilities, Virginia grant programs and certainly we can learn from City’s outside of Virginia but somebody that is familiar with Virginia law and municipal government to advise us and come up with a game plan which we can either accept or reject. But I think that is going to be essential. I do not think we have the knowledge ourselves. I think that it is going to take a professional urban planner to help direct us or someone with strong urban planning background to direct us. What are the specifics of where we go from where we are? I guess this discussion is a beginning and I would like to see what everyone else’s thoughts are and see where those thoughts might help us go in terms of an evolving plan for addressing our various measures of disappointment in terms of being a thriving municipal government. And I welcome everyone else’s thoughts.”

Mayor Parham stated, “I just want to chime in on that. Because it is like I want to first start off that it takes council having a leadership team that can deliver. And that is something that Petersburg has not had in some time and I really like to applaud the City Manager and her staff. They have gone above and beyond with the whole AMPAC and Civica deal and Phlow. I think that very few people know the amount of work that our team has done behind the scenes. It has been a tremendous amount of work, a tremendous length, and a lot of meetings with the State in asking for their assistance and funding. We had designated personnel talk to these companies. Aretha was a genius in getting all these company’s together when we hosted a lunch for them at the McIlwaine House which was phenomenal. And it starts with us selling the City ourselves. And Mrs. Benavides crossed it and everybody from Phlow, AMPAC to Civica says hey this is a neat place in Petersburg and we really need to take a strong look at building our facilities here. So, it starts at the top and works its way down. We have company’s that are interested in doing those long-term planning’s. And Mrs. Benavides and I have been in several meetings with a lot of these outside planners that are interested in doing business here in

\*Audio available upon request.

the City but its like with most other parts of the United States right now with COVID we must get past this to get to that level of community engagement. And right now, when we talk to a lot of these past planners, last year, it was not the time to invest hundreds of thousands of dollars when we could not get together as a group. So, that is slow. So, on top of that it takes a team at the top and I just do not want to short a lot of the efforts that our team has done here. Because it has been some great achievements for a City that has not had a whole lot of hits. And I think that part of that is being addressed now on the State stage of the Commonwealth of Virginia which they realize that a lot of the primarily minority communities in the Commonwealth have not had that type of support and resources in order to attract those large-scale developers. And they must be a partner in this even in the planning process. We just have to admit that Petersburg along with the other City's in the Commonwealth have been red lined by a lot of banks as far with lending. There is still an issue with lending in primarily African American communities. They ran into that with a lot of areas like even with the Trailways Bus Station. I think that now with Commonwealth with Governor Northam is doing everything that he can to support us in those efforts. Because in just being a smaller City we do not have the resources as like the Chesterfield's of the world who have over a dozen people in economic development and another twenty something people in planning. We really have to rely heavy and admit that we are behind and that we have these huge disparities, and the world has not been fair to Petersburg. We have to also make sure that we have a progressive staff. So, it takes council making those right decisions and permanent management when Mrs. Benavides leave. We need someone with a visionary and that is aggressive. Because we do not have anytime to be complacent. Like Mrs. Benavides said we have been fortunate. You drive through other localities and you see other strip malls closing and other areas when they were once retail and our smaller businesses in the City are growing and they are excited. And I am quite bullish on the Petersburg economy growing. Because something that we have that we have seen in a lot of when we were going to Virginia Municipal League and to the National League of Cities. We were saying that everyone wants a strobe district and that is something that Petersburg has that is attractive to a lot of our millennials and younger people that are still moving into Petersburg. Lots of the counties are losing population now because people do not want to stay. Because they wan more of the amenities of the fancy lofts with gyms and having restaurants around them. I believe that we are on our way, but we definitely have to stay progressive and get leadership in place to execute those goals. And part of the problem has been continuity. And we managed to do some great things as a council because we all managed to stay in our seats. But when you have that long-term council planning's and when council turn over like a lot of them do. Just because this 2021 is the plan that we put together long term for the City in two years things can change with three or four new people that say that we want to do something different. So, it takes strong management in getting those people in place to definitely grow the City."

Council Member Hill stated, "I am going to get off this line in a minute because I have a dental appointment to go too. But I will just say this. I know a lot of times we see a lot of things that we want but I like to celebrate from which we come to where we are now. We do have a way to go and that is not to say that everything is done that we want to get done. But I can remember coming on council when everything happened, and the bubble dropped, and finance was in a shamble and where we are now. But I think that one of the problems that we have as a City is this council that the most senior members of council that has been on the longest has been so busy putting out fires. And now we are at a point now where we can really set the direction from four to five years ago to now. We still have financial restraints on us, but we are not the way that we were. So, I would like to celebrate all the things that we have done thus far. AMPAC is a game changer. There are only three of them in the country and one of them are here. There is one in Texas and one in California. And there are other plants that have closed all over the country. We have a lot of development. People are looking at the cow patch down there across the street from Thacker's. We have a lot of things that are in the pipeline. So, I think our major point is to help us grow economically and continue to build up our planning department. And continue to get us an economic developer that will be in place to bind the position of the City. We all have our ideas of what the City should look like. At the end of the day, we want to take care of our children which is the school system. And we have a relationship with them now and we are building a bond with them. The City Manager with her team with a lot of leg work that I guess most other City's did not have to do because of whatever their economic situation is. We have been so busy putting out fires and trying to get us

\*Audio available upon request.

to a level of where we are now. So, I want us to continue to celebrate the things that we have done thus far. But still look towards the future. And we can come together with an economic plan. But when you get different people on board, they may have different visions. Not saying that it is not a good vision of the City, but you just do not know. Everyone has their strong suite and what they would like to see in the City of Petersburg. Me and the Mayor often talk about industry and things of that nature. But small businesses are things that drive this City. Thank you, Mr. Mayor.”

Council Member Wilson-Smith stated, “When we talk about leadership, I think that it is important to examine ourselves, And I think that we could be a lot further and what we are and could do a lot more than what we have done if we would come together as a whole. There are suggestions made to this council by the citizens who come to use with good ideas on things that we can do. I know for a fact I sit there, and I come up with things like hey you all I got a good idea. Not that all my ideas have to be taken and I understand that. I think one way and there is a big age gap. And I understand that as well. But I remember in 2018, I presented an idea to us that clearly stated that if we focused on our African American history, we could pocket a lot of money. Can you imagine going into the home that Judge Roger Gregory grew up in and people being charged to go into that home. That is money for the City. From developers who have come here and clearly stated to us in a council meeting that if you were to promote your African American history this City could thrive. You could go to Philadelphia and see a statue of Moses Malone, but you cannot see nothing but a t-shirt about him here in this City. We do not want to say anything about any of that because one person does not believe in it and one person does. We have got to look within ourselves. We cannot say that our children in the school system are illiterate if they are in school, I doubt that they are the illiterate ones. It would be people who graduated and did not get somethings. That is a whole system that we must look at. But we all got to be on the same page with the understanding that we have got to pour our money into our schools for our schools to flourish. Once our educational system becomes top notch then people would move to Petersburg even if they had to sleep in a cardboard box. Everybody wants their child to be educated. We have got to get our priorities in order, and we must got to be not afraid to listen to somebody else who is almost just as old as you Mr. Cuthbert that just has a different take on things. Yeah, the African American experience in this City would do well. We keep promoting ourselves as a historical City, but we promote the Civil War. We do not promote anything else. And how do you call yourselves a group of African American leaders who cannot promote its own history. I have an issue with that. And I am going to calm down because I have something to go do but that is my take on leadership. We do not need anyone else to come in here and tell us what to do. Not if we are true leaders. We just need to get off our high horse and not be afraid to listen to one another and not be afraid to agree with one another sometimes. Just ask ourselves what can we do as a group? What is our role as the people that we are? It is African American history month, and this City does not have anything planned. I think that is sad. I am finished thank you.”

Council Member Cuthbert stated, “The fact remains that we have not plan. And we are going to continue to drift without a plan. Just like the last 75 or 100 years of City Council have drifted. We have no plan. And denying that problems exist is not going to lead us to solve the problem. We do have a tremendous problem with illiteracy in our public schools. Fewer than 50% of our children cannot read at grade level as of 2018 in the third grade. If we are going to maximize the opportunity of those children, then we have got to teach them to read. And to just say that we have aspiration for building a good relationship with the school board is not going to change the numbers on kids reading. Now the only reason I scoffed at Mrs. Wilson-Smith’s comments, she asked a rhetorical question of can you imagine of people wanting to line up to go through Roger Gregory house in the Heights. I cannot. On a day-by-day basis of people lining up to go through the house. No, I cannot. I do not think that is realistic. It might make us feel good to say it, but I do not think that it is realistic, and I do not want to get lost in that. Let me go back to the plan. We have no plan. Just like the last 50 or 100 City Council Members before us has had no plan. We need a plan, and we need someone to help us to develop it and it is more than hiring an economic development director. We need a written document that we can all support and we do not have it. I think that four years from now we are going to be continuing to drift without a written plan. That is where I am. Thank you, Mr. Mayor.”

\*Audio available upon request.

Mayor Parham stated, "Council Member Cuthbert are you in favor of bringing in a professional planning firm just to get a fill of someone coming in a drawing up a long-term plan?"

Council Member Cuthbert stated, "I think that we should solicit proposals from planners to guide us. Yes. Now whether we accept their proposals remains to be seen. It depends on of course what the proposal is or some insight that the planners may give us into what the proposal would be. But I certainly think that we should be soliciting interest from long-term planners with municipal experience in Virginia to help guide us. Because the numbers that we got in this City in terms of poverty, literacy, and health, they are huge to Petersburg's future. Thank you, Mr. Mayor. The answer is yes."

Mayor Parham stated, "Thank you."

Mrs. Benavides stated, "To tie into what Mr. Cuthbert said and I think we talked about this in the beginning when we started. The plan that you all have is a strategic plan and a comprehensive plan. You can also have an economic development strategic plan. All these plans are what guide what you do and those are policy documents set. Strategic plan is by council with implementation by staff. Your comprehensive plan starts with your planning commission but still adopted by council. And so, the economic development plan can be done by the EDA or the staff but adopted by council. A plan is a sheet of paper or a book. It only matters if you follow the plan. And I do believe that you can bring in external experts who can come in. Like Council Member Cuthbert said there are company's and City's out there that have hired. But what they are going to give you is a comprehensive plan. In the District of Colombia, we had one and in California it is required by law. And many states require that. The key in any plan is the ability to implement the process. The second thing is the agreed upon of what does it look like. I remember when I first came here, and I heard everyone say that we have a problem with economic development. But what does that mean. So, having someone who is outside and not a staff person, because in most organization we would love to spend \$400,000 to \$500,000 for someone outside to tell us what to do so that we can feel better. But in some cases, it takes outside to tell us what to do who have worked with different jurisdictions like ours to come in to help us to pull out the thoughts in our head. But the key to the plan that I would say to Mr. Cuthbert and the Mayor and everyone on council and the residents, is our ability to stick to the plan and follow that plan. And that will be the most important next step for this City once you have an identified plan. And I think that within our staff and leadership I believe that it is possible, and I believe that all things are impossible but the agreed upon plan must be implemented and followed through in the long run."

Mayor Parham stated, "Thank you. So, we will definitely look at putting out an RFP to at least look at some proposals on."

Mrs. Benavides stated, "We have actually done that Mayor. We started the process with Michelle in looking at someone to take the lead. Because when Michelle left, we started a transition. I think what I would say to you because this is a planning function that first you direct staff to solicit and to encourage them to solicit a vendor to partner with the City in developing this plan. It falls under Mr. Lyons and Reggie. I believe that it is something that is doable. I believe that we put money in the budget initially for this project. If this is the wish of council, I just think that we need to bring back just like we did with the ERP a solicit in moving forward with this."

Mayor Parham stated, "Thank you can you bring that back to us and e can make a decision in which direction we want to go."

Mrs. Benavides stated, "Yes. Before I leave, I will work with Mr. Lyons and Mr. Tabor and Mr. Jeremy on how we can go forward with this in bringing in some outside help. Because I think that it will be valuable to you."

\*Audio available upon request.

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Mr. Lyons stated, "Mr. Mayor, if you do not mind, not only will be bring that back but at a future work study session we want to sit down and educate the entire City Council on the development projects that we have on the table. You all need the comprehensive list for us to walk you through. Second, we want to be able to talk to you more thoroughly about stuff that we have done in the code area. Third, we want to be able to highlight to you all the work that we have done as it relates to overall economic development including how we perceive getting through the liquidation of City owned properties. One of the things that we will also bring back to you at a later day as well we have to also talk to you as we have this conversation about water, sewer moving forward. All those things that we are talking about specifically from an economic development is the kind of conversation that you all need to hear working on pulling together that information. So that you will have a better understanding of the potential upside and moving forward as well."

Ms. Elliott stated, "Madam City Manager made a very good point. One option that you can pursue as well is an RFI (Request for information). That is a different procurement mechanism where if you do not know what you are looking for and you just want vendors to give you ideas that is non obligating and does not cost a penny. Because at the end of the day they want to win the work. They can give you some ideas and from there you can convert it to an RFP and so Reggie can even provide some vendors that he has in mind that you want o ping. That way we do not have to write the scope or do anything. All we have to say is that this is what we want to do you tell us how we can do it and that because your scope and RFP going forward."

Mayor Parham stated, "Thank you for that information on the RFI. So, we will get all of that information maybe at the work session on the 2<sup>nd</sup>."

**3. ADJOURNMENT:**

City Council adjourned at 12:50 p.m.

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Clerk of City Council

APPROVED:

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Mayor

\*Audio available upon request.

The Special Called Closed Session Meeting of the Petersburg City Council was held on Tuesday, January 28, 2021, on live stream. Council Member Parham called the Special Called Closed Session Meeting to order at 11:01a.m.

**1. ROLL CALL:**

Present:

Council Member Charles H. Cuthbert, Jr  
Council Member Treska Wilson-Smith  
Council Member W. Howard Myers  
Council Member Darrin Hill  
Vice Mayor Annette Smith-Lee  
Mayor Samuel Parham

Absent: Council Member John A. Hart, Sr. (arrived at 11:08am)

Present from City Administration:

City Attorney Anthony Williams  
Clerk of Council Nykesha D. Jackson

**2. CLOSED SESSION:**

- a. The purpose of this meeting is to convene in the closed session pursuant to §2.2-3711(A)(1) of the Code of Virginia for the purpose of discussions pertaining to performance, assignment, and appointment of specific public employees of the City of Petersburg specifically including but not limited to discussion of the assignment, appointment, and performance of specific public employees including Interim City Manager appointment and other employees of the City of Petersburg; and under Section §2.2-3711(A)(7) and (8) of the Code of Virginia for the purpose of receiving legal advice and status update from the City Attorney and legal consultation regarding the subject of specific legal matters requiring the provision of legal advice by the City Attorney specifically including but not limited to matters requiring legal advice from the City Attorney.

Council Member Hill made a motion that the City Council go into closed session for the purposes noted. The motion was seconded by Council Member Smith-Lee. There was no discussion on the motion, which was approved on roll call vote.

On roll call vote, voting yes: Cuthbert, Wilson-Smith, Myers, Hill, Smith-Lee and Parham; Absent: Hart

City Council entered closed session at 11:06a.m.

**CERTIFICATION:**

Mr. Williams stated, "The Mayor would entertain a motion to conclude the closed session called this evening to certify in accordance with §2.2-3712 that the Code of Virginia that to the best of each members knowledge that only public business matter lawfully exempted from the opening meeting requirements were discussed and that only such public business matters were identified in the motion by which the closed meeting was convened, heard, discussed, or considered. If any member believes that there was a departure from the foregoing requirements should so state prior to the vote indicating the substance for departure that in his or her judgment has taken place. This requires a roll call vote Mr. Mayor."

Council Member Hart made a motion to return City Council into open session and certify the purposes

\*Audio available upon request.

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of the closed session. The motion was seconded by Vice Mayor Smith-Lee. There was no discussion on the motion.

The motion was approved on roll call vote.

On roll call vote, voting yes: Cuthbert, Wilson-Smith, Myers, Hart, Hill, Smith-Lee and Parham

**21-R-13      A RESOLUTION CERTIFYING, AS REQUIRED BY THE CODE OF VIRGINIA, SECTION 2.2-3712, THAT TO THE BEST OF EACH MEMBER’S KNOWLEDGE, ONLY PUBLIC BUSINESS MATTERS LAWFULLY EXEMPTED FROM OPEN MEETING REQUIREMENTS OF VIRGINIA LAW WERE DISCUSSED IN THE CLOSED SESSION, AND ONLY SUCH PUBLIC BUSINESS MATTERS AS WERE IDENTIFIED IN THE MOTION CONVENING THE CLOSED SESSION WERE HEARD, DISCUSSED, OR CONSIDERED.**

City Council returned to opened session at 11:44 a.m.

**3.      ADJOURNMENT:**

City Council adjourned at 11:45 a.m.

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Clerk of City Council

APPROVED:

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Mayor

\*Audio available upon request.

The Special Called Closed Session Meeting of the Petersburg City Council was held on Tuesday, January 28, 2021, on live stream. Council Member Parham called the Special Called Closed Session Meeting to order at 11:01a.m.

**1. ROLL CALL:**

Present:

Council Member Charles H. Cuthbert, Jr  
Council Member Treska Wilson-Smith  
Council Member W. Howard Myers  
Council Member Darrin Hill  
Vice Mayor Annette Smith-Lee  
Mayor Samuel Parham

Absent: Council Member Charles H. Cuthbert, Jr  
Council Member John A. Hart, Sr.

Present from City Administration:

City Manager Aretha R. Ferrell-Benavides  
City Attorney Anthony Williams  
Clerk of Council Nykesha D. Jackson

**2. UPDATES AND DISCUSSION:**

a. COVID-19 Update from the State Senator Joseph Morrissey

Mayor Parham stated, "Mr. Morrissey thank you for joining us again. We thank you for giving us a little bit of your time this morning just to have discussion on all your efforts that you have going on to help us down here in Petersburg in the Crater Health District. So, I turn everything over to you now Senator Morrissey."

Senator Morrissey stated, "Thank you, Mr. Mayor. First of all, it is an honor to join you this and all the members of City Council good morning to each one of you. I want to particularly compliment Council Member Hill for his double tasking this morning. Taking care of business and listening to us at the same time. Congratulations Councilman Hill. Let me give you an update on where we are with COVID-19. First of all, and if some of this is a refresher, I will skip over it. The total number of cases in Petersburg of COVID-19 is 2,807, hospitalization is 123 and you have 39 deaths. Now let's get into the more important part and that is dealing with the vaccinations in Petersburg. I do not see Councilman Cuthbert on the phone but back in January I had a conversation with Councilman Cuthbert about vaccinations. And I sent a letter to Dr. Danny Avula and the Governor regarding vaccinations for Petersburg school employees. Additionally, on February 8<sup>th</sup> I sent another letter to Dr. Avula and Craig Fifer regarding the vaccination of my request. Does City Council have both of those letters? I did not hear everyone. So, I will go over them so that we are all operating together, and every council person has the same thing. I will go over with you. On January 14<sup>th</sup>, I sent a letter to Dr. Avula and Governor Northam. And I said to both that I am writing to you regarding a matter of utmost importance. I just got off the phone with Ken Pritchett, the Chairman of the Petersburg City School Board. He had advised me that no vaccinations had been made available to any of the 607 employees within the Petersburg Public School System through the administrators, teachers, and support staff. He furthered informed me that vaccinations were distributed to Dinwiddie County Public School Systems this very day. Mr. Pritchett further informed me that the teachers are ready and willing to return to the schools and educate Petersburg students so long as they can be vaccinated in short order. We all realize how critical important to return to teach the students in the classroom and we want to do it in a safe manner. Accordingly, vaccinating teachers and doing it at warp speed is crucial. That letter was sent on January 14<sup>th</sup> requesting 608 vaccinations. That letter was then followed up on February 8<sup>th</sup> and it was a result from a conversation that I had with Councilman Cuthbert and

\*Audio available upon request.

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Petersburg Deputy City Manager, Darnetta Tyus. That was letter was dated February 8<sup>th</sup> and send to Dr. Avula and Craig Fifer. Mr. Mayor, does everybody on council have that letter?"

Council Member Wilson-Smith stated, "Yes, I have that one."

Mayor Parham stated, "Yes."

Council Member Myers stated, "Yes."

Senator Morrissey stated, "Okay. In that letter, I discussed what must be done to complete Phase 1A and Phase 1B. I am happy to drill down in the numbers if you want me to, but it is set forth in that letter. Do you want me to drill down Mr. Mayor?"

Mayor Parham stated, "Yes, please."

Senator Morrissey stated, "Okay. In that letter, I again explained the urgency in getting these things done. To complete Phase 1A with the first vaccination with the Crater Health District, I told Avula and Fifer that we needed the following 10,140 COVID-19 vaccines either the Moderna or Pfizer for first injection only. I said that we needed assistance with ultracold storage for the Pfizer vaccine. Five locations to conduct the 2,000 person point of dispensing to be identified by respective localities and 400 volunteers between 150 to 200 vaccinators. This was the result again a follow-up to my conversation with Councilman Cuthbert and City Manager Darnetta Tyus who did the heavy lifting. In the same letter, I said to address Phase 1B and that's individuals who are 65 and older. The Crater Health District would need to follow, 25,700 COVID-19 vaccines. Again, Moderna or Pfizer for first injection only. And I estimated that following and the first is applicable to Petersburg. We needed 5,300 doses for Petersburg, 3,500 for Hopewell, 5,500 for Prince George and then Dinwiddie for 5,100 and Emporia, Greenville and Sussex I gave them the numbers. I told both parties that we needed assistance with ultracold storage, and I gave them the number if volunteers that we need. And its February 10<sup>th</sup> right now and we are waiting for a response. But I want to thank Councilman Cuthbert and Deputy City Manager Darnetta Tyus for providing with me that information which I in turn provided to Craig Fifer and Danny Avula. I am going to pause for a moment to see if you need me to answer any questions about that. We can also take up questions at the end if you have it."

Council Member Wilson-Smith stated, "I wanted to know, you are asking for the ultracold storage for Petersburg's Health Department or for one in each area?"

Senator Morrissey stated, "One in each area."

Council Member Wilson-Smith stated, "Are you aware that Petersburg has one?"

Senator Morrissey stated, "I did not know that. But I wanted to make sure in my letter to cover all my bases."

Council Member Wilson-Smith stated, "And the conversations that you are having with people, did you have one at all with our Health Department in reference to any of this?"

Senator Morrissey stated, "My conversations were strictly with Councilman Cuthbert and with the Deputy City Manager."

Ms. Tyus stated, "If I can clarify. All of the information contained in the letter that was given to Senator came from consulting with the health department. So, we consulted directly with the health department before

\*Audio available upon request.

we provided the information to the Senator. So, yes the health department has been consulted.”

Council Member Wilson-Smith stated, “So, you knew that the health department does have a cold storage?”

Ms. Tyus stated, “At the point when they did this they will need more. So, it could be that they have one, but this document was generated with details. We did not create the details. We asked the health department to assist us. So, yes.”

Council Member Wilson-Smith asked, “Has Delegate Aird been included in any of these conversations?”

Ms. Tyus stated, “There are conversations. Delegate Aird has also been very gracious in working on initiative to help Petersburg and the region with vaccination events.”

Council Member Wilson-Smith stated, “I am asking because we have all these conversation between us about what we are going to do, and I am asking has she been included in any of this. Or is it a complete circle of people of Aird, Morrissey, Health Department, and yourself Ms. Tyus. Or is it Ms. Tyus, Cuthbert, and Morrissey? Or is it Delegate Aird and Tyus? I just see such a divide. I do not see us all working together on the same page.”

Ms. Tyus stated, “I cannot speak to that. I know that everybody is having conversations. I can only speak to this one in terms of this information that we provided for Senator Morrissey.”

Senator Morrissey stated, “Let me address that. That is a very good question Councilwoman Smith. My conversation with Councilman Cuthbert was an early Saturday morning conversation and it could have been around 7am or it could have been earlier. He then tied in Darnetta Tyus. We talked for a good 45 minutes to an hour. And then during the course of that day, Ms. Tyus was getting additional information. And once I was provided with all of that information I then drafted my letter on February 8<sup>th</sup> to Fifer and Avula. And I do not believe that it is a situation of keeping Aird out of the loop, but I took this in the since of an emergency when I spoke with Councilman Cuthbert and Deputy City Manager. And I acted on it within 24hrs.”

Ms. Tyus stated, “Thank you.”

Mayor Parham stated, “Thank you.”

Senator Morrissey stated, “Let me go over a couple of other things. Questions that have come up. The Crater Health District official’s will continue to hold their vaccination clinic every Saturday from 9am to 4pm. By the way, some of the information that I am giving you I am going to have my LA send it down to the City Manager’s Office or the Clerk’s Office for distribution. So, that the facts that I am giving you, you will have at your quick disposal. Currently, some of you know or all of you know that Crater Health District is still vaccinating individuals in 1A and 1B. 1A includes your healthcare workers, emergency medical technicians and individuals residing in assistant living facilities. 1B includes the police, firemen, individuals 65 years or older, teachers, grocery store workers, correction officers, mail carriers and officials needed to maintain the continuity of government. So, Crater is going 1A and 1B right now. If somebody needs to sign up for vaccination, I have the number here. It is 804-863-1652, and simply select option 1. I will send this down to you. They will have to do some prescreening and questions. And there is also an email address if you want to do it directly there. I will stop again and pause before I end with my talking about the Petersburg Public School Personnel vaccination.”

Council Member Hill stated, “First of all I want to thank all who are on the call and Senator Morrissey for

\*Audio available upon request.

giving us an update. At our last City Council meeting one of the individuals spoke strongly about what is the plan and things of that nature. And I am glad that Senator Morrissey and those who are involved got together to come up with a plan. Our Deputy City Manager, Darnetta Tyus, she has been working hard with keeping us informed of the levels and different outbreaks in the City. And just keeping us on top of those things. I do not want it to be on this call that there is a division. Because there is no division. Just like we were all saying at the last meeting that our constituents are calling us and asking us when they can get their shot. So, one of our council members took it upon his self to seize the moment to talk to our Senator. I do not think anybody is intentionally keeping out Delegate out of the loop. Just like we all know that some people are not getting their shot. I am pretty sure Delegate Aird knows the same thing. So, that is to not cast anybody in any type of light. But I do not want this call to be said that Aird does not know what is going on. Because at the end of the day we are getting calls. So, one of our City Council Members took it upon himself to call our Senator. Senator Morrissey came into my shop and dropped off his calendar and we were looking forward to this call on today. We have the public on this call. So, we must be careful about what we say to form people's opinions. Because at the end of the day people need their shots. I could care less if they came from Kalamazoo or what have you. I just need our people to be vaccinated. With that being said, Senator Morrissey what is the actual plan and how many shots are in Petersburg right now? Do we have those numbers? Or Ms. Tyus do we have those numbers. If it is in, your presentation than you can go ahead with your presentation. But I appreciate that."

Senator Morrissey stated, "As I mentioned at the top of the program, on January 14th I had a conversation with ken Pritchett about the urgency in getting 609 people vaccinated that were associated with the schools. And so that is what prompted me to send a letter to the Governor and Avula that we needed those vaccinations. Earlier this week I spoke with Secretary Atif Qarni, Secretary of Education, about getting not only your teachers vaccinated but the bus drivers, the custodians, the maintenance workers, and the people that keep the infrastructure going. And right now, that is being done. My conversation with Secretary Qarni, I can advise City Council that teachers and school personnel began receiving their first round of vaccine doses on February 1, 2021. There are between 600 and 650 employees. I am not saying that because I wrote the letter on January 14<sup>th</sup> that they started getting vaccinated on February 1<sup>st</sup>, but I do know this. I subscribe to the theory that the squeaky wheel gets the most grease and I advocated the urgency in getting those teachers and support staff vaccinated. So, all school officials should be vaccinated by the end of February. Et me just repeat myself. All 609 school officials should be vaccinated by the end of February. That is a good thing. Once all first doses are administered to all school employees, health officials expect to begin administering second doses on February 27<sup>th</sup> to the beginning of March. Usually there is a 21-day period between the first and second dose. So, it is getting done. Councilman Hill I am an advocate for more shots and more arms as quickly as possible. I am on it."

Council Member Hill stated, "Thank you."

Vice Mayor Smith-Lee stated, "I just wanted to make a statement from what I gathered. Thank you, Senator Joe Morrissey, for your leadership in trying to help with the City of Petersburg. Because we are in dire need here. I constantly get phone calls every day. And I have one young man, and he is disabled. He is 65 years old and he is on oxygen and he wants to take the shot. But he is not able to be mobilized to move. And he wanted to know if someone can administer that shot to him. Can they come to his house because he is on oxygen?"

Senator Morrissey stated, "Thank you for that. During a recent, Senate Caucus meeting, I explained that each Senator, we need a liaison with the health department for emergencies just like this. We have a liaison. When we get offline if you will call Matthew at 737-1626 and give him the individuals names and the specifics that he is immobile and that he is on oxygen and we will try to do that. I am assuming that this person is in the 1A or 1B category. Is that right?"

Vice Mayor Smith-Lee stated, "Yes, sir. He is over 65."

\*Audio available upon request.

Senator Morrissey stated, "Call Matt and we will get it done."

Vice Mayor Smith-Lee stated, "Also, I want to thank you and Lashrecse Aird too. From what I gather she was instrumental in getting at least 2,000 doses here in the City of Petersburg also. So, I believe that both of you all are working very hard to make sure that Petersburg is taken care of. Thank you."

Senator Morrissey stated, "We all have the same agenda of getting this done as quickly as possible. That is a given."

Council Member Cuthbert stated, "Senator Morrissey, we are all grateful to you for your leadership on this issue and your dedication to Petersburg. You have shown both once again. We are indebted to you. I want to echo what Senator Morrissey said. And that is that we all have the same agenda, and we all are working towards the same goal of trying to get as many shots into as many arms as possible here in Petersburg. And we all have different approaches that will be most effective. Delegate Aird has made a tremendous contribution be seeing that a significant number of doses of the vaccines made available in Petersburg. That is a huge step forward and we are all grateful to her. Likewise, we are grateful to Senator Morrissey for the achievements that he has made on our behalf to help make us all healthier. So, I am indebted to both of them and it is not a question of choosing one Delegate over one Senator. But asking each to do exactly what each is doing and that is to maximize the opportunities to improve the health of citizens of Petersburg. So, Senator Morrissey I thank you and if Delegate Aird were on this call I would thanking her as well. Mr. Mayor thank you very much."

Senator Morrissey stated, "Mr. Mayor, thank you for making this available today. If I can just end by making a shoutout to your City Manager. Aretha, I do not know how much longer you are going to be with us, but it has been a pleasure working with you. I know that wherever you go and whatever you do Petersburg will be a big part of your heart and thank you for working with me over the last 12 plus months. I also want to give a shoutout to your Deputy Darnetta. I hope that you leave Darnetta here because Ms. Tyus and I worked tirelessly over that weekend to facilitate that letter to Governor Northam and Dr. Avula. She did a great job. With that I am going to head down to our mobile capitol at the Science Museum and I look forward to crossing paths with all of you very soon."

Mayor Parham stated, "Thank you Senator. I appreciate it. So, we are going to close out this meeting and get ready for the next one. And I will see everybody again shortly."

**3. ADJOURNMENT:**

City Council adjourned at 9:38 a.m.

\_\_\_\_\_  
Clerk of City Council

APPROVED:

\_\_\_\_\_  
Mayor

\*Audio available upon request.



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager

**FROM:** Robert Floyd

**RE:** **Proclamation recognizing March as National Purchasing Month.**

**PURPOSE:** To recognize March as National Purchasing Month.

**REASON:**

**RECOMMENDATION:**

**BACKGROUND:**

**COST TO CITY:**

**BUDGETED ITEM:**

**REVENUE TO CITY:**

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:**

**AFFECTED AGENCIES:**

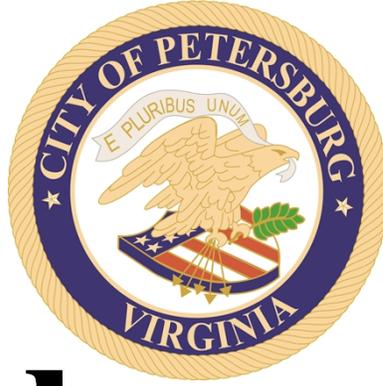
**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:**

**REQUIRED CHANGES TO WORK PROGRAMS:**

**ATTACHMENTS:**

1. National Purchasing Month 2021

Petersburg



Virginia

# Proclamation

**WHEREAS,** the purchasing, contracting, and materials management professions play a significant role in the efficiency and effectiveness of both government and business; and

**WHEREAS,** through their combined purchasing power purchasing, contracting and materials management professionals spend billions of dollars every year, and have a significant influence upon economic conditions throughout Petersburg; and

**WHEREAS,** purchasing, contracting and materials management professionals dedicate themselves to providing the best value for every taxpayer dollar, and continue to expand their knowledge, skills, and abilities; and

**WHEREAS,** by obtaining the goods and services needed to get the job done in an efficient and economical manner, these professionals make it possible for the government to proficiently serve the citizens of Petersburg; and

**WHEREAS,** during the month of March, professional purchasing employees throughout the City of Petersburg engage in special efforts to inform the public on the important role the purchasing profession plays in business, industry and government;

**NOW, THEREFORE, I, Mayor Samuel Parham,** by virtue of the authority vested in me by the City of Petersburg, do hereby proclaim the month of

**March 2021**

As

**“NATIONAL PURCHASING MONTH”**

in the City of Petersburg, and urge all the citizens to join me in this special observance.

Dated: 03/02/2021

\_\_\_\_\_  
Mayor, Samuel Parham

ATTEST:

\_\_\_\_\_  
Clerk of Council, Nykesha D. Jackson



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager

**FROM:** Wayne Crocker

**RE:** **Black History Month Celebration Strategy**

**PURPOSE:**

**REASON:**

**RECOMMENDATION:**

**BACKGROUND:**

**COST TO CITY:**

**BUDGETED ITEM:**

**REVENUE TO CITY:**

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:**

**AFFECTED AGENCIES:**

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:**

**REQUIRED CHANGES TO WORK PROGRAMS:**

**ATTACHMENTS:** None



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:**

**FROM:**

**RE:** Presentation from The Metropolitan Business League

**PURPOSE:**

**REASON:**

**RECOMMENDATION:**

**BACKGROUND:**

**COST TO CITY:**

**BUDGETED ITEM:**

**REVENUE TO CITY:**

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:**

**AFFECTED AGENCIES:**

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:**

**REQUIRED CHANGES TO WORK PROGRAMS:**

**ATTACHMENTS:** None



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021  
**TO:** The Honorable Mayor and Members of City Council  
**THROUGH:** Kenneth Miller, Interim City Manager  
**FROM:** Darnetta Tyus  
**RE:** COVID 19 Update

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**PURPOSE:**

**REASON:**

**RECOMMENDATION:**

**BACKGROUND:**

**COST TO CITY:**

**BUDGETED ITEM:**

**REVENUE TO CITY:**

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:**

**AFFECTED AGENCIES:**

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:**

**REQUIRED CHANGES TO WORK PROGRAMS:**

**ATTACHMENTS:** None



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager  
India Adams-Jacobs, Assistant to the City Manager

**FROM:** Alesha Mann

**RE:** City Council Questions & Answers

**PURPOSE:** To provide City Council with updates to the questions from previous the council meeting January 19, 2021.

**REASON:**

**RECOMMENDATION:**

**BACKGROUND:**

**COST TO CITY:**

**BUDGETED ITEM:**

**REVENUE TO CITY:**

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:**

**AFFECTED AGENCIES:**

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:**

**REQUIRED CHANGES TO WORK PROGRAMS:**

**ATTACHMENTS:**

1. CC Meeting Followup 2-19-2021
2. City of Petersburg Lighting Study Scope (1)



## **January 19, 2021 City Council Meeting Q&A Follow-up**

### **February 16, 2021**

- 1) Q. Has the light study been started? If so, how far along is it? If not, would it be beneficial to do such a study? -Councilman Cuthbert  
A. The City has not started a study on the parking lots.
  
- 2) Q. What is the likely range of costs for performing such a study and a timetable for completing it? -Councilman Cuthbert  
A. Estimate 20,000 proposal attached, estimate time for completion is approximately 2 months.
  
- 3) Q. If we had the study in hand, how would we pay to carry out its recommendations? For example, are there grant programs from which we likely could obtain the necessary funds? -Councilman Cuthbert  
A. Study has not been completed additional research needs to be conducted on grant opportunities.



January 26<sup>th</sup>, 2021

Mr. Riggleman  
City of Petersburg

Re: **Professional Services Agreement for  
City of Petersburg Parking Lot Lighting Study  
Downtown, City of Petersburg, Virginia**

Dear Mr. Riggleman:

Kimley-Horn and Associates, Inc. (“Kimley-Horn,” “Consultant,” or “We”) is pleased to submit this Letter Agreement (the “Agreement”) to The City of Petersburg (“Client”) for providing professional lighting engineering services for photometric evaluation and lighting design in the City of Petersburg. This work will be performed under the Limited Term Contract for On-Call Engineering Services (Contract #18-0028 Group 1) between the City and Kimley-Horn and Associates, Inc. dated March 29<sup>th</sup>, 2019.

### **Scope of Services**

Kimley-Horn will provide the services specifically set forth below.

#### **Task 1 – Site Visit**

It is our understanding that the Client intends to evaluate existing parking lot lighting on 13 City-owned parking lots. In preparation for evaluating existing conditions, Kimley-Horn will complete a “desktop” site review utilizing Google Maps to document existing fixture locations, types, and heights. Up to two Kimley-Horn staff will perform an on-site field investigation to spot check location accuracy, document fixture types that were not available virtually, and spot check fixture mounting heights. Additionally, the site visit will extend into nighttime hours. Using a handheld light meter, base level photometric levels will be spot-checked and recorded for comparison to modeled photometric values.

#### **Task 2 – Existing Light Level Study**

Using the data collected in **Task 1**, Kimley-Horn will develop one (1) existing condition model using lighting design software AGI-32™ for each parking lot. It is our understanding that the Client is coordinating with Dominion Energy to upgrade all existing lighting to wattage-equivalent and style-equivalent LED fixtures from Dominion Energy’s current fixture offerings. The existing conditions models will incorporate the assumed replacement LED fixture at each existing light location.

Kimley-Horn will compare the software-generated lighting levels against the field-measured levels for accuracy. Kimley-Horn will also compare the results of the photometric models to the lighting level targets provided in the American National Recommended Practice for Lighting for Parking Facilities publication (RP-20-14) prepared by the American National Standards Institute (ANSI) and the Illuminating Engineering Society of North America (IESNA). Using this data, Kimley-Horn will determine whether or not the existing lighting levels meet recommended target values and provide a recommendation as to whether additional lighting is needed to meet these standards. Kimley-Horn will summarize findings and recommendations in the form of a memorandum to be provided to the Client for review and discussion.

If the recommendation is that additional lighting is needed at a certain parking lot, that lot will be recommended for optimization under **Task 3**.

**Task 2 Deliverables:**

- Existing Conditions Evaluation Memorandum

**Task 3 – Optimized Photometric Plans**

Under this task, Kimley-Horn will develop optimized photometric plans to include additional lighting on each site recommended for optimization in **Task 2**. Proposed light fixtures will be selected from the current Dominion Energy LED fixture offerings. The proposed lighting layout will maintain existing light locations where possible, and supplement with additional fixtures required to meet the target values provided in **Task 2**.

Kimley-Horn will prepare and submit a lighting layout for each parking lot recommended for optimization. The photometrics will be produced using lighting design software AGI32 and the drawings will be produced using AutoCAD. Kimley-Horn will submit the Optimized Photometric Plans as a compiled set to the Client for review. The photometric plans shall consist of the following elements:

- Lighting calculation point-to-point analysis and results
- Diagrammatic horizontal layout of lighting fixtures/poles for the proposed work area
- Luminaire and lighting calculation summary tables
- Fixture and pole cutsheets

The electrical infrastructure required for the optimized lighting layout will be designed and completed by Dominion Energy.

**Task 3 Deliverables:**

- Compiled Optimized Photometric Plans and Details

**Services Not Included**

Any other services, including but not limited to the following, are not included in this Agreement:

- Electrical power design
- Photometrics for building mounted or decorative lighting fixtures.

**Additional Services**

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Photometric modeling of existing or proposed accent, up lighting, or building mounted lighting
- Electrical design of future lighting if installed by the City of Petersburg
- Design of electrical circuits to building mounted lighting fixtures
- Design of electrical service to exterior or pole-mounted receptacles
- Pole foundation design

- Additional design submittals
- Arc flash and device coordination studies

### Responsibilities of Client

In addition to other responsibilities set out in this Agreement, the Client shall:

- Allow Kimley-Horn access to project parking lot locations.

### Schedule

We will provide our services as expeditiously as practicable with the goal of meeting a mutually agreed upon schedule. Due to the everchanging circumstances surrounding COVID-19, situations may arise during the performance of this Agreement that affect availability of resources and staff of Kimley-Horn, the Client, other consultants, and public agencies. There could be changes in anticipated delivery times, jurisdictional approvals, and project costs. Kimley-Horn will exercise reasonable efforts to overcome the challenges presented by current circumstances, but Kimley-Horn will not be liable to Client for any delays, expenses, losses, or damages of any kind arising out of the impact of COVID-19.

### Fee and Expenses

Kimley-Horn will perform the services in Tasks 1 – 3 on a labor fee plus expense basis with the maximum labor fee shown below.

<b>Task 1 Site Visit</b>	<b><u>\$ 3,000</u></b>
<b>Task 2 Existing Light Level Study</b>	<b><u>\$ 6,000</u></b>
<b>Task 3 Updated Photometric Plans</b>	<b><u>\$ 11,000</u></b>
<b>Expenses</b>	<b><u>\$ 150</u></b>
<b>Maximum Labor Fee</b>	<b><u>\$20,000</u></b>

Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Should the Client request Kimley-Horn to advance any such project fees on the Client's behalf, a separate invoice for such fees, with a fifteen percent (15%) markup, will be immediately issued to and paid by the Client.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

We appreciate the opportunity to provide these services to you. Please contact us if you have any questions.

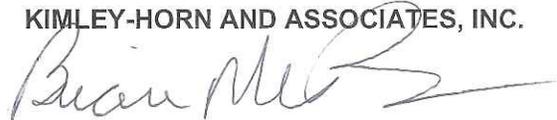
Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.



Timothy Parker, P.E.  
Project Manager

KIMLEY-HORN AND ASSOCIATES, INC.



Brian A. McPeters, P.E.  
Program Manager



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager

**FROM:** Patrice Elliott, Stacey Jordan

**RE:** **Atlantic Union Bank Presentation**  
**Andi Weissbart, Vice President**  
**Workplace Solutions Relationship Manager**

**PURPOSE:** Informational update on the services offered by Atlantic Union Bank to the City, employees, and residents.

**REASON:**

**RECOMMENDATION:**

**BACKGROUND:**

**COST TO CITY:**

**BUDGETED ITEM:**

**REVENUE TO CITY:**

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:**

**AFFECTED AGENCIES:**

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:**

**REQUIRED CHANGES TO WORK PROGRAMS:**

**ATTACHMENTS:**

1. City of Petersburg Solutions Banking Presentation



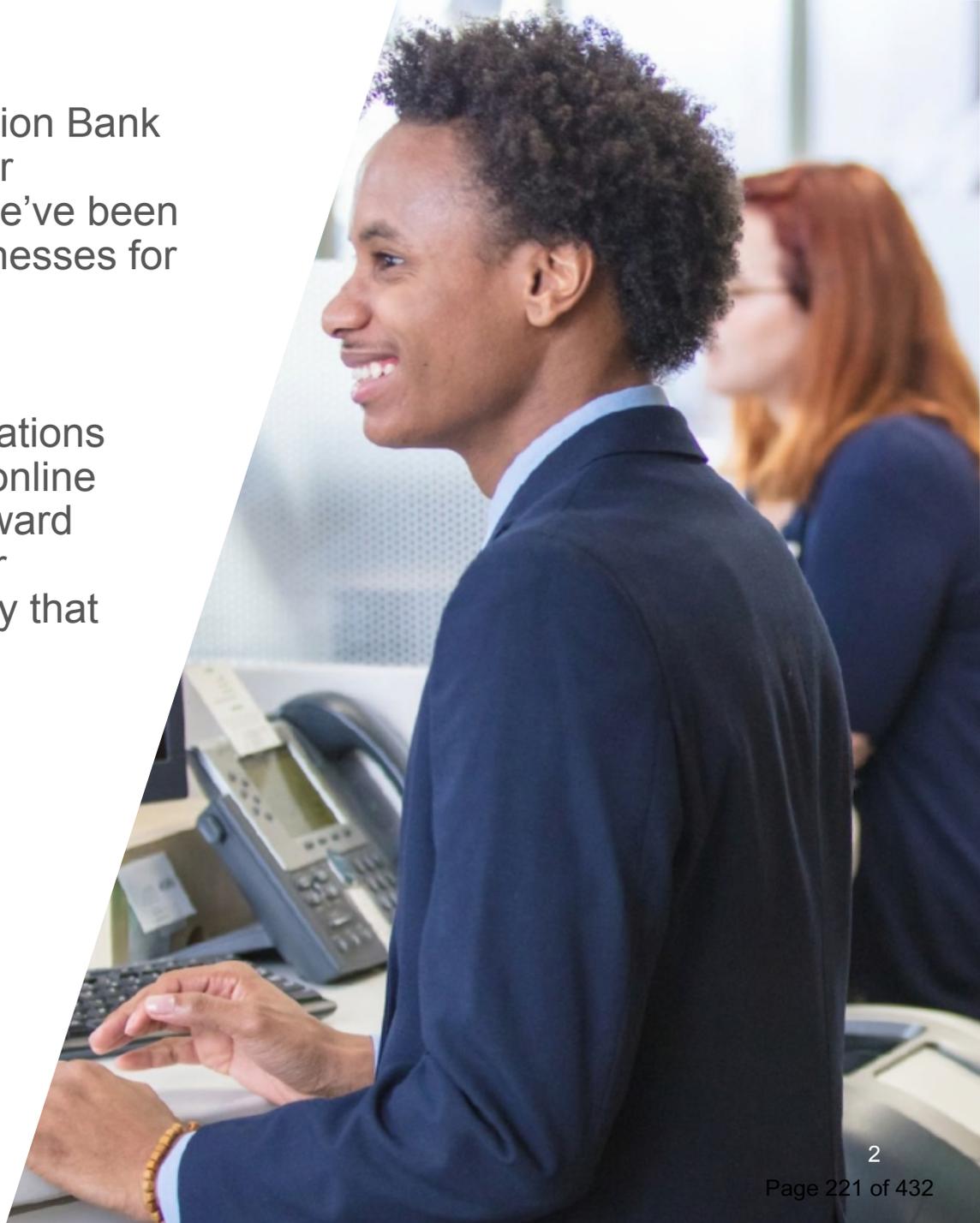
# Solutions Banking Program

City of Petersburg

March 2021

From Caroline County Bank to Union Bank & Trust to Atlantic Union Bank, our chapters are rich with history — we've been serving both consumers and businesses for 117 years long and counting.

As we look to the future, it's innovations such as our mobile banking app, online banking capabilities, along with award winning customer service, and our commitment to make banking easy that keep us moving forward.



# What is Solutions Banking?

**Solutions Banking is more than a banking product and perks for your employees.**

**By participating, you'll give your team access to a suite of online learning tools, onsite seminars, and other financial wellness programs to help them manage current money matters and set them up for long-term financial health.**

# What's in it for City of Petersburg?

- No cost addition to their employee benefits program
- Reduction of payroll cost by encouraging direct deposit use
- Attract and retain employees with this added benefit
- Increased employee engagement and productivity; lower stress

## How Employers measure success of financial wellness programs:

- Increased employee satisfaction: 49%
- Increased employee productivity: 41%
- Increased retirement plan participation: 40%
- Number of program participants: 36%

Source: Prudential Financial

# What's in it for City of Petersburg Employees?

- Ease of having Atlantic Union Bank come to them
- Convenience of program being **delivered 100% digitally** if they prefer
- Exclusive **free Solutions checking account** loaded with perks
- Potential **\$150 Cash bonus** with qualifying direct deposit
- Free access to Financial Literacy Workshops to meet the customer where they are in their financial journey and help them reach their goals (even **robust financial education site complete with customizable learning modules and distance learning section for students that aligns with VA SOL curriculum for 2<sup>nd</sup> to 12<sup>th</sup> grade**)
- Direct access to their Solutions and local Branch team

# There are a variety of ways in which we can deliver onsite events

- ▲ Resource Tables
- ▲ Customized E-Blast flyers and bulletin board flyers
- ▲ New Hire Orientation Sessions - video presentation available:  
<https://atlanticunionbank.wistia.com/medias/sag1dk23w0>
- ▲ Benefit Fairs
- ▲ Engaged Audience (Virtual/In-Person)
  - ▲ Multiple or Single Department Meetings
- ▲ Virtual Financial Literacy Seminars / Workshops
- ▲ Virtual private consultations

# Solutions Banking Landing Page



Employees can click <https://www.atlanticunionbank.com/solutions> to access both the:

- Exclusive banking benefits (and initiate the cash bonus)
- Access the Free Online Learning – robust financial education site Banzai which can be branded for City of Petersburg specifically

# Financial Education Workshops

Solutions Banking is committed to supporting your employees' financial wellness by providing onsite seminars, complete with **companion toolkits to allow the participants to apply the concepts learned and implement them into their daily life.** Topics include but not limited to:

- Raising and managing your Credit
- Tackling Student Loan Debt
- Budgeting Road Map
- Protecting your Identity
- Financial Preparation & Recovery

# Q&A



**Thank you!**



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager

**FROM:** Robert Floyd

**RE:** **Fiscal Year 2021-22 Budget Development Briefing**

**PURPOSE:** To brief City Council on the Fiscal Year 2021-22 Budget development process and present the budget calendar.

**REASON:** To ensure City Council is aware of the status of the Fiscal Year 2021-22 Budget development.

**RECOMMENDATION:**

**BACKGROUND:**

**COST TO CITY:**

**BUDGETED ITEM:**

**REVENUE TO CITY:**

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:**

**AFFECTED AGENCIES:**

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:**

**REQUIRED CHANGES TO WORK PROGRAMS:**

**ATTACHMENTS:** None



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Robert Floyd, Director of Budget and Procurement  
Kenneth Miller, Interim City Manager

**FROM:** Jeremy Tennant, Reginald Tabor

**RE:** **Presentation on the Project Tube Performance Agreement Between the City of Petersburg, Civica, Inc & Virginia Economic Development Partnership Authority**

**PURPOSE:** To enter into an Agreement between the City of Petersburg, the Virginia Economic Development Partnership and Civica to construct, equip, improve, and operate a pharmaceutical manufacturing and processing facility in the City to make a significant capital investment, and creating and maintaining a significant number of new jobs.

**REASON:** To ensure that all parties are on the same set out payout of the COF Grant, the use of COF Grant proceeds, the payment of the COF Grant, and the obligations of the Company regarding capital investments and new jobs.

**RECOMMENDATION:** For information only.

**BACKGROUND:** The City of Petersburg has been awarded a Commonwealth Opportunity Fund grant to receive \$5,700,000 through the VEDP to induce Civica to construct, equip, improve, and operate a pharmaceutical manufacturing and processing facility. The City of Petersburg will provide roughly \$2,900,000 in Machinery and Tools Tax grant credit.

<u>Category of Incentive:</u>	<u>Total Amount</u>
COF Grant	\$5,700,000
VEDP Talent Accelerator Program (“VTAP”) (Approximate Value)	\$759,000
Port of Virginia Economic and Infrastructure Development Grant (“POV Grant”)	\$46,000

<u>Category of Incentive:</u>	<u>Total Amount</u>
Machinery and Tools Tax Grant (Estimated)	\$2,900,000

**COST TO CITY:**

**BUDGETED ITEM:** \$5,700,000.00

**REVENUE TO CITY:**

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:** Virginia Economic Development Partnership

**AFFECTED AGENCIES:** Department of Economic Development  
Department of Finance  
Department of Budget

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:** N/A

**REQUIRED CHANGES TO WORK PROGRAMS:** N/A

**ATTACHMENTS:**

1. Civica VEDP Petersburg Agreement 011221
2. Project Tube Presentation (03022021)

## COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND

### PERFORMANCE AGREEMENT

This **PERFORMANCE AGREEMENT** (the "Agreement") made and entered this \_\_\_\_ day of \_\_\_\_\_, 2021, by and among the **CITY OF PETERSBURG, VIRGINIA** (the "Locality"), a municipal corporation of the Commonwealth of Virginia (the "Commonwealth"), **CIVICA, INC.**, a Delaware nonprofit, nonstock corporation authorized to transact business in the Commonwealth (the "Company"), and the **VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP AUTHORITY** ("VEDP"), a political subdivision of the Commonwealth

WITNESSETH:

WHEREAS, the Locality has been awarded a grant of and expects to receive \$5,700,000 (the "COF Grant") from the Commonwealth's Development Opportunity Fund (the "Fund") through VEDP for the purpose of inducing the Company to construct, equip, improve, and operate a pharmaceutical manufacturing and processing facility in the Locality (the "Facility"), thereby making a significant Capital Investment, and creating and Maintaining a significant number of New Jobs, as such capitalized terms are hereinafter defined;

WHEREAS, except as noted below, the Locality is willing to provide the funds to the Company for the use of the Company for the purposes described herein, provided that the Company meets certain criteria relating to Capital Investment and New Jobs;

WHEREAS, the Locality, the Company, and VEDP desire to set forth their understanding and agreement as to the payout of the COF Grant, the use of the COF Grant proceeds, the payment of the COF Grant, and the obligations of the Company regarding Capital Investment and New Jobs;

WHEREAS, the construction, equipping, improvement, and operation of the Facility will entail a capital expenditure by or on behalf of the Company of approximately \$124,500,000, of which approximately \$60,700,000 will be invested in machinery and tools, approximately \$1,000,000 will be invested in furniture, fixtures and business personal property, and approximately \$62,800,000 will be invested in the construction, and up-fit of the buildings for the Facility;

WHEREAS, the construction, equipping, improvement, and operation of the Facility will further entail the creation and Maintenance of 186 New Jobs at the Facility; and

WHEREAS, the stimulation of the additional tax revenue and economic activity to be generated by the Capital Investment and New Jobs constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the COF Grant:

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the

receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

**Section 1. Definitions.**

For the purposes of this Agreement, the following terms shall have the following definitions:

“Board” means the Board of Directors of the Virginia Economic Development Partnership Authority.

“Capital Investment” means a capital expenditure by or on behalf of the Company (on a GAAP accrual basis) in taxable real property, taxable tangible personal property, for both, at the Facility. The purchase or lease of machinery and tools or furniture, fixtures, and business personal property, including under an operating lease, and expected building construction, improvement and up-fit by or on behalf of the Company will qualify as Capital Investment. A capital expenditure related to a leasehold interest in real property will be considered to be made “on behalf of the Company” if a lease between a developer and the Company is a capital lease, or is an operating lease having a term of at least ten years, and the real property would not have been constructed or improved but for the Company’s interest in leasing some or all of the real property. A capital expenditure in taxable real property, taxable tangible personal property, or both, at the Facility made by another entity, including partners of the Company, will be considered to be made “on behalf of the Company.” Only the capital expenditures allocated to the portion of the real property to be leased by the Company will count as “Capital Investment.” The Capital Investment must be in addition to the capital improvements at the Facility as of October 1, 2020.

“Capital Investment Target” means that the Company has made or caused to be made and retained Capital Investments of at least \$124,500,000.

“Fund” means the Commonwealth’s Development Opportunity Fund.

“Maintain” means that the New Jobs will continue without interruption from the date of creation through the date that achievement of the New Jobs Target is being tested. Positions for the New Jobs will be treated as Maintained during periods in which such positions are not filled due to (i) temporary reductions in the Company’s employment levels (so long as there is active recruitment for open positions), (ii) strikes, and (iii) other temporary work stoppages.

“New Job” means new permanent full-time employment of an indefinite duration at the Facility for which the standard fringe benefits are provided by the Company for the employee, and for which the Company pays an average annual wage of at least \$83,978. “Average annual wage” means the average annual salary of all full-time positions at the Facility determined by dividing total payroll (of a type included in W-2 compensation) provided to all full-time positions at the Facility calculated at the Performance Date by the number of full-time positions at the Facility. The Company may, at its sole discretion, exclude some positions for purposes of determining both the average annual wage and the number of qualifying New Jobs. Each New Job must require a minimum of either (i) 35 hours of an employee’s time per week for the entire

normal year of the Company's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as New Jobs. As of October 1, 2020, there are no full-time positions at the Facility.

"New Job Target" means that the Company has created and Maintained at least 186 New Jobs.

"Performance Date" means December 31, 2025. If the Locality, in consultation with VEDP, deems that good faith and reasonable efforts have been made and are being made by the Company to achieve the Targets, on or before the Performance Date the Locality and Company may request an extension of the Performance Date by up to 15 months. Any extension of the Performance Date shall require the prior approval of the Company and the Board. If the Performance Date is extended, the Locality shall send written notice of the extension to the Company and VEDP and the date to which the Performance Date has been extended shall be the "Performance Date" for the purposes of this Agreement.

"Performance Report" means a report to be filed by the Company in accordance with Section 5. The "Final Performance Report" is to be filed within 90 days after the Performance Date. As noted in Section 5, the Locality and VEDP may each request a Performance Report at other dates prior to the Performance Date.

"Targets" means the Capital Investment Target and the New Jobs Target, all to be achieved as of the Performance Date.

"Virginia Code" means the Code of Virginia of 1950, as amended.

## **Section 2. Targets; Statutory Criteria.**

(a) *Targets:* The Company will construct, equip, improve, and operate the Facility, and achieve the Targets.

(b) *Encouragement to Offer New Jobs to Residents of the Commonwealth:* The Locality and VEDP hereby strongly encourage the Company to ensure that at least 30% of the New Jobs are offered to persons that are or will become "Residents" of the Commonwealth, as defined in Virginia Code Section 58.1-302. In pertinent part, that definition includes natural persons domiciled in Virginia or natural persons who, for an aggregate of more than 183 days of the year, maintained a place of abode within the Commonwealth, whether domiciled in the Commonwealth or not.

(c) *Prevailing Wage; Unemployment and Poverty Rates:* The average annual wage of the New Jobs of at least \$83,978 is more than the prevailing average annual wage in the Locality of \$41,841. The Locality is a high-unemployment locality, with an unemployment rate for 2019, which is the last year for which such data is available, of 5.6% as compared to the 2019 statewide unemployment rate of 2.8%. The Locality is a high-poverty locality, with a poverty rate for 2018,

which is the last year for which such data is available, of 24.1% as compared to the 2018 statewide poverty rate of 10.7%.

(d) *Disclosure of Political Contributions:* The Company acknowledges that the name of the Company will be shared by VEDP with the Governor of Virginia, and any campaign committee or political action committee associated with the Governor. The Company acknowledges that within 18 months of the date of this Agreement, the Governor, his campaign committee, and his political action committee will submit to the Virginia Conflict of Interest and Ethics Advisory Council a report listing any contribution, gift, or other item with a value greater than \$100 provided by the Company to the Governor, his campaign committee, or his political action committee, respectively, during the period from the date of the Company's application for the COF Grant through the one-year period immediately after the date of this Agreement.

(e) *Support for Virginia's and Locality's Economic Development Efforts:* Recognizing that it is in the best interest of all parties for the Commonwealth and the Locality to achieve sustained economic growth, the parties will periodically engage with one another to advise on economic development strategies and initiatives for the Commonwealth and the Locality, such as promoting the attributes of the Commonwealth and the Locality as places to do business, or highlighting important industry trends and/or business development opportunities that the Commonwealth or the Locality may wish to pursue. Such engagement would include the Company's participation in occasional business retention and expansion visits from VEDP personnel, as deemed appropriate based on the project parameters and nature of the incentives provided to the Company.

(f) *Reduced Local Match; Amount of COF Grant:* Due to the importance of the pharmaceutical industry to the Locality, the Central Virginia region and the Commonwealth, as a whole, the Governor has determined that the Facility constitutes a project of regional or statewide interest, has approved a COF Grant in the amount of \$5,700,000, and has elected to accept a local match for the COF Grant less than the full \$5,700,000 amount of the COF Grant. The local match will be a grant in an amount equal to the machinery and tools tax due from the Company for the first five years of the Facility beginning January 1, 2021 and ending December 31, 2026, which amount is estimated to be approximately \$2,900,000. VEDP will include this information in the next report on expenditures from the Fund required by Section 2.2-115 F. of the Virginia Code.

### **Section 3. Disbursement of COF Grant.**

(a) *General Provisions:* The disbursement of the COF Grant proceeds to the Company will serve as an inducement to the Company to achieve the Targets.

The COF Grant is to be disbursed as \$2,490,000 for the Company's Capital Investment Target, \$1,212,750 for the Company's New Jobs Target, and \$1,997,250 for improvements by the Locality.

The statutory minimum requirements for a COF Grant in the Locality require that the Company (1) make or cause to be made and retained a Capital Investment of at least \$1,500,000 and (2) create and Maintain at least 15 New Jobs (the "Statutory Minimum Requirements").

The COF Grant proceeds shall be retained in the Fund until needed for disbursement or the COF Grant is withdrawn in accordance with the terms of this Agreement.

(b) *Disbursement of the Portion of the Grant to be Disbursed for New Jobs:*

(A) Grant Year Ending December 31	(B) New Jobs Expected at End of Grant Year	(C) Expected Grant Payment for Grant Year to be Disbursed for New Jobs	(D) Maximum Cumulative Grant Payment Available through Grant Year to be Disbursed for New Jobs
2021	46	\$75,900	\$75,900
2022	135	\$222,750	\$298,650
2023	182	\$300,300	\$598,950
2024	186	\$306,900	\$905,850
2025	186	\$306,900	\$1,212,750

If the verified Performance Report for the December 31, 2021 Grant Year indicates that the Company has achieved the Statutory Minimum Requirements, the Company will qualify for a disbursement of the COF Grant equal to \$1,650 per New Job created and Maintained as of December 31, 2021, but not for more than 46 New Jobs (no more than \$75,900). If the Company has qualified for less than \$75,900, the amount not paid (the “2021 Grant Rollover Amount”) will be rolled over to, and available for disbursement in, the next year.

The \$222,750 Expected Grant Payment for the December 31, 2022 Grant Year, *plus* the 2021 Grant Rollover Amount (if any) from the 2021 Grant Year is the “Grant Amount Available for 2022.” If the verified Performance Report for the December 31, 2022 Grant Year indicates that the Company has achieved the Statutory Minimum Requirements, the Company will qualify for a disbursement of the COF Grant equal to \$1,650 per New Job created and Maintained as of December 31, 2022, up to the Grant Amount Available for 2022. If the Company has qualified for less than the Grant Amount Available for 2022, the amount not paid (the “2022 Grant Rollover Amount”) will be rolled over to, and available for disbursement in, the next year.

The \$300,300 Expected Grant Payment for the December 31, 2023 Grant Year, *plus* the 2022 Grant Rollover Amount (if any) from the 2022 Grant Year is the “Grant Amount Available for 2023.” If the verified Performance Report for the December 31, 2023 Grant Year indicates that the Company has achieved the Statutory Minimum Requirements, the Company will qualify for a disbursement of the COF Grant equal to \$1,650 per New Job created and Maintained as of December 31, 2023, up to the Grant Amount Available for 2023. If the Company has qualified for less than the Grant Amount Available for 2023, the amount not paid (the “2023 Grant Rollover Amount”) will be rolled over to, and available for disbursement in, the next year.

The \$306,900 Expected Grant Payment for the December 31, 2024 Grant Year, *plus* the 2023 Grant Rollover Amount (if any) from the 2023 Grant Year is the “Grant Amount Available for 2024.” If the verified Performance Report for the December 31, 2024 Grant Year indicates that the Company has achieved the Statutory Minimum Requirements, the Company will qualify for a disbursement of the COF Grant equal to \$1,650 per New Job created and Maintained as of December 31, 2024, up to the Grant Amount Available for 2024. If the Company has qualified for less than the Grant Amount Available for 2024, the amount not paid (the “2024 Grant Rollover Amount”) will be rolled over to, and available for disbursement in, the next year.

The \$306,900 Expected Grant Payment for the December 31, 2025 Grant Year, *plus* the 2024 Grant Rollover Amount (if any) from the 2024 Grant Year is the “Grant Amount Available for 2025.” If the verified Final Performance Report for the December 31, 2025 Grant Year indicates that the Company has achieved the Statutory Minimum Requirements, the Company will qualify for a disbursement of the COF Grant equal to \$1,650 per New Job created and Maintained as of December 31, 2025, up to the Grant Amount Available for 2025.

Any disbursements to the Company under this subsection (b) will be considered to be earned when paid, and will not be subject to any repayment or clawback.

(c) *Disbursement of the Portion of the COF Grant to be Disbursed for Capital Investment:*

(A) Grant Year Ending December 31	(B) Capital Investment Expected at End of Grant Year	(C) Expected Grant Payment for Grant Year to be Disbursed for Capital Investment	(D) Maximum Cumulative Grant Payment Available through Grant Year to be Disbursed for New Jobs
2020	\$26,600,000	\$ 532,000	\$ 532,000
2021	76,800,000	1,536,000	2,068,000
2022	16,600,000	332,000	2,400,000
2023	4,500,000	90,000	2,490,000
2024	---	---	2,490,000

If the verified Performance Report for the December 31, 2020 Grant Year indicates that the Company has achieved the Statutory Minimum Requirements, the Company will qualify for a disbursement of COF Grant equal to approximately \$20,000 per \$1,000,000 of Capital Investment made through December 31, 2020, but taking into account Capital Investments of no more than \$26,600,000. The amount of the COF Grant to be disbursed will be equal to such amount of Capital Investment multiplied by .02 (so, the maximum that may be disbursed for the 2021 Grant Year will be \$26,600,000 x .02 = \$532,000). If the Company has qualified for less than \$532,000, the amount not paid (the “2020 Grant Rollover Amount”) will be rolled over to,

and available for disbursement in, the next year. If the Company has made Capital Investments in excess of \$26,600,000, the amount in excess will be carried forward (the “2020 Grant Carryforward Amount”) will be applied to and calculated in the Capital Investment in the next year.

The \$1,536,000 Expected Grant Payment for the December 31, 2021 Grant Year, *plus* the 2020 Grant Rollover Amount (if any) from the 2020 Grant Year is the “Grant Amount Available for 2021.” If the verified Performance Report for the December 31, 2021 Grant Year indicates that the Company has achieved the Statutory Minimum Requirements, the Company will qualify for a disbursement of the COF Grant equal to approximately \$20,000 per \$1,000,000 of Capital Investment made through December 31, 2021 (less the amount of Capital Investment for which the Company received a Grant Payment for the 2020 Grant Year in accordance with the prior paragraph), but taking into account cumulative additional Capital Investments of no more than \$76,800,000 plus any shortfall in Grant Year 2020 from the \$26,600,000 for which the Company may have sought a COF Grant disbursement in Grant Year 2020. The amount of the COF Grant to be disbursed will be equal to such amount of additional cumulative Capital Investment multiplied by .02 (so, the maximum that may be disbursed for the 2021 Grant Year will be the Grant Amount Available for 2021). If the Company has qualified for less than the Grant Amount Available for 2021, the amount not paid (the “2021 Grant Rollover Amount”) will be rolled over to, and available for disbursement in, the next year.

The \$332,000 Expected Grant Payment for the December 31, 2022 Grant Year, *plus* the 2021 Grant Rollover Amount (if any) from the 2021 Grant Year is the “Grant Amount Available for 2022.” If the verified Performance Report for the December 31, 2022 Grant Year indicates that the Company has achieved the Statutory Minimum Requirements, the Company will qualify for a disbursement of the COF Grant equal to approximately \$20,000 per \$1,000,000 of Capital Investment made through December 31, 2022 (less the amount of Capital Investment for which the Company received a Grant Payment for the 2020 or 2021 Grant Years in accordance with the prior paragraphs), but taking into account cumulative additional Capital Investments of no more than \$16,600,000 plus any shortfall in Grant Years 2020 or 2021 from the \$103,400,000 for which the Company may have sought a COF Grant disbursement in Grant Years 2020 or 2021. The amount of the COF Grant to be disbursed will be equal to such amount of additional cumulative Capital Investment multiplied by .02 (so, the maximum that may be disbursed for the 2022 Grant Year will be the Grant Amount Available for 2022). If the Company has qualified for less than the Grant Amount Available for 2023, the amount not paid (the “2022 Grant Rollover Amount”) will be rolled over to, and available for disbursement in, the next year.

The \$90,000 Expected Grant Payment for the December 31, 2023 Grant Year, *plus* the 2022 Grant Rollover Amount (if any) from the 2022 Grant Year is the “Grant Amount Available for 2023.” If the verified Performance Report for the December 31, 2023 Grant Year indicates that the Company has achieved the Statutory Minimum Requirements, the Company will qualify for a disbursement of the COF Grant equal to approximately \$20,000 per \$1,000,000 of Capital Investment made through December 31, 2023 (less the amount of Capital Investment for which the Company received a Grant Payment for the 2020, 2021 or 2022 Grant Years in accordance with the prior paragraphs), but taking into account cumulative additional Capital Investments of no more than \$4,500,000 plus any shortfall in Grant Years 2020, 2021 or 2022 from the

\$120,000,000 for which the Company may have sought a COF Grant disbursement in Grant Years 2020, 2021 or 2022. The amount of the COF Grant to be disbursed will be equal to such amount of additional cumulative Capital Investment multiplied by .02 (so, the maximum that may be disbursed for the 2023 Grant Year will be the Grant Amount Available for 2023). If the Company has qualified for less than the Grant Amount Available for 2023, the amount not paid (the “2023 Grant Rollover Amount”) will be rolled over to, and available for disbursement in, the next year.

The 2023 Grant Rollover Amount (if any) from the 2023 Grant Year is also the “Grant Amount Available for 2024.” If the verified Final Performance Report for the December 31, 2024 Grant Year indicates that the Company has achieved the Statutory Minimum Requirements, the Company will qualify for a disbursement of the COF Grant equal to approximately \$20,000 per \$1,000,000 of Capital Investment made through December 31, 2024 (less the amount of Capital Investment for which the Company received a Grant Payment for the 2020, 2021, 2022 or 2023 Grant Years in accordance with the prior paragraphs), but taking into account cumulative additional Capital Investments plus any shortfall in Grant Years 2020, 2021, 2022 or 2023 from the \$124,500,000 for which the Company may have sought a COF Grant disbursement in Grant Years 2020, 2021, 2022 or 2023. The amount of the COF Grant to be disbursed will be equal to such amount of additional cumulative Capital Investment multiplied by .02. The maximum that may be disbursed for the 2024 Grant Year will be the Grant Amount Available for 2024.

Any disbursements to the Company under this subsection (c) will be considered to be earned when paid, and will not be subject to any repayment or clawback.

(d) *Disbursement of the Portion of the COF Grant to be Disbursed for Improvements:* When a verified Performance Report indicates that the Company has achieved the Statutory Minimum Requirements (which is expected to be during Grant Year 2021), the Company will qualify for a disbursement of the COF Grant up to an aggregate amount of \$1,997,250. The Performance Report could be an annual Performance Report or could be an interim Performance Report submitted by the Company upon the achievement of the Statutory Minimum Requirements. Such amount will be available for disbursement to pay or reimburse the qualified costs of water and sewer extensions and improvements serving the Facility and the surrounding area (the “Improvements”). The party incurring the costs of the Improvements (whether the Locality, the Company, or a business partner of the Company) shall submit to VEDP (i) a copy of the invoice or other evidence of a pending or paid obligation related to the Improvements, and (ii) a certification that the payment or reimbursement requested is consistent with a budget for the Improvements approved by the Locality and the other party incurring the costs of the Improvements, or otherwise permitted by agreement by the Locality and the other party incurring the costs of the Improvements. VEDP will review the invoice or other evidence and certification, and, if approved, will directly pay the invoice to the vendor/contractor, or provide reimbursement to the payor, up to an aggregate amount of \$1,997,250. For this purpose, the Locality appoints VEDP as the agent of the Locality to disburse the proceeds of the COF Grant.

(e) *Disbursements:* Within 30 days after verification of a Performance Report, if any amount of COF Grant proceeds are available for disbursement, as determined in accordance with the foregoing calculations, VEDP will disburse that amount to the Locality, except as noted in

subsection (d). Except as noted in subsection (d), within 30 days after receipt of such amount, the Locality will disburse such COF Grant proceeds to the Company.

If any amount of COF Grant proceeds have not been earned by the Company, the amount not disbursed will be retained in the Fund and will be available for other economic development projects.

(f) *Use of the COF Grant Proceeds:* The Company will use the COF Grant proceeds disbursed in accordance with subsection (b) or (c) to pay or reimburse the cost of construction or build-out of buildings for the Facility, and for recruitment and training, all as permitted by Section 2.2-115(D) of the Virginia Code. The COF Grant proceeds disbursed in accordance with subsection (d) will be used to pay or reimburse the cost of the Improvements, which are utility extensions and improvements, whether on or off site, as permitted by Section 2.2-115(D) of the Virginia Code.

**Section 4. Break-Even Point; State and Local Incentives.**

(a) *State-Level Incentives:* VEDP has estimated that the Commonwealth will reach its “break-even point” by the Performance Date. The break-even point compares new revenues realized as a result of the Capital Investment and New Jobs at the Facility with the Commonwealth’s expenditures on discretionary incentives, including but not limited to the COF Grant. With regard to the Facility, the Commonwealth expects to provide discretionary incentives in the following amounts:

<u>Category of Incentive:</u>	<u>Total Amount</u>
COF Grant	\$5,700,000
VEDP Talent Accelerator Program (“VTAP”) (Approximate Value)	\$759,000
Port of Virginia Economic and Infrastructure Development Grant (“POV Grant”)	\$46,000

The proceeds of the COF Grant shall be used for the purposes described in Section 3(f). The proceeds of the Port Grant may be used by the Company for any lawful purpose. The VTAP represents the value to the Company of workforce development services expected to be provided by VEDP to the Company for recruitment and training.

(b) *Local-Level Incentives:* The Locality expects to provide the following incentives, as matching grants or otherwise, for the Facility by the Performance Date:

<u>Category of Incentive:</u>	<u>Total Amount</u>
Machinery and Tools Tax Grant (Estimated)	\$2,900,000

As noted in Section 2(f), the Governor of Virginia has waived the requirement for a full local match for this COF Grant.

The proceeds of the Locality's grant may be used by the Company for any lawful purpose.

(c) *Other Incentives:* This Agreement relates solely to the COF Grant. The qualification for, and payment of all State-Level Incentives and Local-Level Incentives, except for the COF Grant, will be governed by separate arrangements between the Company and the entities offering the other incentives.

## **Section 5. Company Reporting.**

(a) *Performance Reporting:* The Company shall provide, at the Company's expense, in the form attached hereto as Exhibit A, detailed Performance Reports satisfactory to the Locality and VEDP of the Company's progress on the Targets. The Performance Reports are due by each April 1, commencing April 1, 2022, reflecting the Company's progress toward the Targets as of the prior December 31. Further, the Company shall provide such Performance Reports at such other times as the Locality or VEDP may require.

If the Company wishes to count as Capital Investments the capital expenditures made on its behalf by a lessor or a developer of the Facility, the Company is responsible for assembling and distributing the documentation necessary to verify the capital expenditures made on behalf of the Company.

(b) *Final Performance Report:* The Company shall provide, at the Company's expense, in the form attached hereto as Exhibit B, a detailed Final Performance Report satisfactory to the Locality and VEDP of the Company's achievement of the Targets as of the Performance Date. This Performance Date Report shall be filed within 90 days after the Performance Date.

Should the Company be unable to file the Final Performance Report within the 90-day timeframe, the Company may request a 60-day delay in filing the Final Performance Report. VEDP will require a \$3,000 fee, payable to VEDP, to process the request for the filing delay. Should the Company not file the Final Performance Report within the 90-day window nor request a filing delay (including payment of the required fee), or if the Company requests a filing delay but does not file the Final Performance Report prior to the new filing deadline, VEDP will withhold any COF Grant payment that might otherwise be due and all rights of the Company under this Agreement will automatically terminate.

(c) *Virginia Corporate Income Tax Information:* With each such Performance Report or Final Performance Report, the Company shall report to VEDP the amount paid by the Company (or for a pass-through entity, by its shareholders, members or partners) in the prior calendar year in Virginia corporate (or for a pass-through entity, personal) income tax. VEDP hereby represents to the Company that it considers such information to be confidential proprietary information that is exempt from public disclosure under the Virginia Freedom of Information Act and that such

information will be used by VEDP solely in calculating aggregate return on invested capital analyses for purposes of gauging the overall effectiveness of economic development incentives.

**Section 6. Verification of Targets.**

(a) *Verification of Capital Investment:* The Company hereby authorizes the Locality, including the Locality's Commissioner of the Revenue and Treasurer, to release to VEDP the Company's real estate tax, business personal property tax and machinery and tools tax information. Such information shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the Capital Investment Target. If the Locality, the Office of the Commissioner of the Revenue or the Office of the Treasurer should require additional documentation or consents from the Company to access such information, the Company shall promptly provide, at the Company's expense, such additional documentation or consents as the Locality or VEDP may request. In accordance with Virginia Code Section 58.1-3122.3, VEDP is entitled to receive the Company's real estate tax, business personal property tax and machinery and tools tax information from the Locality's Commissioner of the Revenue.

(b) *Verification of New Jobs and Wages:* The Company must submit a copy of its four most recent Employer's Quarterly Tax Reports (Form FC-20) with the Virginia Employment Commission with each Performance Report. The forms shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the New Jobs Target. In accordance with Virginia Code Section 60.2-114, VEDP is entitled to receive the Company's employment level and wage information from the Virginia Employment Commission.

The Company agrees that it will report to the Virginia Employment Commission with respect to its employees at a facility-level, rather than at the company-level.

(c) *Additional Documentation:* In addition to the verification data described above, in the sole discretion of the Locality or VEDP, the Locality or VEDP, may each require such other documentation or audits as may be required to properly verify the Capital Investment or New Jobs.

**Section 7. Repayment Obligation.**

(a) *If Statutory Minimum Eligibility Requirements are Not Met:* Section 2.2-115 of the Virginia Code requires that the Company achieve both of the Statutory Minimum Requirements in order to be eligible for the COF Grant. If any portion of the COF Grant is disbursed under Section 3(d), but the Company fails to meet both of the Statutory Minimum Requirements as of the Performance Date, the Company will be considered to have breached this Agreement and the Company must repay to VEDP all of the proceeds of the COF Grant disbursed under Section 3(d).

(b) *If Statutory Minimum Eligibility Requirements are Met:* The provisions of this subsection (b) shall become applicable only if the Company has met the Statutory Minimum Requirements, and any COF Grant proceeds have been disbursed under Section 3(d) prior to the

Performance Date. The \$1,997,250 of the COF Grant available under Section 3(d) is to be allocated as \$798,900 (40%) for the Company's Capital Investment Target, and \$1,198,350 (60%) for the Company's New Jobs Target.

(c) If the Company has not met either or both of its Targets as of the Performance Date, the Company shall repay to VEDP that part of the COF Grant previously disbursed under Section 3(d) that is proportional to the Target or Targets for which there is a shortfall. For example, if as of the Performance Date, \$1,997,250 of the COF Grant proceeds have been disbursed under Section 3(d), but only \$74,700,000 of the Capital Investment has been made and retained (reflecting achievement of 60% of the Capital Investment Target), and only 93 New Jobs have been created and Maintained (reflecting achievement of 50% of the New Jobs Target), the Company shall repay to VEDP \$319,560, reflecting 40% of the \$798,900 of the COF Grant proceeds disbursed under Section 3(d) allocated to the Capital Investment Target, *plus* \$599,175, reflecting 50% of the \$1,198,350 of the COF Grant proceeds disbursed under Section 3(d) allocated to the New Jobs Target, for a total repayment amount of \$918,825. These amounts represent the percentages of the shortfall at the Performance Date from the expected amount of Capital Investment and expected number of New Jobs, each multiplied by the portion of the COF Grant disbursed under Section 3(d) allocated to that Target.

(d) *Determination of Inability to Comply:* If the Locality or VEDP shall determine at any time prior to the Performance Date (a "Determination Date") that the Company is unable or unwilling to meet and Maintain its Targets by and through the Performance Date, and if the Locality or VEDP shall have promptly notified the Company of such determination, the Company must repay to VEDP all of the COF Grant proceeds, if any, previously disbursed under Section 3(d). Such a determination will be based on such circumstances as a filing by or on behalf of the Company under Chapter 7 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of the Facility by the Company or other similar significant event that demonstrates that the Company will be unable or is unwilling to satisfy the Targets for the COF Grant. In such event, this Agreement will be terminated, and the amount not yet disbursed under Section 3 will be retained in the Fund and will become available for other economic development projects.

(e) *Repayment:* Any repayment from the Company required by this Section 7 shall due from the Company to VEDP within 90 days after the Performance Date or the Determination Date, as applicable. Any moneys repaid by the Company to VEDP shall be redeposited by VEDP into the Fund. The Locality shall use its best efforts to recover such funds, including legal action for breach of this Agreement. In any such matter, the Company shall be liable to pay interest, administrative charges, attorneys' fees and other applicable fees. The Locality shall have no responsibility for the repayment of any sums payable by the Company hereunder unless said sums have been received by the Locality from the Company.

(f) *Failure to Repay:* If any repayment due from the Company pursuant to this Section 7 is not made by the Company when due, the Board may determine that further collection action is required, and the Board may refer the matter to the Office of the Attorney General (the "OAG") for collection pursuant to Section 2.2-518 of the Virginia Code. In such event, by their signatures below, the Locality will be deemed to have assigned to the Commonwealth all of their rights, title and interest in and to this Section 7. In any matter referred to the OAG for collection,

the Company shall be liable to pay interest, administrative charges, attorneys' fees and other applicable fees. Interest on any outstanding repayment referred to the OAG shall accrue at the rate set forth in Section 6.2-301 A. of the Virginia Code (currently 6.0% per year) for the period from the Performance Date or the Determination Date, as applicable, until paid.

**Section 8. Notices.** Formal notices and communications between the parties shall be given either by (i) personal service, (ii) delivery by a reputable document delivery service that provides a receipt showing date and time of delivery, (iii) mailing utilizing a certified or first class mail postage prepaid service of the United States Postal Service that provides a receipt showing date and time of delivery, or (iv) delivery by electronic mail (email) with transmittal confirmation and confirmation of delivery, addressed as noted below. Notices and communications personally delivered or delivered by document delivery service shall be deemed effective upon receipt. Notices and communications mailed shall be deemed effective on the second business day following deposit in the United States mail. Notices and communications delivered by email shall be deemed effective the next business day, not less than 24 hours, following the date of transmittal and confirmation of delivery to the intended recipient. Such written notices and communications shall be addressed to:

if to the Company, to:

Civica, Inc.  
2912 W. Executive Pkwy  
Lehi, Utah 84043  
Email: martin@civicarx.org  
Attention: President and CEO

with a copy to:

Civica, Inc.  
2912 W. Executive Pkwy  
Lehi, Utah 84043  
Email: jennifer.spalding@civicarx.org  
Attention: General Counsel

if to the Locality, to:

City of Petersburg, Virginia  
135 N. Union St.  
Petersburg, VA 23803  
Email: city.manager@petersburg-va.org  
Attention: City Manager

with a copy to:

City of Petersburg, Virginia  
135 N. Union St.  
Petersburg, VA 23803  
Email: awilliams@petersburg-va.org  
Attention: City Attorney

if to VEDP, to:

Virginia Economic Development Partnership  
One James Center, Suite 900  
901 East Cary Street  
Richmond, Virginia 23219  
Email: moret@vedp.org  
Attention: President and CEO

with a copy to:

Virginia Economic Development Partnership  
One James Center, Suite 900  
901 East Cary Street  
Richmond, Virginia 23219  
Email: smcnoch@vedp.org  
Attention: General Counsel

**Section 9. Miscellaneous.**

(a) *Entire Agreement; Amendments:* This Agreement constitutes the entire agreement among the parties hereto as to the COF Grant and may not be amended or modified, except in writing, signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Locality and VEDP.

(b) *Governing Law; Venue:* This Agreement is made, and is intended to be performed, in the Commonwealth and shall be construed and enforced by the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Circuit Court of the City of Richmond, and such litigation shall be brought only in such court.

(c) *Counterparts:* This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

(d) *Severability:* If any provision of this Agreement is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

(e) *Attorney's Fees:* Except as provided in Section 7, attorney's fees shall be paid by the party incurring such fees.

(f) *Force Majeure:* Notwithstanding the foregoing provisions of this Agreement, if the Company does not achieve a Target or take any action required under this Agreement because of an "Event of Force Majeure" (as defined below), the time for achieving the applicable Target or taking such action will be extended day-for-day by the delay in meeting the applicable Target or taking such action caused by the Event of Force Majeure. "Event of Force Majeure" means without limitation, any of the following: acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; pandemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals not caused by the Company; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Company.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the parties hereto have executed this Performance Agreement as of the date first written above.

**CITY OF PETERSBURG, VIRGINIA**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**CIVICA, INC.**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**VIRGINIA ECONOMIC  
DEVELOPMENT PARTNERSHIP  
AUTHORITY**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

- Exhibit A: Performance Report Form
- Exhibit B: Final Performance Report Form

**PERFORMANCE REPORT  
COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND**

**PROJECT SUMMARY:**

Project	
Location	
Amount of Grant	
Performance Reporting Period	
Performance Date	

**PROJECT PERFORMANCE<sup>4</sup>:**

<b>Performance Measurement</b>	<b>Target</b>	<b>As of _____</b>	<b>% Complete</b>
<b>New Jobs</b> (over _____ baseline) <sup>1</sup>			
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Capital Investment</b> (provide breakdown below) <sup>2</sup>			
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Average Annual Wage</b>			<b>N/A</b>
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Standard Fringe Benefits</b> (check one)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<b>N/A</b>
<b>Virginia Corporate Income Tax Paid in Prior Calendar Year<sup>3</sup></b>	\$		

<sup>1</sup>Data will be verified using Virginia Employment Commission records. Attach the company's four most recent Quarterly Tax Reports (Form FC-20) filed with the Virginia Employment Commission.

<sup>2</sup>Data will be verified with locality records.

<sup>3</sup>This confidential information is protected from disclosure pursuant to § 2.2-3705.6 of FOIA.

<sup>4</sup>Final, actual performance will be reported on VEDP's public reporting website.

<b>Capital Investment Breakdown</b>	<b>Amount</b>
Land	\$
Land Improvements	\$
New Construction or Expansion	\$
Renovation or Building Up-fit	\$
Production Machinery and Tools	\$
Furniture, Fixtures and Equipment	\$
Other	\$
<b>Total</b>	<b>\$</b>

**COMMENTS:**

Discuss project status, including the current level of new jobs and capital investment, progress on targets, changes or likely changes in project's nature that may impact achievement of targets, and other information relevant to project performance. If the project is not on track to meet targets, please provide an explanation.

**TO BE CERTIFIED BY AN OFFICER OF THE COMPANY:**

I certify that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete.

Company: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
Signature of Official

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

Title: \_\_\_\_\_

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

Please return to:

Kim Ellett, Incentives Compliance Manager, Virginia Economic Development Partnership,  
804.545.5618, kelleth@vedp.org

**FINAL PERFORMANCE REPORT  
COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND**

**PROJECT SUMMARY:**

Project	
Location	
Amount of Grant	
Performance Date	

**PROJECT PERFORMANCE:<sup>1</sup>**

<b>Performance Measurement</b>	<b>Target</b>	<b>As of _____, 20__</b>	<b>% Complete</b>
<b>New Jobs</b> (over ___ baseline) <sup>2</sup>			
<b>Capital Investment</b> (provide breakdown below) <sup>3</sup>			
<b>Average Annual Wage</b>			<b>N/A</b>
<b>Standard Fringe Benefits</b>			
<b>Virginia Corporate Income Tax Paid in Prior Calendar Year<sup>4</sup></b>	\$		

<b>Capital Investment Breakdown</b>	<b>Amount</b>
Land	\$
Land Improvements	\$
New Construction or Expansion	\$
Renovation or Building Up-fit	\$
Production Machinery and Tools	\$
Furniture, Fixtures and Equipment	\$
Other	\$
<b>Total</b>	<b>\$</b>

<sup>1</sup>Final, actual performance will be reported on VEDP's public reporting website.

<sup>2</sup> Attach the company's four most recent Quarterly Tax Reports (Form FC-20) filed with the Virginia Employment Commission.

<sup>3</sup> Data will be verified using records from the Commissioner of the Revenue and invoices.

<sup>4</sup>This confidential information is protected from disclosure pursuant to § 2.2-3705.6 of FOIA

**LOCAL MATCH:**

Goal	
Actual	

**COMMENTS:**

Discuss Project status or the importance of the Project to the locality and region.

**TO BE CERTIFIED BY AN OFFICER OF THE COMPANY:**

I certify that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete.

Company: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
Signature of Official

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

Title: \_\_\_\_\_

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

Please return to:

Kim Ellett, Incentives Compliance Manager, Virginia Economic Development Partnership,  
804.545.5618, [kelllett@vedp.org](mailto:kelllett@vedp.org)

The image features a large, semi-transparent seal of the City of Petersburg, Virginia, on the left side. The seal is circular with a blue border containing the text "CITY OF PETERSBURG VIRGINIA" and a central emblem of an eagle with wings spread, holding a shield with stars and stripes. The background is a dark, textured surface with a large, glowing orange and yellow circular graphic on the right side, resembling a stylized sun or a globe. The text "AMPAC, Phlow, and Civica" is overlaid in large, white, sans-serif font across the center of the image.

# AMPAC, Phlow, and Civica

Presented by:

Department of Economic Development

# Introduction

In the following presentation,

Summary of COVID-19 and the medical supply chain issues.

Summary of the companies involved.

Summary of the pharmaceutical manufacturing process.

Summary of events thus far.

Summary of infrastructure deficiencies and division of responsibility.

Summary of the benefits, costs, and procedures for project financing.

Summary of the MOU and COF Performance Agreement.

**Conclusion: The City Manager is requesting from Council authorization to execute the MOU between the City and Phlow and the COF Performance Agreement between the City, VEDP, and Civica.**

# Background Information on COVID-19

Coronavirus disease 2019 (COVID-19) was identified in Wuhan, China in December 2019 and developed into a global pandemic in early 2020.

COVID-19 is primarily transmitted from person-to-person through respiratory droplets. These droplets are released when someone with COVID-19 sneezes, coughs, or talks. Infectious droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.

As of mid February 2021, the virus has infected more than 110 million and caused 2.4 million deaths globally. In the U.S., 27.8 million Americans have been infected (25.35% of global cases) and more than 487,855 have died (20.13% of global deaths) and has dragged the economy into the worst recession since World War II.

# Background Information on COVID-19

A key factor in COVID-related complications and deaths is a lack of available medicines to fight COVID-19 symptoms and treat cases that require ventilators. Even before COVID-19, there has already been a shortage of medicines, but this pandemic has further stressed an already strained medical supply.

A lack of domestic production of the ingredients to make these medicines has hurt the American people. With COVID-19, foreign producers of these ingredients have had factory closures and have been hoarding their own supply for their own citizens, leaving Americans at risk.

To combat this, companies have been started to address this deficiency.... Among them are AMPAC Fine Chemicals, Phlow and Civica Rx.



AMPAC Fine Chemicals (AFC), an SK pharmteco company, is a United States-based, custom manufacturer of active pharmaceutical ingredients (APIs, Drug Substances) and registered intermediates. AFC solves problems through technology and innovation to reliably deliver quality products that save and improve lives. With over 75 years of experience, AFC has mastered challenging chemistries, enabling us to provide the highest quality services to their customers. Their three integrated facilities are located in California, Texas, and Virginia.



Phlow is a public benefit corporation founded to manufacture affordable, high quality, essential drugs in the United States. To help the United States secure its own strategic drug reserve, Phlow uses novel and innovative methods in the drug manufacturing industry to reduce the U.S.'s dependency on foreign supply chains. Established in spring of 2020, they are headquartered in Richmond and developing facilities in Petersburg.



Civica Rx is a non-profit focused on making essential generic medications accessible and affordable. Civica Rx partners with healthcare systems to ensure that generic drugs are affordable and available as soon as possible. Civica Rx is focused on bringing value — in supply, quality, and price to the market. Established in 2018, they are headquartered in Lehi, Utah.



**Dr. Aslam Malik**  
CEO - AMPAC

AMPAC Fine Chemicals, who was purchased by SK Holdings in 2018, established their Virginia operations in 2016 when they purchased the former Boehringer Ingelheim (BI) facility in Petersburg. BI opened the facility in 2009 and closed it in 2014. UniTao purchased it in late 2014, but never opened the facility and sold it in 2015.

Dr. Aslam Malik, who became CEO of AMPAC in 2005, cited the local workforce as a major factor in acquiring the former BI facility.

“I knew the people here. I knew this area had some very qualified people... If you really want to bet on something, you bet on the people.”

AMPAC’s Virginia facility is an Active Pharmaceutical Ingredient (API) manufacturing facility. This facility encompasses 197 acres and has 45,000 gallons (170.34 m<sup>3</sup>) of total capacity.

# Phlow Board of Directors – How it all Connects



Eric Edwards, MD PhD  
Co-Founder & CEO -  
Phlow



Frank Gupton, PhD  
Co-Founder – Phlow  
CEO – Medicines for All



Martin Van Trieste  
President & CEO – Civica  
Rx



# Phlow's \$354 million Grant

Awarded a four-year federal contract worth \$354 million. The contract has an option to extend to a total value of \$812 million over 10 years.

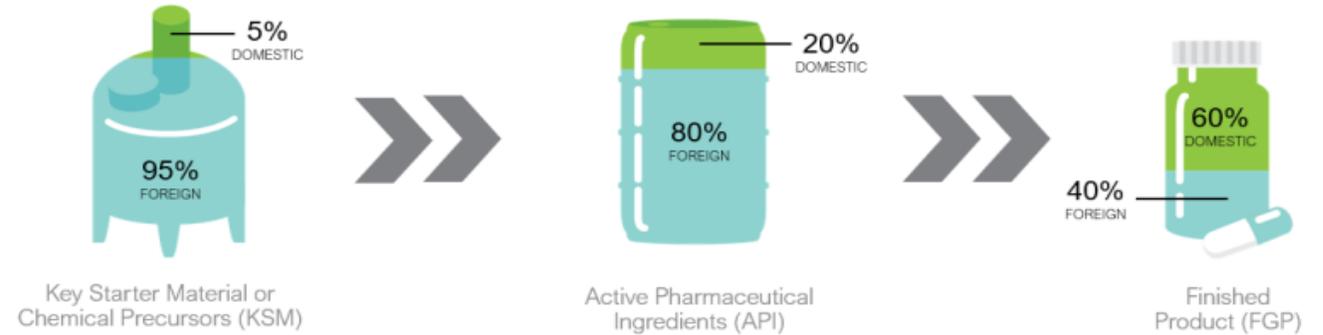
The main objective is to build up a strategic reserve of drug ingredients that can be used to make essential, generic drugs domestically, rather than abroad – an issue the coronavirus has brought to the forefront.

Phlow will produce the drugs being used to treat patients with COVID-19, as well as vaccines, antibiotics, pain relievers, and ingredients for generic, over-the-counter medicines.

“These are a lot of highly skilled people, so it’s really going to add to the tax base for the region, in our labs as well as down at Petersburg,” - Frank Gupton, PhD.  
Co-Founder of Phlow.

# Deficiencies in U.S. Pharmaceutical Production

The U.S. is dependent on foreign sources for our supply of many of the most essential medications.



In the United States, **there is a lack of domestic production** of the raw and intermediate materials used to make medicine.

Only **5% of the raw materials**, known as Key Starter Materials, are made in the U.S.

Only **20% of intermediate materials**, known as Active Pharmaceutical Ingredients, are made in the U.S.

Only **60% of the completed medicines**, known as Finished Products, are made in the U.S.

# Key Starter Material (KSM's)

Before any pharmaceuticals are made, raw materials are required.

These raw materials include plant matter, microorganisms, metals, commercially available chemical ingredients, and other propriety ingredients.

These raw materials are purified through chemical processing to become human-grade Key Starter Materials (KSM's).

Key Starter Materials are processed and synthesized to become Active Pharmaceutical Ingredients (API's).

# Active Pharmaceutical Ingredients (API's)

Active Pharmaceutical Ingredients (API's) are the intermediate ingredients that make drugs ranging from aspirin to COVID-19 medication.

With only 20% of API's made in the U.S., domestic production of API's are key to U.S. health security.

The U.S. Government maintains a strategic reserve of medicines, but not API's.

API's have a significantly longer storage life than consumer-ready medicines.

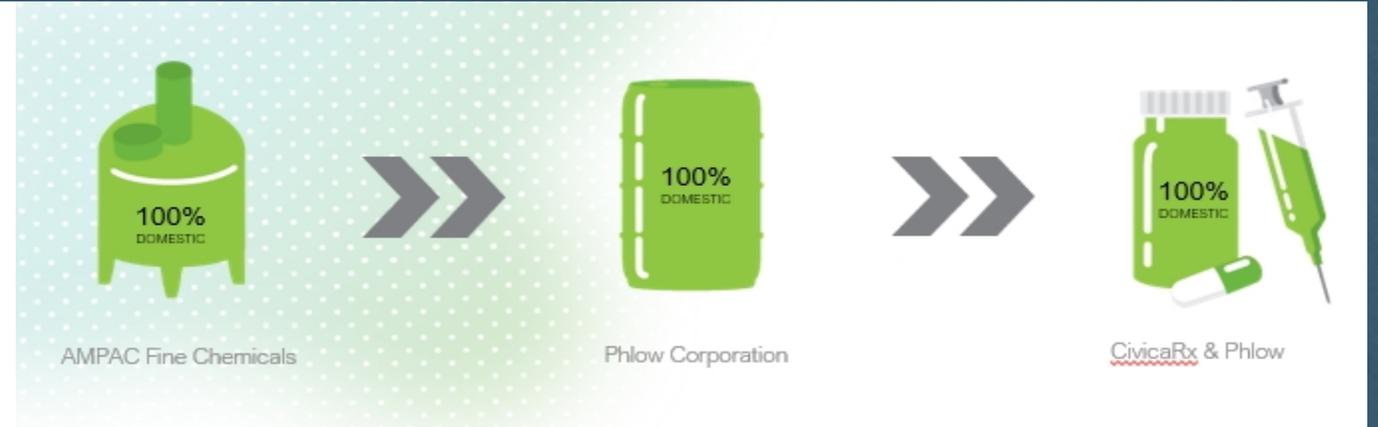
Examples of API's include:

- Acetaminophen (pain relief)

- Resveratrol (cancer, inflammatory, blood sugar)

- Paclitaxel (cancer)

# The Strategic Active Pharmaceutical Ingredient Reserve (SAPIR)



SAPIR is revolutionary technology utilized by Phlow to create a strategic reserve of KSM's and API's to protect Americans from global upheaval.

SAPIR will be the only strategic reserve of KSM's and API's in the U.S. This is similar to the Strategic Reserve for Petroleum.

Utilizing the \$354 million in federal funding, Phlow and partners will work to ensure our pharmaceutical supply chain is safe and stable.

This is a unique opportunity for the AMPAC campus to be home to a large portion of the domestic pharmaceutical supply chain and SAPIR.

# Timeline of Events to the Present

**Early 2020**: Phlow is founded in Richmond, VA.

**May 2020**: Phlow wins a \$354 million, 4-year grant from U.S. Department of Health and Human Services to domesticate the U.S.'s pharmaceutical supply chain in the face of supply upheaval in the face of COVID-19.

**June 2020**: Phlow and partners and City of Petersburg Team meet to discuss this opportunity. Petersburg and Virginia Economic Development Partnership (VEDP) discuss details, outline, and incentives for Project Tube. NDA's signed.

**July 2020**: VEDP proposes Commonwealth Opportunity Fund (COF) – requires a match; Machinery & Tools (M&T). Conversations with AMPAC, Phlow, Civica, VEDP, and City. Meetings on infrastructure begin.

**August 2020**: Project Tube meeting regarding utility and infrastructure needs. Phlow and City begin weekly site planning and infrastructure meetings.

**September 2020**: City negotiations with VEDP and Phlow regarding infrastructure and MOU. Council passes ordinance subdividing AMPAC land into two unique tax parcels. Council passes ordinance amending the Technology Zone to extend to the new parcel.

**October 2020**: Phlow purchases the newly created parcel from AMPAC.

**January 2021**: Governor Northam announces the Civica Rx development.



# INFRASTRUCTURE

# Project Tube

## "3 Working as 1"

Phlow is working with Civica to develop a new facility on land they purchased from AMPAC. The land (also known as the Utah Site) is located across from AMPAC's current facility in Petersburg.

The two campuses will include AMPAC, Phlow and Civica's Virginia operations.

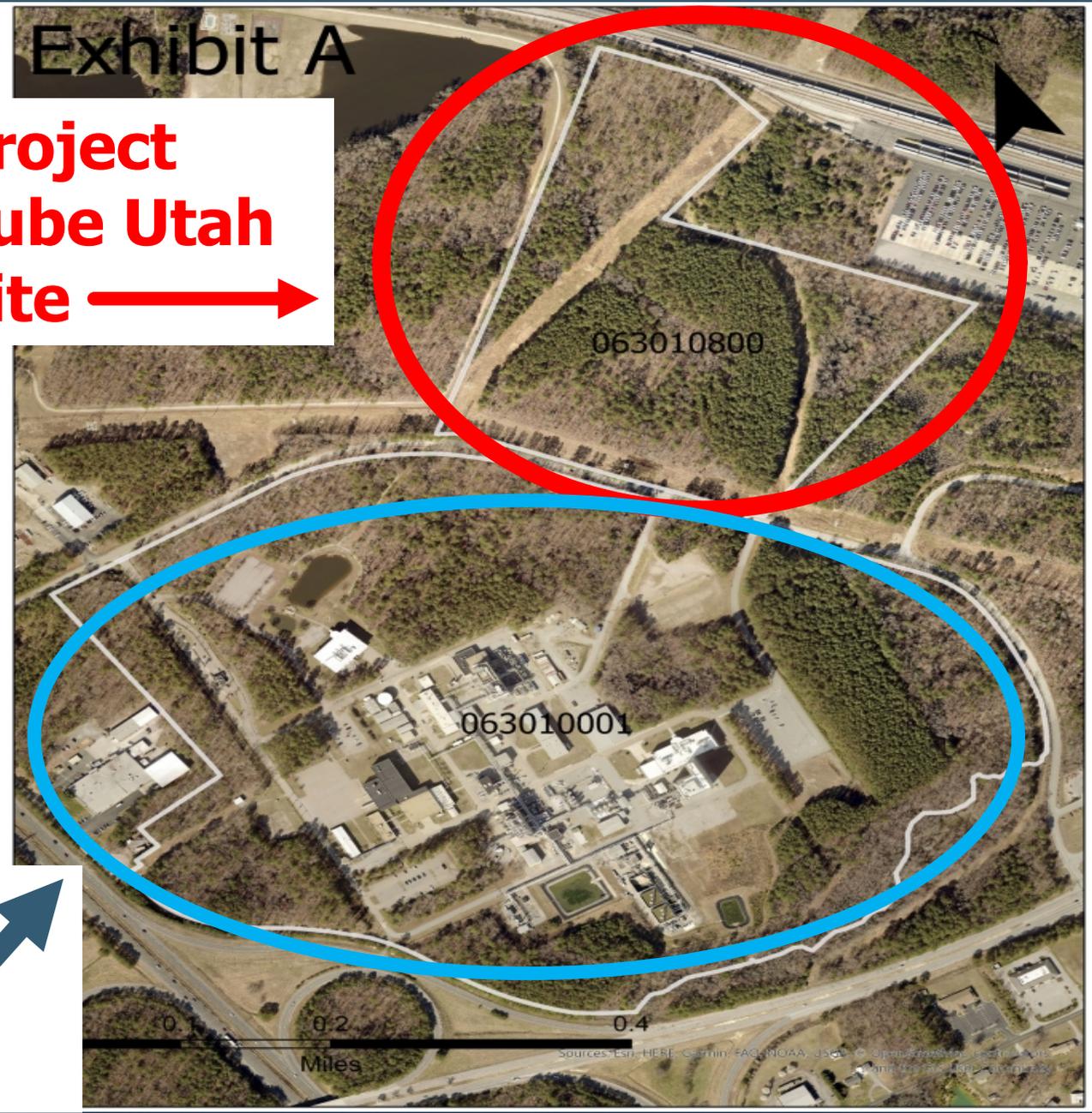
Together, these three companies make up **Project Tube**.

# Exhibit A

**Project Tube Utah Site** →

Project Tube  
"3 Working as 1"

**Current AMPAC Facility** ↗



# Infrastructure Deficiencies

The land at 2821 Normandy Drive (Utah Site) is undeveloped land.

Currently existing infrastructure in the area is sufficient for existing businesses in the area, but insufficient for the demands of Project Tube.

To upgrade the infrastructure for Project Tube, two Phases of upgrades will take place.

- Phase One will begin immediately

- Phase Two will need to be completed within 3 years

Phase One is the priority – but for sake of convenience and completion, Phase Two items and cost have been included in the following slides to provide a holistic picture of Project Tube.

City of Petersburg

Summary of Southeast Petersburg Water and  
Sewer Infrastructure Upgrades for Project Tube

# Construction Timeline

Phase One - Immediate needs

Anticipated Start \_\_\_\_\_ Finish

# Phase One Infrastructure Needs

12" Water Main on Normandy Drive: \$1,770,000

Phlow Private Wastewater Pump Station: \$870,000

Phlow Wastewater Force Main to Poor Creek  
Interceptor: \$960,000

**Total Phase One: \$3,600,000**

# Phase One Responsibilities

## City Financial Responsibilities

12" Water Main on Normandy Drive (\$1.77 mil)\*

Wastewater Force Main to Poor Creek  
Interceptor (\$230k)\*

## City Construction Responsibilities

None

## Phlow and Project Tube Financial Responsibilities

Private Wastewater Pump Station (\$870k)

Wastewater Force Main to Poor Creek  
Interceptor (\$730k)

## Phlow and Project Tube Construction Responsibilities

12" Water Main

Wastewater Force Main to Interceptor

\*The \$2 approx million of the VEDP Commonwealth Opportunity Fund represents the City's only financial obligations for Phase One infrastructure

# Phase Two Infrastructure Needs

2.0 MMG Elevated Water Storage Tank: \$8,340,000

Water Booster Pump Station: \$1,270,000

Pressure Reducing Value Vaults: \$440,000

Poor Creek Pump Station Improvements:  
\$3,200,000

Poor Creek Force Main Relocation: \$13,560,000

**Total Phase Two: \$26,810,000**

# Phase Two Responsibilities

## City Financial Responsibilities

Securing state funding\*

## City Construction Responsibilities

None

## Phlow and Project Tube Financial Responsibilities

None (Will assist us in securing state funding)

## Phlow and Project Tube Construction Responsibilities

Water Storage Tank, Booster Pump Station, Pressure Reducing Valve Vaults, Pump Station Improvements, Force Main Relocation

\*The City's financial commitments are limited as described in paragraph D(25) of the "Infrastructure Development Agreement between the City and Phlow Corp. regarding 2821 Normandy Drive."

# Phases One & Two

## Phase One: \$3,600,000

12" Water Main on Normandy Drive: \$1,770,000

Phlow Private Wastewater Pump Station: \$870,000

Phlow Wastewater Force Main to Poor Creek Interceptor: \$960,000

## Phase Two: \$26,810,000

2.0 MMG Elevated Water Storage Tank: \$8,340,000

Water Booster Pump Station: \$1,270,000

Pressure Reducing Value Vaults: \$440,000

Poor Creek Pump Station Improvements: \$3,200,000

Poor Creek Force Main Relocation: \$13,560,000

**Total Phase One and Phase Two cost:  
\$30,410,000**



# FINANCIALS

# Commonwealth Opportunity Fund

The Virginia Economic Development Partnership (VEDP) was created in 1995 by the Virginia General Assembly to “encourage, stimulate, and support development and expansion of the Commonwealth’s economy.”

Through VEDP’s Commonwealth Opportunity Fund (COF), \$1,997,250 is being earmarked to be contributed towards Petersburg infrastructure to securing this opportunity.

Administered by VEDP, the COF serves as a final resource for Virginia in the face of serious competition from other states or countries. Requires a match by the respective locality; a partial exception was made for Petersburg.

VEDP will be contributing an additional \$3.7 million directly to Civica for job creation and capital investment to assist in securing this opportunity.

**Total VEDP Contribution to Project Tube: \$5.7 million**

# Machinery & Tools

The Machinery & Tools Tax (M&T) is a local tax that taxes production-related machinery & tools used in manufacturing. In Petersburg, the machinery & tools tax rate is \$3.80 per \$100 assessed value.

The Code of Virginia authorizes the creation of Technology Zones which can provide tax incentives to stimulate economic development.

To secure Project Tube and match the VEDP incentive package of \$5.7 million, Petersburg will be utilizing a credit for up-to \$2.9 million generated in M&T tax generated from taxes from Civica.

**Total Petersburg Contribution to Project Tube: \$2.9 million**

# Background information on Petersburg Technology Zone

The City Council finds that certain classes of high technology business activities have special economic significance to the city due to the nature of the technology and their potential for high growth in employment and capital investment.

The City Council further finds that the most appropriate method of encouraging location of new businesses and the expansion of certain existing classes of technology businesses is to create a technology zone with particular boundaries as designated herein and located on the east side of Interstate 95, and as authorized by the 1950 Code of Virginia, § 58.1-3850, as amended and Petersburg Code Chapter 38, Article IV, Section 38-90.

The City Council has determined that the establishment of this technology zone will improve economic conditions, hasten redevelopment, and benefit the welfare of its citizens.

# City and Commonwealth Contribution for Project Tube

VEDP: \$5.7 million

\$3.7 million to Civica awarded for jobs and capital investment  
\$1.997 million for Petersburg infrastructure

M&T: \$2.9 million

**Total: \$8.6 million**

# Financial Benefits

Using Year 5 estimates, Petersburg stands to gain by Year 5  
\$2,912,141.87 in Machinery and Tool tax

Exempted as part of Technology Zone M&T tax credit

\$3,483,907.21 in Real Estate tax

\$2,034,840.79 in Utility tax (Water and Sewer)

\$164,150.00 in Business Personal Property tax

**Total Year 5 tax revenue (excluding M&T):**

**\$5,682,898**

Yearly Revenue

Year 1: \$532,180.92

Year 2: \$ 1,249,012.83

Year 3: \$1,292,685.98

Year 4: \$1,304,509.13

Year 5: \$1,304,509.13

**Avg Yearly Revenue (excluding M&T):**

**\$1,136,579.60**

# Additional Benefits

Using Year 5 estimates, Petersburg stands to gain by Year 5

**156 Jobs - AMPAC**

**350 Jobs - Phlow**

**186 Jobs - Civica**

**Phlow grant could expand from \$354 million to \$812 million**

This could bring in additional development, which would create more jobs and more revenue for Petersburg

# 2021 Legislative Assistance

Legislative assistance is critical to support Project Tube and the development of a pharmaceutical manufacturing cluster in Petersburg.

Currently, as of mid February, in the 2021 legislative session, in the Virginia House of Delegates, an amendment (item 114 #11h) to HB 1800 would dedicate **\$10 million** to develop Petersburg's Pharmaceutical Park infrastructure to further the development of the regional development cluster.

Please note, this \$10 million is contingent on the City pursuing and executing a Department of Environmental Quality – Virginia Clean Water Revolving Loan Fund to address sewer improvements.

This and future budget amendments are critical to financing Phase Two infrastructure developments.

# Educational and Employment Opportunities

To be sure, not all of the immediate need jobs (such as Senior Chemists requiring advanced degrees) from these projects will go to City residents.

With these projects, there is a multiplier effect that can create additional jobs in different sectors in the community to support the increased demand.

Through educational partnerships, there are opportunities to train the Petersburg workforce to fill more accessible jobs

Junior Colleges: **Richard Bland, John Tyler**  
Universities: **VSU, VCU**

The Medicines For All Institute at the VCU College of Engineering is officially integrated into Phlow via Dr. Gupton who is CEO of the Institute and a Co-Founder of Phlow and will provide a talent pipeline.



# Memorandum of Understanding (MOU) and COF Performance Agreement

# COF Performance Agreement Background

The Commonwealth Opportunity Fund (COF) Performance Agreement outlines responsibilities and obligations between the Commonwealth of Virginia, the City of Petersburg, and Civica Rx.

This COF Performance Agreement details the City's obligations, the Commonwealth's obligations, and Civica's obligations.

This COF Performance Agreement formalizes the financial incentives and investment (the \$5.7 million in Commonwealth funds, the \$2.7 million M&T grant tax credit from Petersburg, and the \$124.5 million and 186 jobs from Civica.)

This COF Performance Agreement is **required** to secure Civica in Petersburg.

# MOU Background

Memorandum of Understanding (MOU) mutually outlines infrastructure responsibilities and obligations between Phlow and Petersburg on Project Tube.

This MOU acts as Petersburg's Performance Agreement to compliment VEDP's Performance Agreement with Civica.

MOU largely outlines financial and infrastructure responsibilities regarding Phase One.

This MOU details the City's obligations (VEDP COF funds + M&T credit) and Phlow's obligations (infrastructure construction).

The MOU ensures the City's obligations are limited to solely the M&T credit and the VEDP funds.

This MOU is critical to ensuring Project Tube and the Phase One infrastructure – **does not hold the City liable for anything regarding Phase Two without the consent of Council.**

# Project Tube Next Steps

Site Plan Approval (Phases)	December 2020 February 2021 March 2021
Land Disturbance Permit Approval (Phases)	December 2020 February 2021 March 2021
Building Permit Approval (Phases)	December 2020 February 2021 March 2021
Infrastructure Construction Begins	February 2021
Approval of the COF Performance Agreement	March 2021
Approval of the MOU	March 2021
Facility Construction Begins	Spring 2021
Construction Completion	October 2021 – April 2023



# SUMMARY

# Summary

Only 20% of API's (Active Pharmaceutical Ingredients) are manufactured in the U.S.A.. API's are used to create the life-saving drugs, from aspirin to COVID-19 medication.

Phlow received \$354 million to manufacture API's and generic drugs domestically that could expand to \$812 million over 10 years and create 186 jobs from Civica over the next 36 months.

Phlow is working with AMPAC and Civica to meet the needs of their federal contract.

Petersburg is in a unique position to be home to the only national strategic reserve of pharmaceutical API's and a vast amount of the domestic manufacturing of API's and generic drugs.

Petersburg infrastructure needs substantial renovations and upgrades to meet the demands of this once in a lifetime opportunity.

# Summary cont.

Phase One construction is the primary focus of Petersburg to secure Project Tube.

Phase One will cost \$3.6 million.

\$2 million from VEDP COF will cover Petersburg's Phase One obligations.

MOU outlines responsibilities of Phlow and Petersburg and protects the City from financial obligations beyond M&T credit and VEDP COF funds.

Project Tube (AMPAC, Phlow, Civica) will bring a world-class pharmaceutical manufacturing park to Petersburg.

**Next step for City Council is to authorize the City Manager to execute the MOU between the City and Phlow and to execute the Performance Agreement between the City, VEDP, and Civica.**

# Questions & Comments?

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# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Robert Floyd, Director of Budget and Procurement  
Kenneth Miller, Interim City Manager

**FROM:** Jeremy Tennant, Reginald Tabor

**RE:** **Memorandum of Understanding to enter into an Infrastructure Development Agreement between the City of Petersburg, Phlow Corp., Civica, Inc., and AMPAC Fine Chemicals of Virginia, LLC**

**PURPOSE:** To enter into a memorandum of understanding between the City of Petersburg and the Project Tube partners to allow the City to facilitate certain improvements to the utility infrastructure adjacent to the property within the Technology Zone.

**REASON:** To allow funding from the Virginia Economic Development Partnership's Commonwealth Opportunity Fund (COF) to be passed through the City of Petersburg to the Contractor for work completed.

**RECOMMENDATION:** Staff recommends approval for the City of Petersburg to enter into an Infrastructure Development Agreement between the City of Petersburg, Phlow Corp., Civica, Inc., and AMPAC Fine Chemicals of Virginia, LLC.

**BACKGROUND:** Phlow, Civica, and AMPAC are partnering to design and construct a manufacturing facility for pharmaceutical products upon property that is currently owned by AMPAC at 2620 North Normandy Drive, Petersburg, VA. The project will produce more than 400 new jobs in Petersburg and will have a positive economic impact on the City.

The parties anticipate project funding through the Commonwealth Opportunity Fund (COF) which is detailed in the attached offer from the Virginia Economic Development Partnership entitled "Virginia's Financial Offer for Project Tube." Through this program, the City will receive \$2,000,000.00 grant in support of the project with proportionate clawback provisions should the company not achieve their investment and jobs target within the five year performance period.

The City of Petersburg has agreed to facilitate certain improvements to the utility infrastructure in the area of this property which will accommodate the proposed project contingent upon the representations and mutual promises described in this agreement.

**COST TO CITY:** \$2,000,000.00

**BUDGETED ITEM:**

**REVENUE TO CITY:**

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:** Virginia Economic Development Partnership

**AFFECTED AGENCIES:** Department of Economic Development  
Department of Finance  
Department of Budget

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:** N/A

**REQUIRED CHANGES TO WORK PROGRAMS:** N/A

**ATTACHMENTS:**

1. A



Old Town Downtown Petersburg



Virginia Commonwealth University



Petersburg National Battlefield



Appomattox River, Petersburg

# Virginia's Financial Offer for Project Tube

July 24, 2020

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This proposal is subject to Section 2.2-3705 of the Code of Virginia, which pertains to the exclusion of proprietary records and other working papers related to economic development activities. No portions of this proposal may be reproduced or given in part or in whole to any entity or person other than staff within the local economic development organization or the company/project designated in the proposal.



Rolls-Royce, Prince George County

# Executive Summary

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## Project Tube: Growing Strong in the City of Petersburg

Virginia stands ready to work with new and expanding businesses in the Commonwealth, like Project Tube, who are providing great job and career opportunities for our residents. It is our belief that no better location exists for the long term success of your business venture.

Project Tube can expect to work closely with local, regional, and state partners to find solutions and leverage resources to ensure that your expansion plans are successful. We are committed to creating a new Virginia economy and the following pages will underscore why Project Tube should place this opportunity in the City of Petersburg.

Virginia's businesses recognize the value of our high-quality workforce, robust economy, strong education system, smart regulatory environment, and excellent quality of life. These critical business factors, coupled with a strong partnership with our localities, solidify Virginia's reputation as a leading state for business today and into the future.

We look forward to announcing Project Tube as our latest success story in the Commonwealth of Virginia.

# Virginia's Financial Offer

Virginia can only achieve its goals of creating a higher standard of living for Virginians and maintaining vibrant local and state economies capable of providing needed services by partnering with companies like Project Tube.

Incentives are Virginia's investment in its economic future and a business decision for both the Commonwealth and the company. Virginia strives to provide financial inducements that make good fiscal sense for all parties by offering a variety of performance-based incentives designed to target the needs of the company and the development plans of localities and the state. From tax credits and exemptions to infrastructure improvement funds to performance grants, Virginia continues to invest in those who invest and reinvest in the Commonwealth.

<b>Project Assumptions (2021-2024)</b>	<b>Amount</b>
Net, New Employment*	186
Average Salary for New Workers, excludes benefits (\$)	83,978
Capitalized Investment in Building Construction (\$)	62,836,887
Capitalized Investment in Production-Related Machinery and Equipment (\$)	60,725,249
Capitalized Investment in Furniture, Fixtures, and Equipment (\$)	1,000,000
<b>Total Capital Investment (\$)</b>	<b>124,562,136</b>

\*Assumes all jobs are new permanent full-time jobs with standard fringe benefits created in the Commonwealth of Virginia by the Company and maintained on the Company's payroll on an ongoing basis.

<b>Potential Incentives for Project Tube</b>	<b>(\$)</b>
Commonwealth's Opportunity Fund	5,700,000
Port of Virginia Economic & Infrastructure Development Grant	46,000
Sales and Use Tax Exemption (up to)	3,218,438
Virginia Talent Accelerator Program OR Virginia Jobs Investment Program (up to)	TBD
City of Petersburg Local Financial Support (see Attached Letter of Support)	2,900,000+
<b>Total Potential State and Local Financial Support</b>	<b>11,864,438</b>

Important Notice: This summary is intended to assist Project Tube with an evaluation of Virginia's incentives. This summary should be used for evaluative purposes and in no way constitutes a commitment or guarantee. The actual value and/or availability of these incentives are contingent upon final negotiations among the Commonwealth, the City of Petersburg, and Project Tube. Further, on an ongoing basis, incentives are subject to appropriation by the Virginia General Assembly and incentive and tax programs are subject to change or elimination.

Virginia's incentives are performance-based and calculations are based upon the Virginia Economic Development Partnership's interpretation of Virginia law as of July 2020 and upon company projections. The financial offerings in this package are valid until January 22, 2021 unless expressly renewed by the Virginia Economic Development Partnership. Any public disclosure concerning this project must be coordinated and publicly announced first by the Office of the Governor in order to take full advantage of these assistance programs.

# Explanation of Benefits

## Commonwealth's Opportunity Fund (COF)

The Commonwealth's Opportunity Fund (COF) is Virginia's "deal closing" discretionary grant. The COF is used as a financial incentive for business opportunities resulting in significant job creation and investment once one Virginia locality has been selected by the company.

# \$5,700,000

Virginia is proposing a \$5,700,000 COF award for Project Tube's operation in the City of Petersburg. These funds will flow from the Commonwealth through the locality and then to the company.

### Performance Metrics:

The performance agreement will document the below milestones and maintenance of the jobs and investment associated with this project.

- \$124,562,136 million in capital investment
- 186 net, new jobs to Virginia
- \$83,978 annual salary (W-2 wages)

The performance criteria must be met and maintained through the 60th month of the project.

### Milestones for Release of Grant:

The COF grant will be released according to the schedule on the next page. The COF grant to the company is structured as a combination of an annual performance grant of \$1,650 for each new job the company creates and maintains and a grant of \$20,000 for each \$1 million the company invests. In addition, a \$2 million grant will be paid upfront to the locality to support the project which a proportionate clawback will be sought should the company not achieve their investment and jobs target within the five year performance period.

### Program Highlights:

- Grant managed through VEDP
- 51% or more of the facility's revenue is generated outside of the Commonwealth
- Minimum investment, employment, and wage threshold to be met within 36 months from when the performance period starts
- Competitive with another state or country for the project
- Funds flow from the state to the locality to offset qualifying, project-related costs, typically real estate and infrastructure improvements
- Community requests and matches the grant
- Signed performance agreement
- Public announcement by the Governor

### Grant Determinations:

- Project location
- 100% local match
- Eligible project expenditures
- Other state incentives offered
- Return-on-investment analysis
- Final approval by the Governor

[Full Details of COF](#)

# Explanation of Benefits

## Commonwealth’s Opportunity Fund (COF)

The Commonwealth’s Opportunity Fund (COF) is Virginia’s “deal closing” discretionary grant. The COF is used as a financial incentive for business opportunities resulting in significant job creation and investment once one Virginia locality has been selected by the company.



### Aggregate Milestones

Calendar Year Performance	Employment (Cumulative)	Capital Investment (Annual) (\$M)	Grant to Company Tied Employment Targets (\$M)	Grant to Company Tied Investment Targets (\$M)	Grant to the Locality for Infrastructure Improvements
2021	46	26.6	0.1	0.5	2.0
2022	135	76.8	0.2	1.6	-
2023	182	16.6	0.3	0.3	-
2024	186	4.5	0.3	0.1	-
2025	186	-	0.3	-	-

# Explanation of Potential Programs

## Port of Virginia Economic & Infrastructure Development Grant

The Port of Virginia Economic and Infrastructure Development Grant Program (POV Grant) provides a grant to qualified companies to locate new maritime-related employment centers or expand existing centers in order to encourage and facilitate the growth of The Port of Virginia.

### \$46,000 (est.)

Based on the net new job creation associated with this project, Project Tube is eligible to receive an award of \$46,000 from the Port of Virginia Economic and Infrastructure Development Grant if the company meets the eligibility requirement below.

#### Program Eligibility:

A business entity that meets all four criteria listed below is eligible for a cash grant from The Port of Virginia Economic and Infrastructure Development Fund:

1. Locates or expands a facility within the Commonwealth of Virginia;
2. Creates at least 25 new, permanent full-time positions for qualified full-time employees at a facility within the Commonwealth from commencement of the project through the first full year of operation or during the year when the expansion occurs;
3. Is involved in maritime commerce or exports or imports manufactured goods through The Port of Virginia; and
4. Is engaged in one or more of the following: the distribution, freight forwarding, freight handling, goods processing, manufacturing, warehousing, cross docking, trans loading, or wholesaling of goods exported and imported through The Port of Virginia; ship building and ship repair; dredging; marine construction; or offshore energy exploration and extraction.

#### Program Highlights:

- Company must apply to the Virginia Port Authority no later than March 31 in the year immediately following the first full year of operation or expansion within the Commonwealth
- Company must maintain the jobs and continue to move cargo through The Port of Virginia for each of the three years following the receipt of grant
- Signed Memorandum of Understanding with the Virginia Port Authority
- Maximum grant allowed per qualified company in any given fiscal year is \$500,000
- Grants are subject to availability of funds and appropriations

#### Grant Determinations:\*

##### Award Calculation

Jobs Created in First Full Year of Operation	Award per job (\$)
25 - 49 new jobs	1,000
50 - 74 new jobs	1,500
75 - 99 new jobs	2,000
100+ new jobs	3,000

\*Please note a company may not claim the POV grant, the Major Business Facility Job Tax Credit, or the International Trade Facility Tax Credit for the same jobs.

[Full Details of POV Grant](#)

# Explanation of Benefits

## Manufacturing Sales and Use Tax Exemption

The combined state and local sales and use tax rate is 5.3 percent in the City of Petersburg. Manufacturing and research and development operations receive some of the broadest sales and use tax exemptions for purchases used directly in production or R&D offered by any state in the U.S. Exemptions begin at the manufacturing line, starting with the handling and storage of raw materials on site, and continue through the last step of production. To claim the exemption, Project Tube will complete tax form ST-11 to give to vendors when purchasing exempt equipment.

# \$3,218,438 (up to)

Based upon Project Tube's investment in production-related machinery and equipment of \$60,725,249 the company may realize a savings from the sales and use tax exemption of \$3,218,438.

### Major Exemptions Include:

- Production-related machinery and equipment
- Equipment used for production line testing and quality control
- Repair parts
- Materials that become a component part of the finished product
- Supplies used for packaging tangible products for shipment or sale
- Certified pollution control equipment
- Utilities used in manufacturing delivered through pipes, lines, or mains
- Equipment, printing, and supplies used to produce publications issued daily or regularly at intervals not exceeding three months
- Research and development equipment

[Full Details of the Sales and Use Tax Exemption](#)



John Tyler Community College [www.jtcc.edu](http://www.jtcc.edu)

# Virginia Talent Solutions

For eligible new and expanding companies, VEDP's Talent Solutions Division offers recruiting and training assistance in the form of two incentive programs:

- The Virginia Talent Accelerator Program delivers direct recruitment and training services that are fully customized to a company's unique operations, requirements, standards and culture. All program services are provided at no cost to qualified companies as an incentive for job creation.
- The Virginia Jobs Investment Program (VJIP) reduces a company's talent development costs through grant funds, consulting, and coordination with regional partners to streamline company recruitment and training.

Companies have the option to choose the VEDP talent incentive option that best fits their needs.

# Explanation of Benefits

## Virginia's Talent Accelerator Program

Virginia's Talent Accelerator Program delivers direct recruitment and training services that are fully customized to a company's unique operations, requirements, standards, and culture. All program services are provided at no cost to qualified companies as an incentive for job creation. Companies have the option to choose the VEDP talent incentive option that best fits their needs.

### Program Highlights:

Delivered in partnership with the nearest community college, every Virginia Talent Accelerator project begins with a thorough analysis of companies processes, job roles, tasks, and training resources. This is done in close collaboration with company operations and human resource and training leaders along with their designated subject matter experts for each process. The consensus on how to address each need will be documented in a statement of work. For an operation like Project Tube, topics addressed with the customized training may include:

- Company Products & Business Model
- FDA Regulations & Compliance
- Production Process Flow
- Sanitation / Sterilization
- Formulation
- Filling
- Batch Release
- Packaging
- AVI System Operations
- Quality Control
- Shipping
- Troubleshooting
- Changeovers
- Preventive Maintenance Procedures
- Inventory Management
- Roles / Responsibilities
- Key Performance Indicators
- Production / Quality Systems & Data Entry

The training is delivered using methodologies and media determined to be most effective for accelerating learning on a given topic. These can include broadcast-quality videos, hands-on simulations, instructor-led classroom sessions, illustrated work instructions, animations, and e-learning modules. All company-specific materials developed during the project become the property of the client and all proprietary information will be protected by a nondisclosure agreement.

Process and job-specific training is part of a robust package that typically also includes training in:

- OSHA Safety Awareness
- Lift Vehicle Operations
- Clean Room
- Lean Six Sigma
- Statistical Process Control
- 5 S
- Emotional Intelligence
- Team Skills
- Resolving Conflict
- Leadership
- Train-the-Trainer
- Programmable Logic Controllers

# Explanation of Benefits

## Virginia's Talent Accelerator Program

Components of VEDP's customized training can be delivered prior to an employment offer. Customized pre-hire training develops foundational skills and provides an opportunity for companies to observe job candidates' work habits, technical capabilities, and team skills as they perform representative tasks – prior to final employment decisions. Most of the customized job-specific technical training is typically conducted post-employment to protect the confidentiality of company processes.

We understand how important recruiting the right talent is to the success of a major new operation like this. It often involves both leveraging talent from the local area, and attracting talent from elsewhere. Both require a strategic approach built on messaging that resonates with each key target audience. Most major companies have human resource and communication teams adept at recruiting and crafting messaging for attracting talent. However, they may not have the resource availability required to provide optimal support for a large scale recruiting initiative. That's where VEDP's recruiting team can help. We bring resources and expertise to fill these gaps. For a project like Tube, we can:

- Produce broadcast-quality video and digital advertisements to post on internet job boards, social media, etc. to create awareness and generate interest in Project Tube's new Virginia career opportunities. These ads may include:
  - Short videos outlining the vision for the new Virginia operation; featuring the career and the professional growth opportunities it brings
  - Short clips of current employees in various roles telling the story of their career with the company and why they think it's a great place to work
  - Lifestyle videos featuring the local area's unique and most attractive attributes that tell the aspirational story of the career opportunity while painting an intriguing picture of just how good a job candidate's life could be in the new locality
- Perform extensive research in local and national markets to identify clusters of people with the sought after skills and individual candidates with high relocation potential
- Identify innovative ways to reach target audiences through social media, alumni outreach, etc.
- Place targeted ads to drive candidates to the application site
- Set up campaigns and invitational events in external markets rich in target candidates to promote the Virginia opportunity
- Travel to company locations and meet with existing employees asked to relocate to orient them to the community and lifestyle opportunities
- Provide personalized tours and concierge services for key candidates visiting the area for job interviews.
- Build an interactive website highly customized to the new operation's career and the Virginia location's lifestyle opportunities, which can serve as a landing and screening page for interested candidates
- Provide personalized tours and concierge services for key candidates visiting the area for job interviews.
- Build an interactive website highly customized to the new operation's career and the Virginia location's lifestyle opportunities, which can serve as a landing and screening page for interested candidates

# Explanation of Benefits

## Virginia's Talent Accelerator Program

### Estimating the Value of the Customized Training Service Option

One way to measure the value of Virginia Talent Accelerator services is to estimate the price of comparable training services if purchased in the private sector marketplace. To determine the actual scope of services required to provide optimum support for Project Tube's proposed operation, the in-depth training needs analysis is essential. Without the information gained from this analysis, the scope of services and corresponding value must be based on past experience, assumptions and the limited project information provided so far. Using this and Project Tube's proposed 186 new jobs as a basis, we estimate that VEDP's customized workforce solutions could amount to a **private sector market value of \$759,000**. Virginia Talent Accelerator services are offered based on the company's commitment to create the noted full time permanent jobs. Timely fulfillment of this commitment is required in order for VEDP to deliver the services which will be outlined in the scope of work.

### Community College Support

To develop a pipeline of qualified talent and support ongoing workforce needs, the nearest Community College offers programs to both develop a stream of pre-qualified new workers and enhance the skills of existing workers. Credit programs include two-year degrees, one-year diplomas, and fast-track certificates in many relevant fields. The colleges also offer a variety of customized training and workforce support on a contract basis to support Project Tube's ongoing needs.

# Explanation of Benefits

## Virginia Jobs Investment Program - Small Business New Jobs Program

The Virginia Jobs Investment Program (VJIP) provides services and funding to new or expanding companies to reduce human resource development costs. Funding is offered in the form of cash reimbursements for qualified training and recruitment efforts to support Project Tube.

### \$148,800 (up to)

Virginia is proposing a reimbursement grant of \$800 per net, new full-time employee from VJIP's New Jobs Program. Up to \$148,800 may be available to the company based upon the creation of 186 jobs within the first 36 months of the project.

Seasonal, temporary, and contract employees are not included in VJIP support.

#### VJIP Consulting Services Include:

- Evaluation of specific training needs
- Guidance with recruitment and selection
- Assistance with job descriptions and employment advertisements
- Coordination with other state and local training partners
- Assistance with pre-employment assessment programs

#### Program Highlights and Eligibility:

- Per cash grant and consulting services
- 51% or more of the facility's revenue generated outside of the Commonwealth
- Considering another state or country for the project
- Create 5 new jobs within 12 months from the date of the first hire
- Capital investment of at least \$100,000 within a 12-month period
- Reimbursements are issued 90 days after an employee has been on the payroll

[Full Details of VJIP](#)

# Say Yes to Virginia

## Virginia is the Best State for Business

Only a few locations can guarantee the right combination of resources that are crucial to the success of your business. Virginia is such a place. The Commonwealth of Virginia offers a unique combination of assets that have encouraged businesses to prosper within its borders for nearly 400 years.

A multitude of factors contribute to Virginia's pro-business climate. The Commonwealth strives to maintain traditions of sound and enviable fiscal management. Virginia provides recruitment training programs to help new businesses become operational faster, a streamlined permitting process, and programs to help businesses increase international sales – all so that new and growing businesses can experience unparalleled levels of success. The Commonwealth's status as a right-to-work state, as well as low workers' compensation costs, and low unemployment tax rates, support the pro-business environment.

These advantageous attributes, coupled with many other noteworthy characteristics including a strategic location, highly skilled and productive labor force and an excellent quality of life, make the Commonwealth the ideal location for your growing business.

We invite Project Tube to discover all the reasons companies from all over the globe keep saying "Yes" to a Virginia business location.



### Why Businesses keep Saying "YES" to Virginia

- ✓ Business-first values
- ✓ Easy access to domestic and global markets
- ✓ Stable and competitive operating costs
- ✓ Talented and educated workforce



# Contact

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## **Jordan Snelling**

**Business Manager, Business Investment  
Virginia Economic Development Partnership**

804.545.5727 (office) | 804.397.0008 (mobile)

[JSnelling@vedp.org](mailto:JSnelling@vedp.org)

## **Virginia Economic Development Partnership**

901 E. Cary Street, Suite 900

Richmond, Virginia 23219

[VEDP.org](http://VEDP.org)



# City of Petersburg

Office of the City Manager  
135 North Union Street  
Petersburg, Virginia 23803

(804) 733-2301  
Fax 732-9212  
TDD 733-8003

July 24, 2020

Allan Couckell  
Senior Vice President of Public Policy  
2912 Executive Parkway, Suite 325  
Lehi, UT 84043

Dear Allan,

I am excited on behalf of the City of Petersburg to offer the following incentive grant of approximately \$2.9 million using our Technology Zone & Machinery and Tools Tax Grant Program.

This grant will be spread over a 5-year period based on verification of the Machinery & Tools taxes by our Commissioner of Revenue and on the investment, parameters provided by Civica.

In addition, the City of Petersburg is committed to assist Civica on other yet to be determined infrastructure needs. Please keep in mind that these actions will require approval by the City Council.

This truly is a transformational opportunity for Petersburg and the Commonwealth. We are proud that Civica is considering our City for this facility.

Sincerely,

A handwritten signature in cursive script that reads "Aretha R. Ferrell-Benavides".

Aretha R. Ferrell-Benavides  
City Manager

July 24, 2020

Mr. Allan Coukell  
Senior Vice President, Public Policy  
Civica Rx  
2912 Executive Parkway  
Lehi, UT 84043

Dear Mr. Coukell,

On behalf of the Virginia's Gateway Region Economic Development Organization (VGR), thank you for considering Petersburg's Technology Zone in Virginia's Gateway Region for Project Tube. As you know, the site Petersburg is an ideal match for your pharmaceutical manufacturing operation due to its incredible logistical advantage and proximity to a dynamic, growing talent pool.

VGR is aware that a revolution in pharmaceutical manufacturing in the United States is imminent. We have no doubt that your company will be part of this groundbreaking work to re-establish the manufacture of critical active pharmaceutical and chemical ingredients to the United States. VGR is confident that Project Tube will help our region be an integral part of this growing innovational cluster.

The Gateway Region offers many attributes that foster measurable growth for companies that choose to locate and continue to expand here. With a population exceeding 1.3 million, our region is adept at training and supplying well-prepared talent for local employers like AMPAC Fine Chemicals, Amsted Rail, Virginia Abrasives, BleachTech, Dupont, Gerdau and AdvanSix.

VGR pledges to work closely with the City of Petersburg and the Commonwealth of Virginia to be sure that Project Tube is informed of the vast array of benefits, resources, and programs available to you. I am confident that our region can provide Project Tube with the workforce, technical expertise, infrastructure, pro-business environment, and community support to help you succeed. Should you choose to make our region your next corporate home, the collective experience and expertise of our community and corporate partners is available to you so that your company can achieve a rapid start.

Thank you for the opportunity to work with you. Please know that our entire region enthusiastically supports your project and is ready to assist you and your team to bring your plans to fruition. Should you need anything from the Gateway Region, please contact me at [kboswell@gatewayregion.com](mailto:kboswell@gatewayregion.com) or 804-732-8971.

Sincerely,



Keith Boswell  
President and CEO

July 23, 2020

Ms. Jordan Snelling  
Business Manager, Business Investment  
Virginia Economic Development Partnership  
901 E. Cary Street  
Richmond, VA 23219

Dear Jordan:

The Port of Virginia is pleased that Project Tube is looking to locate a facility in Virginia and we hope to earn the opportunity to handle your cargo through our terminals. The Port of Virginia is a vital component of the Commonwealth's economy, with services to over 45 countries and more than 36 cargo ships from across the world calling weekly on our terminals. In CY19, the port moved a record-setting 2.94 million 20-foot equivalent units (TEUs) of import and export cargo. These record volumes have been achieved while nearing completion of a \$750 million expansion to increase annual capacity by 1 million containers. Matching the Port of Virginia's best in class service, we offer a cash grant and three tax credit incentives that Project Tube may be able to take advantage of.

The Port of Virginia Economic and Infrastructure Development cash grant (POV Grant) is based on job creation resulting from a new location or expansion by a port user. For this grant, the company should apply to the Port of Virginia by March 31 in the year following creation of the jobs. For example, if the proposed facility in Virginia were to create 50 new, permanent, full-time jobs in the first full year of operation, then Project Tube may be eligible for the maximum cash grant of \$75,000. In order to receive the grant, the company must enter into a Memorandum of Understanding with the Virginia Port Authority and agree to keep all the jobs created within that year for each of the three years following receipt of the grant. The company must also continue to move cargo through the Port of Virginia, import and/or export, for each of those three years. If the jobs are not retained as promised or cargo is not moving through the Port of Virginia during any of those three years, the company would be responsible for returning a portion or all of the POV Grant to the Virginia Port Authority.

The scale for determining grant payout under the POV Grant is:

25-49 new jobs: \$1,000 per job  
50-74 new jobs: \$1,500 per job  
75-99 new jobs: \$2,000 per job  
100+ new jobs: \$3,000 per job

Project Tube may also be eligible to take advantage of the POV Tax Credits. Below are descriptions of the three Virginia Port Tax Credits. These tax credits are available to companies that have an individual or corporate income tax liability in the Commonwealth and utilize Virginia port facilities for import and/or export.

**Port Volume Increase Tax Credit (Code of Virginia Section 58.1-439.12:10)**

- Tax credit for taxpayers engaged in the manufacturing of goods or the distribution of manufactured goods, agricultural entities, or mineral or gas entities that use public or private port facilities located in Virginia and increase port cargo at these facilities by a minimum of 5% in a single calendar year over their base year cargo volume.
- Credit is **\$50 per TEU** in excess of the base year cargo; tonnage conversion rate is 16 tons = 1 TEU
- Apply to the Virginia Port Authority using Form PVI by March 1 of the calendar year following the calendar year during which the credits were earned.

**Barge and Rail Usage Tax Credit (Code of Virginia Section 58.1-439.12:09)**

- Tax credit for usage of barge or rail to move cargo rather than by truck or other motor vehicle on Virginia's highways.
- Credit is **\$25 per TEU** or 16 tons of noncontainerized cargo in excess of the number of containers shipped by barge or rail by the taxpayer during the immediately preceding taxable year.
- Apply to the Department of Taxation using Form BRU by April 1 of the year following the taxable year during which the credits were earned.

**International Trade Facility Tax Credit (Code of Virginia Section 58.1-429.12:06)**

- Tax credit for either creating new jobs or capital investment in an international trade facility as a result of moving 5% more cargo through port facility than in the preceding taxable year.
- Credit is either (i) \$3,500 per qualified full-time employee that results from increased qualified trade activities by the taxpayer or (ii) an amount equal to 2% of qualified capital investment expenses made by the taxpayer to facilitate increased qualified trade activities.
- Apply to the Department of Taxation using Form ITF by April 1 of the year following the taxable year during which the credits were earned.

The Port of Virginia looks forward to assisting Project Tube with this opportunity and being a partner in their business success here in the Commonwealth. Please contact me with any questions about the Port of Virginia or the port incentive programs.

Best regards,



Russell Held  
Vice President, Economic Development

July 23, 2020

Civica Rx  
2912 W Executive Parkway  
Suite 325  
Lehi, UT 84043



Office of the President

To whom it may concern:

It is with great enthusiasm that we express our support for Civica Rx's first pharmaceutical manufacturing facility in Petersburg, Virginia. We understand that Civica is considering creating 186 jobs in the Gateway Region, and by way of this letter, we are committing the resources of our educational institution to ensure your success in recruiting and training the best available talent pool for your new facility.

Virginia will provide Civica access to an unrivaled talent pool with over 16,000 relevant credential holders entering the market every year. In particular, the educational assets in the Gateway Region are well prepared to train the human resources that are critical to support your growth. We have a significant number of large, medium, and small manufacturers and healthcare providers for whom we have provided customized pre-employment training. We also conduct a number of on-the-job, managerial, quality and apprentice training programs, as well as proven success in customizing training for employers across a wide variety of employment sectors.

In addition, we have maintained a strong partnership with our K-12 school partners across the region. One of our top regional priorities is to maintain a qualified workforce, and we know that starts well before high school graduation.

John Tyler Community College (JTCC) and our workforce development division; Community College Workforce Alliance (CCWA), pledge to work with you to directly support Civica's workforce needs. We look forward to working directly with your leadership and the staff of VEDP's Virginia Talent Accelerator Program, and Virginia Commonwealth University (VCU) on any and all recruitment and training strategies that could include, but not be limited to, the promotion of job and internship opportunities to our alumni with appropriate degrees, the planning and execution of targeted career events on our campuses with current students, and the development of customized degree, credentialing, or on-the-job training programs to address skills gaps throughout Civica's workforce.

We proudly declare our intention to work with our partners to provide Civica a successful operation for years to come. Please contact us at any time we can answer questions or provide assistance.

Sincerely,

Edward "Ted" Raspiller  
President

[www.jtcc.edu](http://www.jtcc.edu)

804-594-1578

800-552-3490

TDD: 804-796-4197

**Midlothian Campus**

800 Charter Colony Parkway

Midlothian, VA 23114-4383

**Chester Campus**

13101 Jefferson Davis Highway

Chester, VA 23831-5316

An equal opportunity  
and affirmative action  
educational institution

SAMPLE INDUSTRY LETTER  
FOR COF FUNDS

COMPANY LETTERHEAD

Date:

Inside Address

(Local economic development agency or local government address)

Dear:

(Company name) has been evaluating a number of locations for its (describe type of facility and if it is new or expanded). We have narrowed the location to the (list the specific site location) in (name of Virginia community) and a potential site in (name of another state).

If (name of Virginia community) receives an award from the Commonwealth's Opportunity Fund (COF) in the amount of (amount of COF request) to assist us with (use of funds), we are prepared to select (name of Virginia community) for this project. We understand that any public announcement of this project must be coordinated with the Governor's Office.

We are very optimistic about our company's growth and development in (name of Virginia community). We will begin the project in (month or quarter and year) and create at least (number) of jobs within 36 months. The average annual salary for the new jobs will be (average annual salary). Additionally, we offer a standard fringe benefits package. The project's investment will be a total of (insert investment here, broken down by land, building and machinery & tools) within 36 months (company may instead attach an estimated breakdown). Over 51% of this new operation's revenues will be derived from out of state sources.

In the past 30 months (name of company) has not downsized, closed or consolidated operations that resulted in employment layoffs. (If the company has existing VA operations use: No change in existing operations, including loss of jobs, in any of our other Virginia locations will occur in the next year as a result of this new project. If the company is new to VA use: The company does not currently have operations in other locations in Virginia.) (Name of company) is a (describe organizational structure – corporation, LLP, etc.) headquartered in (name of location of headquarters). The company is not currently involved in any merger or acquisition, which would alter the nature of our corporation for the next 12 months.

Attached is a Form W-9 for the company.

We appreciate your consideration of our request and will be happy to provide additional information as needed.

Sincerely,

Chief Executive Officer

Company

cc: NAME OF VEDP PROJECT MANAGER

**COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND**

**PERFORMANCE AGREEMENT**

This **PERFORMANCE AGREEMENT** (the "Agreement") made and entered this \_\_\_\_ day of \_\_\_\_\_, 2020, by and among the [CITY/COUNTY OF \_\_\_\_\_, VIRGINIA] (the "Locality"), a [municipal corporation/political subdivision] of the Commonwealth of Virginia (the "Commonwealth"), \_\_\_\_\_, a [state of creation] [type of entity] [if a foreign entity: authorized to transact business in the Commonwealth] (the "Company"), the **VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP AUTHORITY** ("VEDP"), a political subdivision of the Commonwealth, and the [INDUSTRIAL/ECONOMIC DEVELOPMENT AUTHORITY OF \_\_\_\_\_ [, VIRGINIA] (the "Authority"), a political subdivision of the Commonwealth. [THE "COMPANY" IS THE ENTITY OR ENTITIES THAT WILL BE MAKING THE CAPITAL INVESTMENT AND HIRING THE WORKERS.]

WITNESSETH:

WHEREAS, the Locality has been awarded a grant of and expects to receive \$ \_\_\_\_\_ (the "COF Grant") from the Commonwealth's Development Opportunity Fund (the "Fund") through VEDP for the purpose of inducing the Company to [acquire land] [and an existing facility] and to [construct, expand, equip], improve, and operate a \_\_\_\_\_ facility in the Locality (the "Facility"), thereby making a significant Capital Investment, and creating and Maintaining a significant number of New Jobs, as such capitalized terms are hereinafter defined;

WHEREAS, the Locality is willing to provide the funds to the Authority with the expectation that the Authority will provide the funds to or for the use of the Company, provided that the Company meets certain criteria relating to Capital Investment and New Jobs;

WHEREAS, the Locality, the Authority, the Company, and VEDP desire to set forth their understanding and agreement as to the payout of the COF Grant, the use of the COF Grant proceeds, and the obligations of the Company regarding Capital Investment and New Jobs;

WHEREAS, the [acquisition, construction, expansion, equipping,] improvement, and operation of the Facility will entail a capital expenditure by or on behalf of the Company of approximately \$ \_\_\_\_\_, of which approximately \$ \_\_\_\_\_ will be invested in machinery and tools, approximately \$ \_\_\_\_\_ will be invested in furniture, fixtures and business personal property, approximately \$ \_\_\_\_\_ will be invested in the acquisition of land and an existing facility, and approximately \$ \_\_\_\_\_ will be invested in the construction, expansion and up-fit of the buildings for the Facility;

WHEREAS, the [acquisition, construction, expansion, equipping,] improvement, and operation of the Facility will further entail the creation and Maintenance of \_\_\_\_ New Jobs at the Facility; and

WHEREAS, the stimulation of the additional tax revenue and economic activity to be generated by the Capital Investment and New Jobs constitutes a valid public purpose for the expenditure of public funds and is the animating purpose for the COF Grant:

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows.

**Section 1. Definitions.**

For the purposes of this Agreement, the following terms shall have the following definitions:

“Capital Investment” means a capital expenditure by or on behalf of the Company in taxable real property, taxable tangible personal property, or both, at the Facility. The purchase or lease of machinery and tools or furniture, fixtures, and business personal property, including under an operating lease, and expected building [construction, expansion, improvement] and up-fit by or on behalf of the Company will qualify as Capital Investment. [MODIFY FOR CAPITAL LEASE BY INSERTING, AS APPROPRIATE: A capital expenditure related to a leasehold interest in real property will be considered to be made “on behalf of the Company” if a lease between a developer and the Company is a capital lease, or is an operating lease having a term of at least ten years, and the real property would not have been constructed or improved but for the Company’s interest in leasing some or all of the real property. Only the capital expenditures allocated to the portion of the real property to be leased by the Company will count as “Capital Investment.”] The Capital Investment must be in addition to the capital improvements at the Facility as of \_\_\_\_\_, 2020. [GENERALLY, AROUND THE DATE OF THE ANNOUNCEMENT]

“Capital Investment Target” means that the Company has made or caused to be made and retained Capital Investments of at least \$ \_\_\_\_\_.

“Fund” means the Commonwealth’s Development Opportunity Fund.

“Maintain” means that the New Jobs will continue without interruption from the date of creation through the Performance Date. Positions for the New Jobs will be treated as Maintained during periods in which such positions are not filled due to (i) temporary reductions in the Company’s employment levels (so long as there is active recruitment for open positions), (ii) strikes, and (iii) other temporary work stoppages.

“New Job” means new permanent full-time employment of an indefinite duration at the Facility for which the standard fringe benefits are provided by the Company for the employee, and for which the Company pays an average annual wage of at least \$ \_\_\_\_\_. Average annual wage means the average annual salary of full-time positions at the Facility determined by dividing total payroll (of a type included in W-2 compensation) provided to full-time positions at the Facility by the number of full-time positions at the Facility. Each New Job must require a

minimum of either (i) 35 hours of an employee’s time per week for the entire normal year of the Company’s operations, which “normal year” must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth, and positions with construction contractors, vendors, suppliers and similar multiplier or spin-off jobs shall not qualify as New Jobs. [IF APPLICABLE: Net new jobs in the Commonwealth for contractors or employees of contractors who provide dedicated full-time service to the Company may count as New Jobs, even though the Company is not directly paying the wages or providing the fringe benefits, if the other conditions set forth in this paragraph have been satisfied.] [The New Jobs must be in addition to the \_\_\_ full-time jobs at the Facility as of \_\_\_\_\_, 20\_\_.] [GENERALLY, THE SAME DATE AS THE START DATE FOR COUNTING CAPITAL INVESTMENT -- AROUND THE DATE OF THE ANNOUNCEMENT]

“New Job Target” means that the Company has created and Maintained at least \_\_\_ New Jobs.

“Performance Date” means \_\_\_\_\_, 20\_\_. [GENERALLY, THE LAST DAY OF A CALENDAR QUARTER ABOUT 3 YEARS FROM THE DATE OF THE ANNOUNCEMENT] If the Locality, in consultation with VEDP, deems that good faith and reasonable efforts have been made and are being made by the Company to achieve the Targets, on or before the Performance Date the Locality may request an extension of the Performance Date by up to 15 months. Any extension of the Performance Date shall require the prior approval of the Board of Directors of VEDP (the “Board”). If the Performance Date is extended, the Locality shall send written notice of the extension to the Authority, the Company and VEDP and the date to which the Performance Date has been extended shall be the “Performance Date” for the purposes of this Agreement.

“Performance Report” means a report to be filed by the Company in accordance with Section 5. The “Final Performance Report” is to be filed within 90 days after the Performance Date. As noted in Section 5, the Locality, the Authority and VEDP may each request a Performance Report at other dates prior to the Performance Date.

“Targets” means the Capital Investment Target and the New Jobs Target, all to be achieved as of the Performance Date.

“Virginia Code” means the Code of Virginia of 1950, as amended.

**Section 2. Targets; Statutory Criteria.**

(a) *Targets:* The Company will [acquire, construct, expand, equip,] improve, and operate the Facility, and achieve the Targets.

(b) *Encouragement to Offer New Jobs to Residents of the Commonwealth:* The Locality, the Authority, and VEDP hereby strongly encourage the Company to ensure that at least 30% of the New Jobs are offered to “Residents” of the Commonwealth, as defined in Virginia Code Section 58.1-302. In pertinent part, that definition includes natural persons domiciled in

Virginia or natural persons who, for an aggregate of more than 183 days of the year, maintained a place of abode within the Commonwealth, whether domiciled in the Commonwealth or not.

(c) *Prevailing Wage; Unemployment and Poverty Rates:* The average annual wage of the New Jobs of at least \$\_\_\_\_\_ is [more/less] than the prevailing average annual wage in the Locality of \$\_\_\_\_\_ [, but is more than 85% of that prevailing average annual wage (\$\_\_\_\_\_)]. The Locality is [not] a high-unemployment locality, with an unemployment rate for 20\_\_, which is the last year for which such data is available, of \_\_\_% as compared to the 20\_\_ statewide unemployment rate of \_\_\_%. The Locality is [not] a high-poverty locality, with a poverty rate for 20\_\_, which is the last year for which such data is available, of \_\_\_\_\_% as compared to the 20\_\_ statewide poverty rate of \_\_\_\_\_%.

(d) *Disclosure of Political Contributions:* The Company acknowledges that the name of the Company will be shared by VEDP with the Governor of Virginia, and any campaign committee or political action committee associated with the Governor. The Company acknowledges that within 18 months of the date of this Agreement, the Governor, his campaign committee, and his political action committee will submit to the Virginia Conflict of Interest and Ethics Advisory Council a report listing any contribution, gift, or other item with a value greater than \$100 provided by the Company to the Governor, his campaign committee, or his political action committee, respectively, during the period from the date of the Company's application for the COF Grant through the one-year period immediately after the date of this Agreement.

(e) *Support for Virginia's and Locality's Economic Development Efforts:* Recognizing that it is in the best interest of all parties for the Commonwealth and the Locality to achieve sustained economic growth, the parties will periodically engage with one another to advise on economic development strategies and initiatives for the Commonwealth and the Locality, such as promoting the attributes of the Commonwealth and the Locality as places to do business, or highlighting important industry trends and/or business development opportunities that the Commonwealth or the Locality may wish to pursue. Such engagement would include the Company's participation in occasional business retention and expansion visits from VEDP personnel, as deemed appropriate based on the project parameters and nature of the incentives provided to the Company.

[IF APPLICABLE. (f) *MEI Project Approval Commission:* Pursuant to Virginia Code Sections 2.2-115 and 30-310, the MEI Project Approval Commission ("MEI Commission") must review economic development incentive packages in which [a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality] [the aggregate amount of incentives to be provided by the Commonwealth in the incentive package is in excess of \$10 million in value]. The MEI Commission has reviewed and approved the state-level incentives offered in conjunction with the Company's Capital Investment and creation and Maintenance of New Jobs at the Facility.]

[IF APPLICABLE: (g) *Relocation:* The Commonwealth's Secretary of Commerce and Trade has delivered to the Co-Chairs of the Senate Finance and Appropriations Committee and the Chair of the House Appropriations Committee a letter indicating that, although the Company is

relocating a portion of its operations from \_\_\_\_\_ to the Locality, the reasons for the move and the desire to retain the Company's operations in Virginia justify the use of incentives to move such facility from one Virginia locality to another. The Locality and VEDP have informed \_\_\_\_\_ of the move and of the use of incentives. \_\_\_\_\_ has indicated to VEDP that it is supportive of these efforts.]

[IF APPLICABLE: (h) *Other Performance Criteria*: IF THE COF GRANT IS ALSO PREDICATED ON OTHER FACTORS, SUCH AS ESTABLISHING AND MAINTAINING THE COMPANY'S CORPORATE HEADQUARTERS IN VIRGINIA, ADD HERE LANGUAGE REQUIRING THE COMPANY TO DO THOSE OTHER THINGS.]

**Section 3. Disbursement of COF Grant.** The disbursement of the COF Grant proceeds to the Company will serve as an inducement to the Company to achieve the Targets.

The COF Grant is to be allocated as \_\_\_% (\$ \_\_\_\_\_) for the Company's Capital Investment Target, and \_\_\_% (\$ \_\_\_\_\_) for the Company's New Jobs Target. [THE %% WILL DEPEND ON VEDP'S ROI ANALYSIS OF THE REVENUES TO BE DERIVED BY THE COMMONWEALTH FROM THE CAPITAL INVESTMENT AND NEW JOBS.]

The statutory minimum requirements for a COF Grant in the Locality require that the Company (1) make or case to be made and retained a Capital Investment of at least [\$5,000,000/\$2,500,000/\$1,500,000] and (2) create and Maintain at least [50/25/15] New Jobs (the "Statutory Minimum Requirements"). [STATUTORY MINIMUM REQUIREMENTS WILL DEPEND ON THE FACTS PROVIDED IN SECTION 2(c)]

The COF Grant proceeds shall be retained in the Fund until needed for disbursement or the COF Grant is withdrawn in accordance with the terms of this Agreement.

[THIS FOLLOWING VERSION OF SUBSECTION (a) WILL BE USED IN THOSE INSTANCES IN WHICH THE COF GRANT WILL BE PAYABLE IN ONE INSTALLMENT FOLLOWING THE PERFORMANCE DATE. IT IS EXPECTED THAT THIS WILL BE THE MOST COMMON TIMELINE FOR DISTRIBUTION OF COF GRANTS:

(a) *Disbursement of the COF Grant*: Within 90 days after the Performance Date, the Company will deliver the Performance Date Report. Through this report, the Company will provide notice and evidence satisfactory to the Locality, the Authority and VEDP of the amount of Capital Investments made or caused to be made and retained, and the number of New Jobs created and Maintained, by the Company as of the Performance Date. The Performance Date Report will be subject to verification by the Locality and VEDP.

Upon such verification, the amount of the COF Grant proceeds to be disbursed to the Company, if any, shall be determined as follows:

(i) *If Statutory Minimum Requirements Not Met*: If, as of the Performance Date, the Company has not achieved both of the Statutory Minimum

Requirements, the Company will not receive any of the proceeds of the COF Grant.

(ii) *If Targets Met:* If, as of the Performance Date, the Company has achieved the Capital Investment Target and the New Jobs Target, the Company will receive all \$\_\_\_\_\_ of the proceeds of the COF Grant.

(iii) *If Statutory Minimum Requirements Met, but Targets Not Met:* If, as of the Performance Date, the Company has achieved both of the Statutory Minimum Requirements, but has not achieved the full Capital Investment Target and the full New Jobs Target, the Company will qualify for a reduced disbursement of the COF Grant, reflecting a proportional amount of the Target or Targets for which there is a shortfall. For example, if as of the Performance Date, only \$\_\_\_\_\_ of the Capital Investment has been retained (reflecting achievement of [90]% of the Capital Investment Target), only \_\_\_ New Jobs have been created and Maintained (reflecting achievement of [75]% of the New Jobs Target), the Company will receive \$\_\_\_\_\_ (reflecting [90]% of the \$\_\_\_\_\_ of the COF Grant allocated to the Capital Investment Target), *plus* \$\_\_\_\_\_ (reflecting [75]% of the \$\_\_\_\_\_ of the COF Grant allocated to the New Jobs Target), for a total of \$\_\_\_\_\_. These amounts reflect the percentages of the shortfall from the Capital Investment Target and the New Jobs Target, each such shortfall multiplied by the portion of the COF Grant proceeds available to the Company allocated to that Target.

Within 30 days after verification of the Performance Date Report, if any amount of COF Grant proceeds are available for disbursement to the Company, as determined in accordance with the foregoing calculations, VEDP will disburse that amount to the Locality. Within 30 days after receipt of such amount, the Locality will disburse such COF Grant proceeds to the Authority. Within 30 days after receipt of such amount, the Authority will disburse such COF Grant proceeds to the Company.

If any amount of COF Grant proceeds have not been earned by the Company, the amount not disbursed will be retained in the Fund and will be available for other economic development projects.

[THIS FOLLOWING VERSION OF SUBSECTION (a) WILL BE USED IN THOSE INSTANCES IN WHICH THE COF GRANT WILL BE PAYABLE IN MORE THAN ONE INSTALLMENT PRIOR TO THE PERFORMANCE DATE, WITH VARIATIONS TO REFLECT THE NUMBER, TIMING, AND VALUE OF THE PLANNED DISBURSEMENTS. IT IS NOT EXPECTED THAT THIS WILL BE THE MOST COMMON METHODOLOGY FOR DISTRIBUTION OF COF GRANTS:

(a) *First Disbursement:* If a Performance Report indicates that the Company has made or caused to be made and retained Capital Investments of at least \$\_\_\_\_\_, and has created and Maintained at least \_\_\_ New Jobs [OR, INDICATE OTHER MILESTONES, SUCH AS A CERTIFICATE OF OCCUPANCY], the Company will qualify for a disbursement of

\$ \_\_\_\_\_ of the COF Grant proceeds. Then, within 30 days of the verification of that Performance Report by the Locality and VEDP, VEDP will disburse \$ \_\_\_\_\_ of the COF Grant proceeds to the Locality (the "First Disbursement"). Within 30 days of its receipt of such COF Grant proceeds, the Locality will disburse such COF Grant proceeds to the Authority. Within 30 days of its receipt of such COF Grant proceeds, the Authority will disburse such COF Grant proceeds to the Company.

*Final Disbursement; Final Performance Report:* In the Final Performance Report, the Company will provide notice and evidence reasonably satisfactory to the Locality, the Authority and VEDP of the amount of Capital Investments made or caused to be made and retained and the number of New Jobs created and Maintained at the Facility as of the Performance Date. The Final Performance Report will be subject to verification by the Locality and VEDP.

The remaining amount of the COF Grant proceeds to be disbursed shall be calculated as follows:

If Targets Fully Achieved: If, as of the Performance Date, the Company has achieved the Capital Investment Target and the New Jobs Target, the Company will receive all of the remaining proceeds of the COF Grant: \$ \_\_\_\_\_ less the amount of the First Disbursement, if previously paid.

If Statutory Minimum Requirements have been Achieved, but full Targets have not been Achieved: If, as of the Performance Date, the Company has achieved both of the Statutory Minimum Requirements, but has not achieved the full Capital Investment Target and the full New Jobs Target, the Company will receive additional proceeds of the COF Grant, calculated as follows:

The Company shall be entitled to receive that part of the COF Grant that is proportional to the achievement of each Target. For example, if as of the Performance Date, the Company has made or caused to be made and retained Capital Investments of only \$ \_\_\_\_\_ (reflecting achievement of [75]% of the Capital Investment Target), and only \_\_\_ New Jobs have been created and Maintained (reflecting achievement of [80]% of the New Jobs Target), the Company shall have earned \$ \_\_\_\_\_ (reflecting [75]% of the \$ \_\_\_\_\_ of the COF Grant proceeds allocated to the Capital Investment Target, *plus* \$ \_\_\_\_\_ (reflecting [80]% of the \$ \_\_\_\_\_ of the COF Grant proceeds allocated to the New Jobs Target) for a total of \$ \_\_\_\_\_. These amounts represent the percentages of the shortfall from the expected amount of Capital Investment and expected number of New Jobs, each multiplied by the portion of the COF Grant proceeds allocated to that Target. In this example, if the Company had not received any proceeds of the COF Grant from the First Disbursement, the Company would be entitled to receive all \$ \_\_\_\_\_. If, however, the Company had received \$ \_\_\_\_\_ of the proceeds of the COF Grant from the First Disbursement, the \$ \_\_\_\_\_ would be reduced to \$ \_\_\_\_\_. If the amount earned by the Company under this subparagraph is less than the amount previously paid to the Company from the

First Disbursement, the Company shall owe a repayment to the Authority under Section 7 equal to the amount of overpayment.

Within 30 days after verification of the Performance Date Report, VEDP will disburse to the Locality any earned COF Grant proceeds yet to be paid. Within 30 days after receipt of such amount, the Locality will disburse such COF Grant proceeds to the Authority. Within 30 days after receipt of such amount, the Authority will disburse such COF Grant proceeds to the Company.

If any amount of COF Grant proceeds have not been earned by the Company, the amount not disbursed will be retained in the Fund and will be available for other economic development projects.

(b) *Use of the COF Grant Proceeds:* The [Company / Locality / Authority] will use the COF Grant proceeds to pay or reimburse the cost of [public and private utility extension or capacity development for the Facility, whether on or off site,] [public and private installation, extension, or capacity development of high-speed or broadband Internet access for the Facility, whether on or off site,] [road, rail, or other transportation access costs supporting the Facility beyond the funding capability of existing programs,] [site acquisition,] [grading, drainage, paving, and any other activity required to prepare the Facility site for construction,] [construction or build-out of publicly or privately owned buildings for the Facility, and] [recruitment and training], [all] as permitted by Section 2.2-115(D) of the Virginia Code.

**Section 4. Break-Even Point; State and Local Incentives.**

(a) *State-Level Incentives:* VEDP has estimated that the Commonwealth will reach its “break-even point” by the Performance Date. The break-even point compares new revenues realized as a result of the Capital Investment and New Jobs at the Facility with the Commonwealth’s expenditures on discretionary incentives, including but not limited to the COF Grant. With regard to the Facility, the Commonwealth expects to provide discretionary incentives in the following amounts:

<u>Category of Incentive:</u>	<u>Total Amount</u>
COF Grant	\$ _____
Virginia Jobs Investment Program (“VJIP”) (Estimated)	
Tobacco Region Opportunity Fund Grant (“TROF”)	
Enterprise Zone Real Property Investment Grant (“EZRPIG”) (Estimated)	
Enterprise Zone Job Creation Grant (“EZJCG”) (Estimated)	
Virginia Investment Performance Grant (“VIP Grant”)	
VEDP Talent Accelerator Program (“VTAP”) (Approximate Value)	
Major Eligible Employers Grant (“MEE Grant”)	
Virginia Economic Development Incentive Grant (“VEDIG”)	
Major Business Facility Job Tax Credit (“MBFJTC”) (Estimated)	

Port of Virginia Economic and Infrastructure Development Grant  
("POV Grant")  
[Other]

The proceeds of the COF Grant shall be used for the purposes described in Section 3(b). The VJIP grant proceeds shall be used by the Company to pay or reimburse itself for recruitment and training costs. [The proceeds of the TROF Grant [shall][may] be used for \_\_\_\_\_ [any lawful purpose].] [The proceeds of [the EZRPIG,] [the EZJCG,] [the VIP Grant,] [the MEE Grant,] [the VEDIG,] [and the Port Grant] may be used by the Company for any lawful purpose.] [The MBFJTC will serve as an offset to Virginia corporate income taxes that may be owed by the Company.] The VTAP represents the value to the Company of workforce development services expected to be provided by VEDP to the Company for recruitment and training.

(b) *Local-Level Incentives:* The Locality and the Authority expect to provide the following incentives, as matching grants or otherwise, for the Facility by the Performance Date:

<u>Category of Incentive:</u>	<u>Total Amount</u>
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[IF THE LOCAL-LEVEL INCENTIVES ARE NOT BEING PROVIDED UP-FRONT:]  
If, by the Performance Date, the total of all Local-Level Incentives disbursed or provided, or committed to be disbursed or provided, by the Locality to the Company is less than the \$ \_\_\_\_\_ COF Grant local match requirement, the Locality, subject to appropriation, will make an additional grant to the Company of the difference promptly after Performance Date, so long as the Company has met its Targets.

[The \_\_\_\_\_ will reflect cost savings to the Company.] [The proceeds of the \_\_\_\_\_ [may/shall] be used by the Company for [any lawful purpose/ \_\_\_\_\_].]]

(c) *Other Incentives:* This Agreement relates solely to the COF Grant. The qualification for, and payment of all State-Level Incentives and Local-Level Incentives, except for the COF Grant, will be governed by separate arrangements between the Company and the entities offering the other incentives.

**Section 5. Company Reporting.**

(a) *Performance Reporting:* The Company shall provide, at the Company's expense, in the form attached hereto as Exhibit A, detailed Performance Reports satisfactory to the Locality, the Authority and VEDP of the Company's progress on the Targets. The Performance Reports are due by each \_\_\_\_\_ 1, commencing \_\_\_\_\_ 1, 20\_\_ [ABOUT 90 DAYS

AFTER THE FIRST ANNIVERSARY OF THE MONTH/DATE OF THE PERFORMANCE DATE], reflecting the Company's progress toward the Targets as of the prior \_\_\_\_\_ [SAME CALENDAR DATE AS THE MONTH/DATE OF THE PERFORMANCE DATE]. Further, the Company shall provide such Performance Reports at such other times as the Locality, the Authority or VEDP may require.

[IF APPLICABLE: If the Company wishes to count as Capital Investments the capital expenditures made on its behalf by a lessor or a developer of the Facility, the Company is responsible for assembling and distributing the documentation necessary to verify the capital expenditures made on behalf of the Company.]

[IF APPLICABLE: If the Company wishes to count as New Jobs employees of contractors, to the extent permitted in the definition of "New Jobs" in Section 1, the Company is responsible for assembling and distributing the documentation necessary to verify such New Jobs, including whether such jobs are net New Jobs in the Commonwealth.]

(b) *Final Performance Report:* The Company shall provide, at the Company's expense, in the form attached hereto as Exhibit B, a detailed Final Performance Report satisfactory to the Locality, the Authority and VEDP of the Company's achievement of the Targets as of the Performance Date. This Performance Date Report shall be filed within 90 days after the Performance Date.

Should the Company be unable to file the Final Performance Report within the 90-day timeframe, the Company may request a 60-day delay in filing the Final Performance Report. VEDP will require a \$3,000 fee, payable to VEDP, to process the request for the filing delay. Should the Company not file the Final Performance Report within the 90-day window nor request a filing delay (including payment of the required fee), or if the Company requests a filing delay but does not file the Final Performance Report prior to the new filing deadline, VEDP will withhold any COF Grant payment that might otherwise be due and all rights of the Company under this Agreement will automatically terminate.

(c) *Virginia Corporate Income Tax Information:* With each such Performance Report or Final Performance Date Report, the Company shall report to VEDP the amount paid by the Company (or for a pass-through entity, by its shareholders, members or partners) in the prior calendar year in Virginia corporate (or for a pass-through entity, personal) income tax. VEDP hereby represents to the Company that it considers such information to be confidential proprietary information that is exempt from public disclosure under the Virginia Freedom of Information Act and that such information will be used by VEDP solely in calculating aggregate return on invested capital analyses for purposes of gauging the overall effectiveness of economic development incentives.

## **Section 6. Verification of Targets.**

(a) *Verification of Capital Investment:* The Company hereby authorizes the Locality, including the Locality's Commissioner of the Revenue and Treasurer, to release to VEDP the Company's real estate tax, business personal property tax and machinery and tools tax

information. Such information shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the Capital Investment Target. If the Locality, the Office of the Commissioner of the Revenue or the Office of the Treasurer should require additional documentation or consents from the Company to access such information, the Company shall promptly provide, at the Company's expense, such additional documentation or consents as the Locality or VEDP may request. In accordance with Virginia Code Section 58.1-3122.3, VEDP is entitled to receive the Company's real estate tax, business personal property tax and machinery and tools tax information from the Locality's Commissioner of the Revenue. Attached hereto as Exhibit C is a form to be completed by the Company regarding access to the Company's tax information.

(b) *Verification of New Jobs and Wages:* The Company must submit a copy of its four most recent Employer's Quarterly Tax Reports (Form FC-20) with the Virginia Employment Commission with [each Performance Report] [the Final Performance Report]. The forms shall be marked and considered confidential and proprietary and shall be used by VEDP solely for verifying satisfaction of the New Jobs Target. In accordance with Virginia Code Section 60.2-114, VEDP is entitled to receive the Company's employment level and wage information from the Virginia Employment Commission.

The Company agrees that it will report to the Virginia Employment Commission with respect to its employees at a facility-level, rather than at the company-level.

(c) *Additional Documentation:* In addition to the verification data described above, in the sole discretion of the Locality, the Authority or VEDP, the Locality, the Authority or VEDP, may each require such other documentation or audits as may be required to properly verify the Capital Investment or New Jobs.

[USE THIS FOLLOWING VERSION OF SECTION 7 IF THERE IS ONLY ONE DISBURSEMENT OF THE COF GRANT PROCEEDS FOLLOWING THE PERFORMANCE DATE]

**Section 7. Possible Termination of this Agreement and Redeployment of COF Grant Proceeds.** If the Locality, the Authority or VEDP shall determine at any time prior to the Performance Date that the Company is unable or unwilling to meet and Maintain its Targets by and through the Performance Date, and if the Locality, the Authority or VEDP shall have promptly notified the Company of such determination, this Agreement will be terminated, no further disbursements of the COF Grant proceeds will be made to the Company, and the amount not disbursed will be retained in the Fund and made available for other economic development projects. Such a determination will be based on such circumstances as a filing by or on behalf of the Company under Chapter 7 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of the Facility by the Company or other similar significant event that demonstrates that the Company will be unable or is unwilling to satisfy the Targets for the COF Grant.

[USE THIS FOLLOWING VERSION OF SECTION 7 IF ANY OF THE PROCEEDS OF THE COF GRANT MAY BE DISBURSED PRIOR TO THE PERFORMANCE DATE AND, THEREFORE, MAY BE SUBJECT TO REPAYMENT, WITH VARIATIONS TO TAKE INTO

ACCOUNT THE NUMBER, NATURE AND AMOUNT OF DISBURSEMENTS MADE PRIOR TO THE PERFORMANCE DATE:

**Section 7. Repayment Obligation.**

(a) *If Statutory Minimum Eligibility Requirements are Not Met:* Section 2.2-115 of the Virginia Code requires that the Company achieve both of the Statutory Minimum Requirements in order to be eligible for the COF Grant. If the Company received the First Disbursement, but fails to meet both of the Statutory Minimum Requirements as of the Performance Date, the Company will be considered to have breached this Agreement and the Company must repay to VEDP all of the COF Grant proceeds previously disbursed to the Company.

(b) *If Statutory Minimum Eligibility Requirements are Met:* The provisions of this subsection (b) shall become applicable only if the Company has met the Statutory Minimum Requirements, and has received the First Disbursement of \$\_\_\_\_\_ of the proceeds of the COF Grant prior to the Performance Date, in accordance with Section 3(a).

If the Company has not met either or both of its Targets as of the Performance Date, the Company shall repay to VEDP that part of the COF Grant previously disbursed to the Company that is proportional to the Target or Targets for which there is a shortfall. For example, if as of the Performance Date, the Company has received \$\_\_\_\_\_ of the COF Grant proceeds, but only \$\_\_\_\_\_ of the Capital Investment has been made and retained (reflecting achievement of [60]% of the Capital Investment Target), and only \_\_\_ New Jobs have been created and Maintained (reflecting achievement of [50]% of the New Jobs Target), the Company shall repay to VEDP \$\_\_\_\_\_, reflecting [40]% of the \$\_\_\_\_\_ of the COF Grant proceeds that it received allocated to the Capital Investment Target, *plus* \$\_\_\_\_\_, reflecting [50]% of the \$\_\_\_\_\_ of the COF Grant proceeds that it received allocated to the New Jobs Target, for a total repayment amount of \$\_\_\_\_\_. These amounts represent the percentages of the shortfall at the Performance Date from the expected amount of Capital Investment and expected number of New Jobs, each multiplied by the portion of the COF Grant proceeds that the Company received allocated to that Target.

(d) *Determination of Inability to Comply:* If the Locality, the Authority or VEDP shall determine at any time prior to the Performance Date (a “Determination Date”) that the Company is unable or unwilling to meet and Maintain its Targets by and through the Performance Date, and if the Locality, the Authority or VEDP shall have promptly notified the Company of such determination, the Company must repay to VEDP all of the COF Grant proceeds, if any, previously disbursed to the Company. Such a determination will be based on such circumstances as a filing by or on behalf of the Company under Chapter 7 of the U.S. Bankruptcy Code, the liquidation of the Company, an abandonment of the Facility by the Company or other similar significant event that demonstrates that the Company will be unable or is unwilling to satisfy the Targets for the COF Grant. If the Determination Date is after the First Disbursement, the Company will repay to VEDP all of the COF Grant proceeds previously disbursed to the Company. If the Determination Date is prior to the Disbursement, this Agreement will be

terminated, and the amount not yet disbursed will be retained in the Fund and will become available for other economic development projects.

(e) *Repayment:* The Company shall be liable for any repayment of all or a portion of the COF Grant, to the extent described in this Section 7. ***Such repayment shall be due from the Company to VEDP within ninety days after the Performance Date or the Determination Date, as applicable.*** Any moneys repaid by the Company to VEDP shall be redeposited by VEDP into the Fund. The Locality and the Authority shall use their best efforts to recover such funds, including legal action for breach of this Agreement. In any such matter, the Company shall be liable to pay interest, administrative charges, attorneys' fees and other applicable fees. Neither the Locality nor the Authority shall have any responsibility for the repayment of any sums payable by the Company hereunder unless said sums have been received by the Locality or the Authority from the Company.

(f) *Failure to Repay:* If any repayment due from the Company pursuant to this Section 7 is not made by the Company when due, the Board may determine that further collection action is required, and the Board may refer the matter to the Office of the Attorney General (the "OAG") for collection pursuant to Section 2.2-518 of the Virginia Code. In such event, by their signatures below, the Locality and the Authority will be deemed to have assigned to the Commonwealth all of their rights, title and interest in and to this Section 7. In any matter referred to the OAG for collection, the Company shall be liable to pay interest, administrative charges, attorneys' fees and other applicable fees. Interest on any outstanding repayment referred to the OAG shall accrue at the rate set forth in Section 6.2-301 A. of the Virginia Code (currently 6.0% per year) for the period from the Performance Date or the Determination Date, as applicable, until paid.

**Section 8. Notices.** Formal notices and communications between the parties shall be given either by (i) personal service, (ii) delivery by a reputable document delivery service that provides a receipt showing date and time of delivery, (iii) mailing utilizing a certified or first class mail postage prepaid service of the United States Postal Service that provides a receipt showing date and time of delivery, or (iv) delivery by electronic mail (email) with transmittal confirmation and confirmation of delivery, addressed as noted below. Notices and communications personally delivered or delivered by document delivery service shall be deemed effective upon receipt. Notices and communications mailed shall be deemed effective on the second business day following deposit in the United States mail. Notices and communications delivered by email shall be deemed effective the next business day, not less than 24 hours, following the date of transmittal and confirmation of delivery to the intended recipient. Such written notices and communications shall be addressed to:

if to the Company, to:

with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_  
Email: \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_  
Email: \_\_\_\_\_

Attention: \_\_\_\_\_

Attention: \_\_\_\_\_

if to the Locality, to:

with a copy to:

[City/County/Town] of \_\_\_\_\_, Virginia

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

Attention: \_\_\_\_\_

Attention: \_\_\_\_\_

if to the Authority, to:

with a copy to:

[Industrial/Economic Development Authority  
of \_\_\_\_\_, [Virginia]

[City/County/Town] of \_\_\_\_\_, Virginia

c/o [City/County/Town] of \_\_\_\_\_, Virginia

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

Attention: \_\_\_\_\_

Attention: \_\_\_\_\_

if to VEDP, to:

with a copy to:

Virginia Economic Development Partnership  
One James Center, Suite 900  
901 East Cary Street  
Richmond, Virginia 23219  
Email: moret@vedp.org  
Attention: President and CEO

Virginia Economic Development Partnership  
One James Center, Suite 900  
901 East Cary Street  
Richmond, Virginia 23219  
Email: smcninch@vedp.org  
Attention: General Counsel

**Section 9. Miscellaneous.**

(a) *Entire Agreement; Amendments:* This Agreement constitutes the entire agreement among the parties hereto as to the COF Grant and may not be amended or modified, except in writing, signed by each of the parties hereto. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights and obligations under this Agreement without the prior written consent of the Locality, the Authority and VEDP.

(b) *Governing Law; Venue:* This Agreement is made, and is intended to be performed, in the Commonwealth and shall be construed and enforced by the laws of the Commonwealth. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Circuit Court of the City of Richmond, and such litigation shall be brought only in such court.

(c) *Counterparts*: This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument.

(d) *Severability*: If any provision of this Agreement is determined to be unenforceable, invalid or illegal, then the enforceability, validity and legality of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

(e) *Attorney's Fees*: [Except as provided in Section 7,] [a]ttorney's fees shall be paid by the party incurring such fees.

(f) *Force Majeure*: Notwithstanding the foregoing provisions of this Agreement, if the Company does not achieve a Target or take any action required under this Agreement because of an "Event of Force Majeure" (as defined below), the time for achieving the applicable Target or taking such action will be extended day-for-day by the delay in meeting the applicable Target or taking such action caused by the Event of Force Majeure. "Event of Force Majeure" means without limitation, any of the following: acts of God; strikes, lockouts or other industrial disturbances; act of public enemies; orders of any kind of the government of the United States of America or of the Commonwealth or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; pandemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals not caused by the Company; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Company.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the parties hereto have executed this Performance Agreement as of the date first written above.

**[CITY/COUNTY/TOWN OF \_\_\_\_, VIRGINIA]**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**[INDUSTRIAL/ECONOMIC DEVELOPMENT  
AUTHORITY OF \_\_\_\_\_[, VIRGINIA]**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**[COMPANY]**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**VIRGINIA ECONOMIC  
DEVELOPMENT PARTNERSHIP  
AUTHORITY**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

- Exhibit A: Performance Report Form
- Exhibit B: Final Performance Report Form

**PERFORMANCE REPORT  
COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND**

**PROJECT SUMMARY:**

Project	
Location	
Amount of Grant	
Performance Reporting Period	
Performance Date	

**PROJECT PERFORMANCE<sup>4</sup>:**

<b>Performance Measurement</b>	<b>Target</b>	<b>As of _____</b>	<b>% Complete</b>
<b>New Jobs</b> (over _____ baseline) <sup>1</sup>			
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Capital Investment</b> (provide breakdown below) <sup>2</sup>			
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Average Annual Wage</b>			<b>N/A</b>
Confidence level target will be reached by Performance Date shown above (check one)	High <input type="checkbox"/>	Moderate <input type="checkbox"/>	Low <input type="checkbox"/>
<b>Standard Fringe Benefits</b> (check one)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<b>N/A</b>
<b>Virginia Corporate Income Tax Paid in Prior Calendar Year<sup>3</sup></b>	\$		

<sup>1</sup>Data will be verified using Virginia Employment Commission records. Attach the company's four most recent Quarterly Tax Reports (Form FC-20) filed with the Virginia Employment Commission.

<sup>2</sup> Data will be verified with locality records.

<sup>3</sup>This confidential information is protected from disclosure pursuant to § 2.2-3705.6 of FOIA.

<sup>4</sup>Final, actual performance will be reported on VEDP's public reporting website.

<b>Capital Investment Breakdown</b>	<b>Amount</b>
Land	\$
Land Improvements	\$
New Construction or Expansion	\$
Renovation or Building Up-fit	\$
Production Machinery and Tools	\$
Furniture, Fixtures and Equipment	\$
Other	\$
<b>Total</b>	<b>\$</b>

**COMMENTS:**

Discuss project status, including the current level of new jobs and capital investment, progress on targets, changes or likely changes in project's nature that may impact achievement of targets, and other information relevant to project performance. If the project is not on track to meet targets, please provide an explanation.

**TO BE CERTIFIED BY AN OFFICER OF THE COMPANY:**

I certify that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete.

Company: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
Signature of Official

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

Title: \_\_\_\_\_

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

Please return to:

Kim Ellett, Incentives Compliance Manager, Virginia Economic Development Partnership,  
804.545.5618, kellett@vedp.org

## FINAL PERFORMANCE REPORT COMMONWEALTH'S DEVELOPMENT OPPORTUNITY FUND

**PROJECT SUMMARY:**

Project	
Location	
Amount of Grant	
Performance Date	

**PROJECT PERFORMANCE:<sup>1</sup>**

Performance Measurement	Target	As of _____, 20__	% Complete
<b>New Jobs</b> (over ___ baseline) <sup>2</sup>			
<b>Capital Investment</b> (provide breakdown below) <sup>3</sup>			
<b>Average Annual Wage</b>			N/A
<b>Standard Fringe Benefits</b>			
<b>Virginia Corporate Income Tax Paid in Prior Calendar Year<sup>4</sup></b>	\$		

Capital Investment Breakdown	Amount
Land	\$
Land Improvements	\$
New Construction or Expansion	\$
Renovation or Building Up-fit	\$
Production Machinery and Tools	\$
Furniture, Fixtures and Equipment	\$
Other	\$
<b>Total</b>	<b>\$</b>

<sup>1</sup>Final, actual performance will be reported on VEDP's public reporting website.

<sup>2</sup> Attach the company's four most recent Quarterly Tax Reports (Form FC-20) filed with the Virginia Employment Commission.

<sup>3</sup> Data will be verified using records from the Commissioner of the Revenue and invoices.

<sup>4</sup>This confidential information is protected from disclosure pursuant to § 2.2-3705.6 of FOIA

**LOCAL MATCH:**

Goal	
Actual	

**COMMENTS:**

Discuss Project status or the importance of the Project to the locality and region.

**TO BE CERTIFIED BY AN OFFICER OF THE COMPANY:**

I certify that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete.

Company: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
Signature of Official

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

Title: \_\_\_\_\_

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

Please return to:

Kim Ellett, Incentives Compliance Manager, Virginia Economic Development Partnership,  
804.545.5618, [kelllett@vedp.org](mailto:kelllett@vedp.org)



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager  
Lionel Lyons, Deputy City Manager of Development  
Reginald Tabor, Interim Director of Planning & Zoning

**FROM:** Jeremy Tennant

**RE:** **Consideration on the creation of a Technology Zone at the former Southside Regional Medical Center site.**

**PURPOSE:** To expand the existing Technology Zone to another site within the City

**REASON:** To expand the Technology Zone to another site within the City.

### RECOMMENDATION:

Staff recommends not expanding the existing Technology Zone at this time as the potential uses allowed within the Technology Zone would not be compatible under the current RB Office-Apartment District Regulations. If the City Council were so inclined to move forward on expanding the Technology Zone to the former Southside Regional Medical Center site, then staff would recommend a study be conducted on the site, through the City Planning Commission, to ensure that a PUD that allows manufacturing can be placed on the site to allow a compliant use that will fit within the character of the neighborhood.

### BACKGROUND:

During the December 8, 2020 City Council Public Hearing, Councilmember Cuthbert raised a question after the City Council and Public were briefed on the proposed amendments to the definitions, incentives, procedures, compliance and confidentiality sections of the I-95 Technology Zone. Councilmember Cuthbert made the following inquiry, “*If we were to extend the Technology Zone to the former Southside Regional Medical Center (SRMC) site what are the benefits and is it feasible?*” As a follow up to that inquiry, on January 19, 2021 Councilmember Cuthbert requested through the City Manager that staff address the potential addition of another Technology Zone at the former SRMC site or potentially anywhere else in the City of Petersburg and if applicable, the next steps to be taken to do so and a timeline to complete those steps.

The Code of Virginia provides that:

1. Any city, county or town may establish, by ordinance, one or more technology zones. Each locality may grant tax incentives and provide certain regulatory flexibility in a technology zone.

2. The tax incentives may be provided for up to ten years and may include, but not be limited to: (i) reduction of permit fees; (ii) reduction of user fees; and (iii) reduction of any type of gross receipts tax. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.
3. The governing body may also provide for regulatory flexibility in such zone which may include, but not be limited to: (i) special zoning for the district; (ii) permit process reform; (iii) exemption from ordinances; and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to ten years.
4. Each locality establishing a technology zone pursuant to this section may also adopt a local enterprise zone development taxation program for the technology zone as provided in § 58.1-3245.12.
5. The establishment of a technology zone shall not preclude the area from also being designated as an enterprise zone.

The City of Petersburg City Council adopted Ord. No. 03-52, July 15, 2003, finding that certain classes of high technology business activities have special economic significance to the city due to the nature of the technology and their potential for high growth in employment and capital investment. The City Council further found that the most appropriate method of encouraging the location of new businesses and the expansion of certain existing classes of technology businesses is to create a technology zone with particular boundaries and located on the east side of Interstate 95, and as authorized by the 1950 Code of Virginia, § 58.1-3850, as amended. The City Council determined that the establishment of this technology zone will improve economic conditions, hasten redevelopment, and benefit the welfare of its citizens.

To incentivize high technology business development, capital investment grants were established to be provided to qualified technology businesses. The grant is based on the new or qualifying existing equipment within the technology zone. Each annual installment of the capital investment grant is calculated based on the machinery and tools taxes paid by a qualified technology business on such new equipment in that calendar year. The grant is equal to 100 percent of the machinery and tools taxes paid in years one through five attributable to such new or qualifying existing equipment.

The former Southside Regional Hospital site is located at 801 South Adams Street (Parcel 031300002). The 2014 Comprehensive Plan indicates that the area is designated for Public Use. The current zoning of the parcel is RB Office-Apartment District Regulations. Uses by businesses locating in the zone would have to conform to the zoning requirements.

Permitted uses within the RB Zoning District include:

1. Any use permitted in the "R-5" Multiple Dwelling District;
1. Any use permitted in the "R-1" Two-Family Residence District and the "R-3" Two-Family Residence District;
  2. Multiple-family dwellings;
  3. Private clubs, fraternities, sororities, and lodges excepting those the chief activity of which is a service customarily carried on as a business;
  4. Parking areas (Ground level);
  5. Accessory buildings and uses not otherwise prohibited in this section;
  6. Nonprofit religious, educational and philanthropic institutions.
2. Business and professional offices, and office buildings and research laboratories; provided however, that there shall be no advertising sign or device on the lot, on the building, or in or on

any of the exterior doors or windows of the building, except for each business or professional office occupying the building, there may be one advertising sign not exceeding two (2) square feet in area attached to the exterior of the building; that no building may be constructed with, or altered to produce a store front, show window or display window; there shall be no display from windows or doors and no storage of merchandise in the building or on the premises; there shall be no machinery or equipment, other than machinery or equipment customarily found in professional or business offices, used or stored in the building or on the lot; that required off-street parking shall be provided in the rear of such buildings or in the portion of the side yards, except adjacent to a street, if a corner lot, lying to the rear of extensions of the front line of such building.

The site is surrounded by residential land uses to the North, East and West. The property within the current Technology Zone is zoned M-2 Heavy Industrial District which allows manufacturing.

To achieve the Technology Zone purpose of promoting high growth in employment and capital investment by encouraging the location of new businesses and the expansion of certain existing classes of technology businesses, businesses would have to comply with the RB zoning or the property at the former Southside Regional Hospital site would have to be rezoned. The new zoning could be PUD Planned Unit Development District to allow for any potential use to be compatible with the adjacent residential uses. If the property is rezoned to M-1, Light Industrial District or M-2, Heavy Industrial District, it would not be compatible with adjacent residential uses.

**COST TO CITY:** N/A

**BUDGETED ITEM:** N/A

**REVENUE TO CITY:** TBD

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:** Department of Economic Development  
Department of Planning and Community Development  
Department of Finance  
Department of Budget and Procurement  
Commissioner of Revenue

**AFFECTED AGENCIES:**

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:**

**REQUIRED CHANGES TO WORK PROGRAMS:**

**ATTACHMENTS:**

1. PresentationTechnologyZone\_Item\_CC03022021
2. Technology Zone 1st Reading CC

# Technology Zone Expansion Discussion

Presented by:

Departments of Economic Development

&

Planning and Community Development



February 2, 2021



# Code of Virginia

A. Any city, county or town may establish, by ordinance, one or more **technology zones**. Each locality may **grant tax incentives** and **provide** certain **regulatory flexibility** in a technology zone.

B. The **tax incentives** may be provided for **up to ten years** and may

include, but not be limited to: (i) **reduction of permit fees**; (ii) reduction of **user fees**; and (iii) reduction of any type of **gross**

**receipts tax**. The extent and duration of such incentive proposals

shall conform to the requirements of the Constitutions of Virginia

and of the United States.

C. The governing body may also provide for **regulatory flexibility** in

such zone which may include, but not be limited to: (i) **special**

**zoning** for the district; (ii) **permit process** reform; (iii) **exemption**

from **ordinances**; and (iv) any other **incentive adopted by**

ordinance, which shall be binding upon the locality for a



# Code of Virginia

§58.1-3850. Creation of local technology zones.

D. Each locality establishing a technology zone pursuant to this section

may also **adopt a local enterprise zone development taxation program** for the technology zone as provided in § 58.1-3245.12.

E. The establishment of a technology zone shall **not preclude** the area

from also being designated as an **enterprise zone**.



# Types of Technology Zone throughout the State of Virginia

79 Technology Zones Statewide  
Virginia Economic Development Partnership (VEDP)

- Technological Research
  - Data Centers
  - Software
  - Cybersecurity
  - Unmanned Systems
- Design and Manufacturing
  - Advanced Materials
  - Aerospace
  - Automotive
  - Wood Products
  - Food & Beverage Processing



# City of Petersburg Technology Zone Background

## Enabling State Statute

- Approved by the General Assembly of Virginia on **April 2, 2002** (§ 58.1-3245.12)

## Approval

- Approved initially by Council on **July 15, 2003** (Ordinance No. 03-52)
- Amended on October 21, 2014 (Ordinance No. 14-101)
- Amended on October 6, 2020 (Ordinance No. 193-2020)

## Purpose

To allow and encourage certain classes of high technology business activities (**pharmaceutical research and development, manufacturing and/or production entities**) that have special economic significance to the City due to the nature of the technology and potential for high growth in employment and capital investment.

## Incentive

Per the approved ordinances, the **incentive** is **equal to 100%** of the **machinery and tools taxes** paid in years **one through five**; however, can be extended to a total of **ten years**.

## Process

Applications are distributed to certified businesses each **calendar year**. Certified businesses must **apply** for the Technology Zone **annually** for the entire time they are part of the program.

The proposal presented is to clarify the program for all parties moving forward.



# City of Petersburg Intent of the Technology Zone:

- **Improve Economic Conditions**
- **Hasten Redevelopment**
- **Benefit the welfare of its citizens**



# Existing I-95 Technology Zone Boundary Map





# Existing Technology Zone I-95 Technology Zone

- **2820 N. Normandy Drive**  
(Parcel 063010001) & (Parcel 063010800)
- **Property Owner: AMPAC Fine Chemicals**
- **Acres: 41**
- **Zoning: M-2 Heavy Industrial District**
- **Comprehensive Plan: Heavy Industrial**



# Adjacent Land Uses

- North, East and West  
**Industrial Land Uses**
- South  
**Commercial Land Uses**





Proposed  
Technology Zone  
Location:  
**Former South  
Side Regional  
Medical Center  
(SRMC)**

- **801 Adams Street (Parcel: 031300002)**
- **Property Owner: City of Petersburg**
- **Acres: 22.5**
- **Zoning: RB Office-Apartment District**
- **Comprehensive Plan: Public Use Designation**



# Site: 801 S Adams St





**Site:**  
**801 S Adams St**  
(zoomed in)





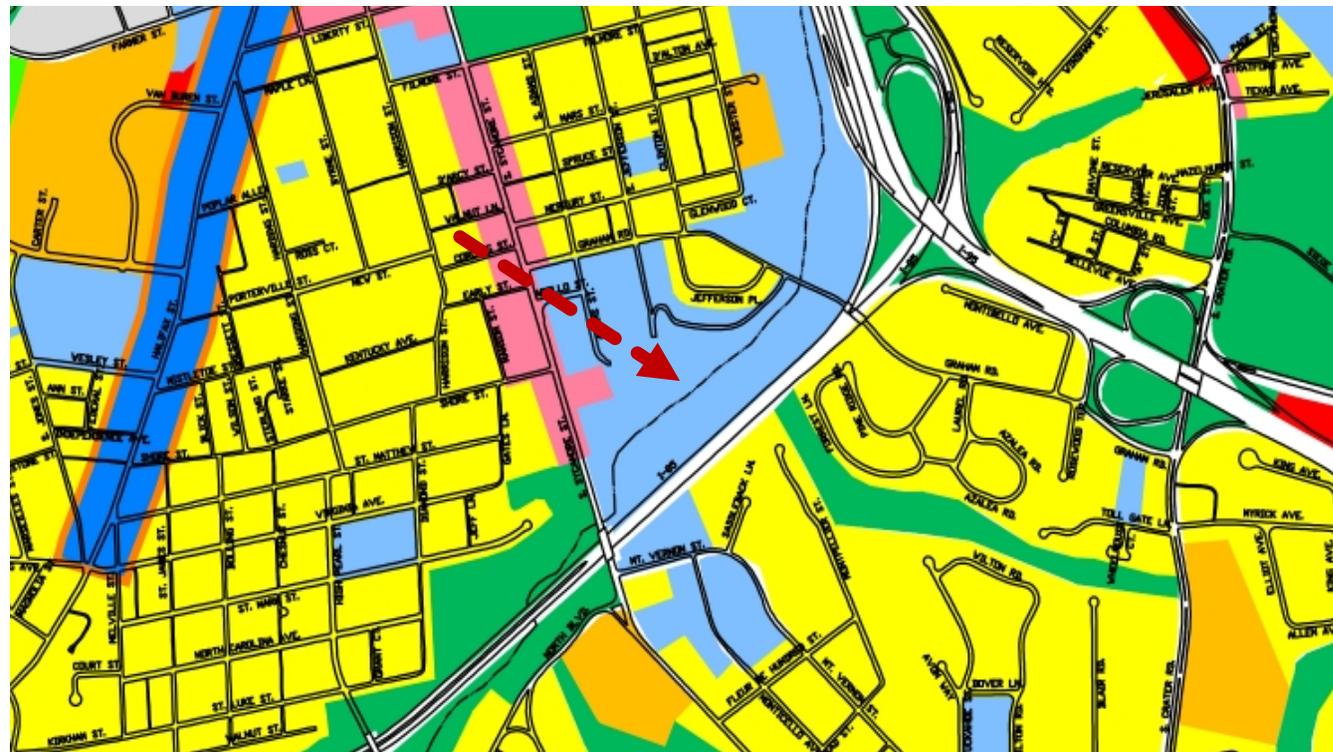
# Adjacent Land Uses

- North and East  
**Residential Land Uses**
- West  
**Commercial Land Uses**
- South  
**Open Space**





# Comprehensive Plan Future land Use: **Public Use**





# Zoning: **Residential Business (RB) Zoning District**





# Zoning: **Residential Business (RB)**

## Section 2. Use regulations.

A building or premises shall be used only for the following purposes:

- 1. Business and professional offices**, and office buildings and **research laboratories**;
  - a. There shall be **no machinery or equipment**, other than machinery or equipment customarily found in professional or business offices, used or stored in the building or on the lot.
- 2. Clinics**, including a **pharmacist's shop** for dispensing of drugs and medical supplies primarily to patients or occupants of the building;
- 3. Studio** for an artist, photographer, sculptor, or musician, including teaching of art, music, dancing, or other artistic instructions;



# Issues

Following are issues to be considered regarding the site at 801 South Adams Street:

1. Residential land uses adjacent to the property will be impacted by operations, therefore any proposed development and site use will need to consider and potentially mitigate impacts.
2. The Current Zoning, Residential Business District permits laboratories but does not permit industrial/ manufacturing uses.
3. Road and signal improvements may be required to accommodate an potential increase in traffic.
4. Uses and site specification requirements associated with Technology Businesses are unknown.



# Freeway Access

- Graham Road to South Crater Road
- Traffic Through Residential Areas





# Recommendations

Staff recommends:

1. A **study** regarding the **site specifications** and **land uses** of **technology businesses** by the **Economic Development Authority** is recommended.
2. A **study** regarding the **potential impacts** of a technology business development on the **adjacent neighborhoods** is recommended by the **Economic Development Authority** is recommended.
3. Once technology business site specifications and land uses are identified, and an **impact study** is completed, a review by the **Planning Commission** to **determine conformance** with the existing RB Office-Apartment District Regulations, or an **alternate zoning district** designation recommendation to City Council is recommended.
4. City Council considers an ordinance establishing a Technology Zone at 801 South Adams Street with the information and recommendations received.



# Questions & Comments?





## City of Petersburg

Department of Planning and Community Development  
135 N Union St, Room 304  
Petersburg, VA 23803  
(804) 733-2308

# MEMORANDUM

**DATE:** March 2, 2021  
**TO:** Kenneth Miller, Interim City Manager  
**THROUGH:** Lionel D. Lyons, Deputy City Manager - Development  
**THROUGH:** Reginald Tabor, Interim Director of Planning and Community Development  
**FROM:** Jeremy Tennant, Assistant to the City Manager  
**RE:** Technology Zone Expansion

---

**SUMMARY:** The property is located at 801 South Adams Street (Parcel 031300002). The zoning is RB Office-Apartment District Regulations. The 2014 Comprehensive Plan indicates that the area is designated for Public Use.

In order for the Technology Zone (within its current language and constraints) to be utilized at the former Southside Regional Medical Center site, the parcel will have to undergo the PUD Planned Unit Development zoning change process as it is surrounded by residential land uses to the north, east and west (PUD, Two-Family Residence District, and High-Rise District Regulations). The current Technology Zone rests within a M-1 Light Industrial District which allows manufacturing. Any proposed PUD would have to incorporate requirements to allow for the any potential use to be compatible to the adjacent residential uses.

**BACKGROUND:** During the December 8, 2020 City Council Public Hearing, Councilmember Cuthbert raised a question after the City Council and Public were briefed on the proposed amendments to the definitions, incentives, procedures, compliance and confidentiality sections of the I-95 Technology Zone. Councilmember Cuthbert made the following inquiry, "*If we were to extend the Technology Zone to the former Southside Regional Medical Center (SRMC) site what are the benefits and is it feasible?*" As a follow up to that inquiry, on January 19, 2021

Councilmember Cuthbert requested through the City Manager that staff address the potential addition of another Technology Zone at the former SRMC site or potentially anywhere else in the City of Petersburg and if applicable, the next steps to be taken to do so and a timeline to complete those steps.

The Code of Virginia provides that:

- A. Any city, county or town may establish, by ordinance, one or more technology zones. Each locality may grant tax incentives and provide certain regulatory flexibility in a technology zone.
- B. The tax incentives may be provided for up to ten years and may include, but not be limited to: (i) reduction of permit fees; (ii) reduction of user fees; and (iii) reduction of any type of gross receipts tax. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.
- C. The governing body may also provide for regulatory flexibility in such zone which may include, but not be limited to: (i) special zoning for the district; (ii) permit process reform; (iii) exemption from ordinances; and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to ten years.
- D. Each locality establishing a technology zone pursuant to this section may also adopt a local enterprise zone development taxation program for the technology zone as provided in § 58.1-3245.12.
- E. The establishment of a technology zone shall not preclude the area from also being designated as an enterprise zone.

The City of Petersburg City Council adopted Ord. No. 03-52, July 15, 2003, finding that certain classes of high technology business activities have special economic significance to the city due to the nature of the technology and their potential for high growth in employment and capital investment. The City Council further found that the most appropriate method of encouraging the location of new businesses and the expansion of certain existing classes of technology businesses is to create a technology zone with particular boundaries and located on the east side of Interstate 95, and as authorized by the 1950 Code of Virginia, § 58.1-3850, as amended. The City Council determined that the establishment of this technology zone will improve economic conditions, hasten redevelopment, and benefit the welfare of its citizens.

To incentivize high technology business development, capital investment grants were established to be provided to qualified technology businesses. The grant is based on the new or qualifying existing equipment within the technology zone. Each annual installment of the capital investment grant is calculated based on the machinery and tools taxes paid by a qualified technology business on such new equipment in that calendar year. The grant is equal to 100 percent of the machinery and tools taxes paid in years one through five attributable to such new or qualifying existing equipment.

The former Southside Regional Hospital site is located at 801 South Adams Street (Parcel 031300002). The 2014 Comprehensive Plan indicates that the area is designated for Public Use. The current zoning of the parcel is RB Office-Apartment District Regulations. Uses by businesses locating in the zone would have to conform to the zoning requirements.

Permitted uses within the RB Zoning District include:

1. Any use permitted in the "R-5" Multiple Dwelling District;
  - (1) Any use permitted in the "R-1" Two-Family Residence District and the "R-3" Two-Family Residence District;
  - (2) Multiple-family dwellings;
  - (3) Private clubs, fraternities, sororities, and lodges excepting those the chief activity of which is a service customarily carried on as a business;
  - (4) Parking areas (Ground level);
  - (5) Accessory buildings and uses not otherwise prohibited in this section;
  - (6) Nonprofit religious, educational and philanthropic institutions.
2. Business and professional offices, and office buildings and research laboratories; provided however, that there shall be no advertising sign or device on the lot, on the building, or in or on any of the exterior doors or windows of the building, except for each business or professional office occupying the building, there may by one advertising sign not exceeding two (2) square feet in area attached to the exterior of the building; that no building may be constructed with, or altered to produce a store front, show window or display window; there shall be no display from windows or doors and no storage of merchandise in the building or on the premises; there shall be no machinery or equipment, other than machinery or equipment customarily found in professional or business offices, used or stored in the building or on the lot; that required off-street parking shall be provided in the rear of such buildings or in the portion of the side yards, except adjacent to a street, if a comer lot, lying to the rear of extensions of the front line of such building.

The site is surrounded by residential land uses to the North, East and West. The property within the current Technology Zone is zoned M-2 Heavy Industrial District which allows manufacturing.

To achieve the Technology Zone purpose of promoting high growth in employment and capital investment by encouraging the location of new businesses and the expansion of certain existing classes of technology businesses, businesses would have to comply with the RB zoning or the property at the former Southside Regional Hospital site would have to be rezoned. The new zoning could be PUD Planned Unit Development District to allow for any potential use to be compatible with the adjacent residential uses. If the property is rezoned to M-1, Light Industrial District or M-2, Heavy Industrial District, it would not be compatible with adjacent residential uses.

**RECOMMENDATION:** Staff recommends not expanding the existing Technology Zone at this time as the potential uses allowed within the Technology Zone would not be compatible under the current RB Office-Apartment District Regulations. If the City Council were so inclined to move forward on expanding the Technology Zone to the former Southside Regional Medical Center site, then staff would recommend a study be conducted on the site, through the City Planning Commission, to ensure that a PUD that allows manufacturing can be placed on the site to allow a compliant use that will fit within the character of the neighborhood.

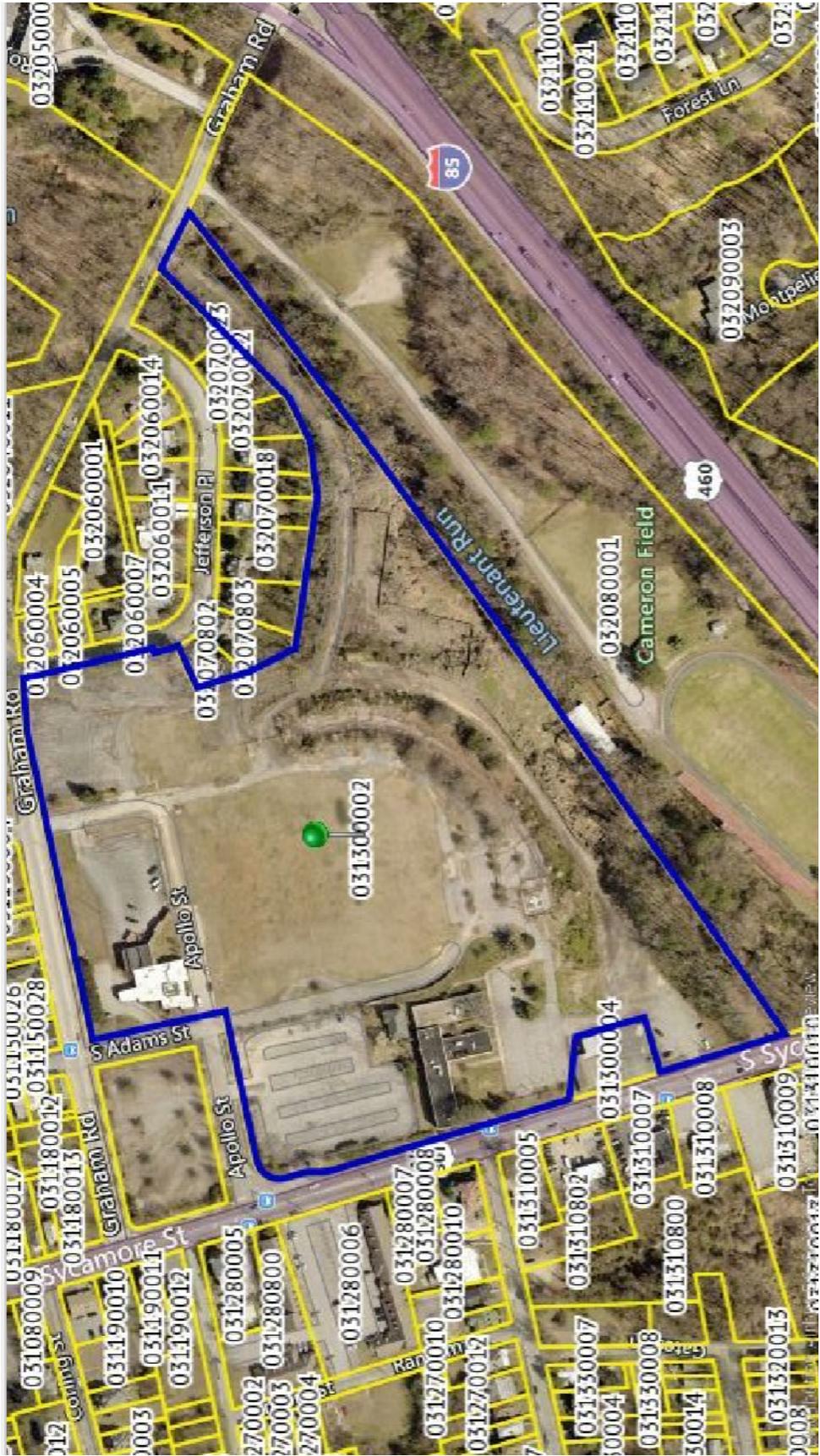
**ATTACHMENTS:** SRMC Maps

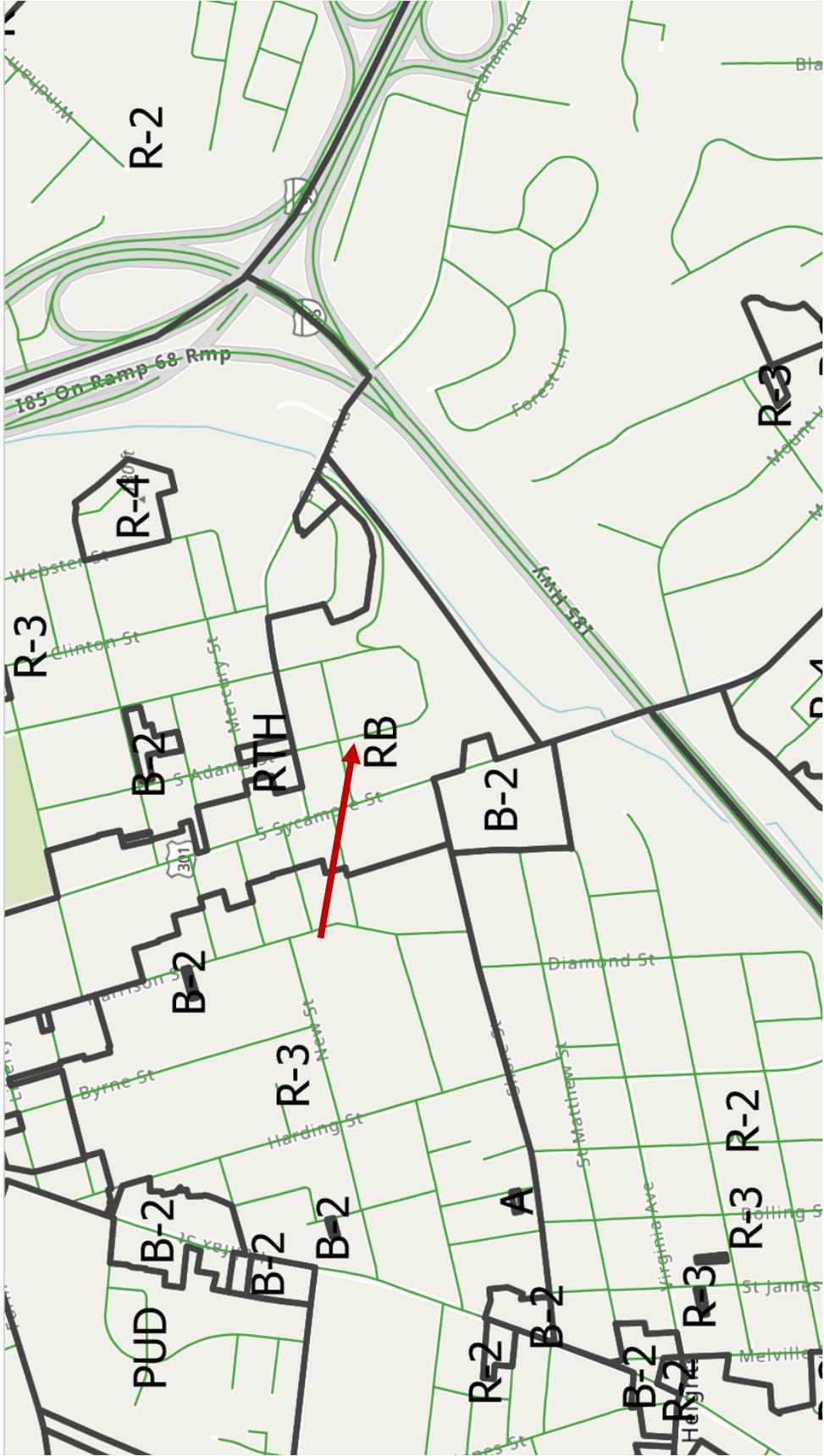
Ordinance for 1<sup>st</sup> Reading

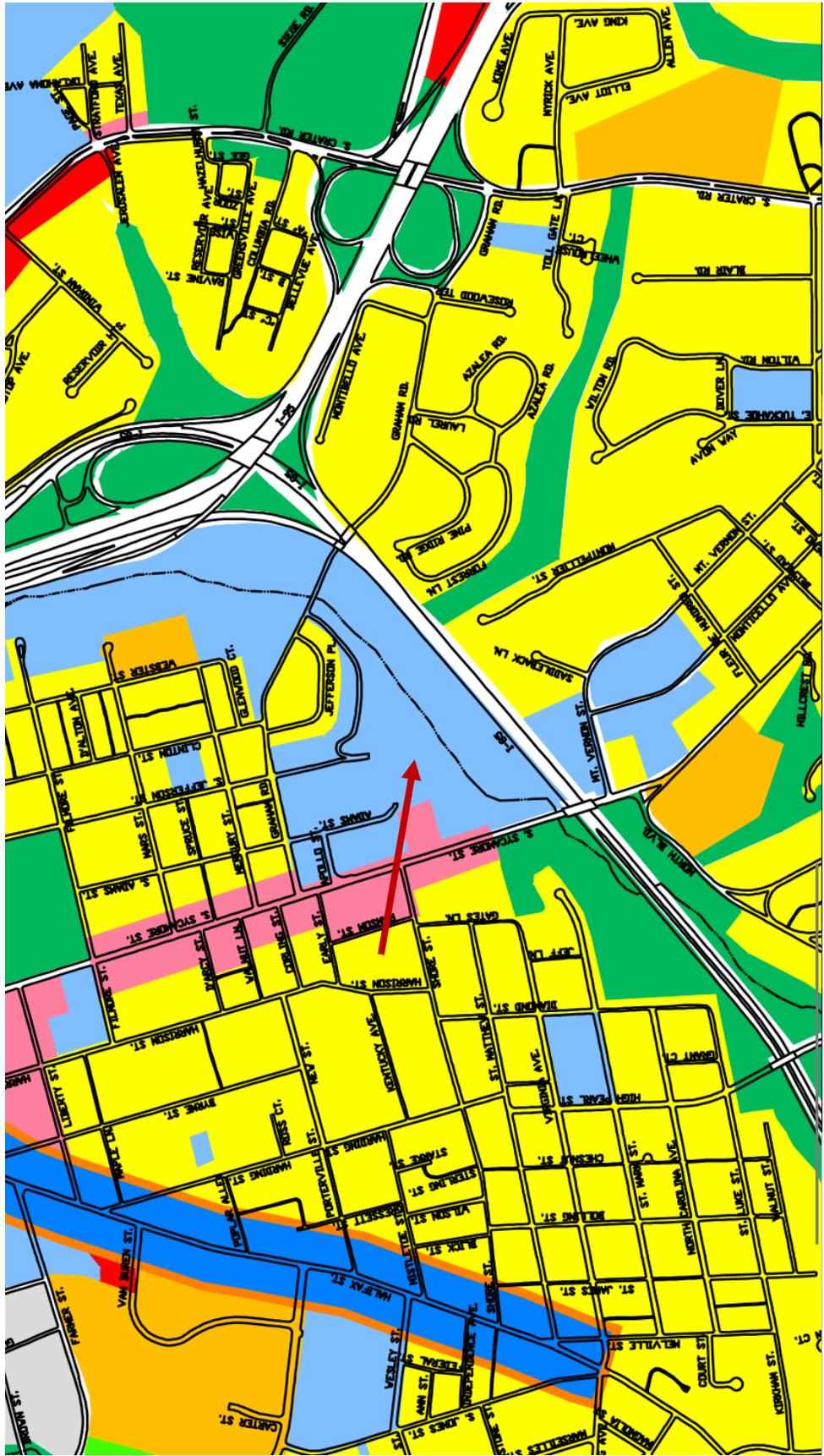
Exhibit A

**STAFF:** Jeremy Tennant, Assistant to the City Manager









# ORDINANCE

## **AN ORDINANCE ADDING THE CITY OF PETERSBURG CODE, ARTICLE VI, SRMC TECHNOLOGY ZONE**

WHEREAS, the City Council adopted Ord. No. 03-52, July 15, 2003, finding that certain classes of high technology business activities have special economic significance to the city due to the nature of the technology and their potential for high growth in employment and capital investment; and

WHEREAS, the City Council further found that the most appropriate method of encouraging location of new businesses and the expansion of certain existing classes of technology businesses is to create a technology zone with particular boundaries as designated herein and located on the former Southside Regional Medical Center Site on the east side of South Sycamore Street, bounded by the following streets: Apollo Street, South Adams Street and South Jefferson Street and as authorized by the 1950 Code of Virginia, § 58.1-3850, as amended; and

WHEREAS, the City Council determined that the establishment of this technology zone will improve economic conditions, hasten redevelopment, and benefit the welfare of its citizens; and

WHEREAS, to incentivize high technology business development, capital investment grants were established to be provided to qualified technology businesses, with grants being based on the new or qualifying existing equipment within the technology zone; and

WHEREAS, each annual installment of the capital investment grant is calculated based on the machinery and tools taxes paid by a qualified technology business on such new equipment in that calendar year, and the grant is equal to 100 percent of the machinery and tools taxes paid in years one through five attributable to such new or qualifying existing equipment; and

WHEREAS, there is a need to add the Code Article regarding the Technology Zone to expand the existing Technology Zone benefits to the former Southside Regional Medical Center Site (SRMC) to the SRMC Technology Zone site.

WHEREAS, additions to the City Code require approval through an adopted ordinance approved by the City Council, and the Technology Zone is defined in the City Code and requires such approval.

NOW THEREFORE BE IT ORDAINED, that the City Council of the City of Petersburg hereby approve the addition to the City Code regarding the addition of the SRMC Technology Zone section by including the existing language and benefits of the I-95 Technology Zone to the SRMC Technology Zone.

## Exhibit A



**Address:** 801 South Adams Street

**Parcel ID:** 032080001



# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager  
Lionel Lyons, Deputy City Manager of Development

**FROM:** Reginald Tabor

**RE:** **The Department of Economic Development Marketing Material: Rack Card, Business Resource Directory, and Information Packet.**

**PURPOSE:** To provide an update to the City Council on The Department of Economic Development marketing materials.

**REASON:** To provide an update to the City Council on The Department of Economic Development marketing materials.

**RECOMMENDATION:** To provide an update to the City Council on The Department of Economic Development marketing materials.

**BACKGROUND:** The Department of Economic Development created marketing material to highlight how Petersburg is on the cutting edge of bioscience technology in an effort to attract new businesses and ultimately create industry clusters for each of Petersburg’s target industries: biosciences, retail, hospitality, and manufacturing.

**COST TO CITY:** NA

**BUDGETED ITEM:**

**REVENUE TO CITY:**

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:**

**AFFECTED AGENCIES:**

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:**

**REQUIRED CHANGES TO WORK PROGRAMS:**

**ATTACHMENTS:**

1. V7 Presentation
2. V4 RackCard
3. V1 BizResourceBro



# Petersburg, Virginia Economic Development Information Packet

# THE PETERSBURG, VIRGINIA ECONOMIC DEVELOPMENT INFORMATION PACKET BROUGHT TO YOU BY

The Petersburg, Virginia City Council

Mayor Samuel Parham

Vice Mayor Annette Smith-Lee

W. Howard Myers

Treska Wilson-Smith

John A. Hart Sr.

Charles Cuthbert

Darrin Hill

Sam Parham, mayor of Petersburg adds, "As mayor of the city of Petersburg, I am proud to present this document on economic development opportunities to prospective businesses considering the city of Petersburg as their potential home. Over the past few years, we have brought back bioscience to Petersburg. Council has worked diligently over the past five years to bring AMPAC Fine Chemicals, Phlow and Civica to our city as we welcome more business partners."

Our successes with new business can be viewed online with this announcement from the Governor of Virginia, Ralph Northam:

<https://www.governor.virginia.gov/newsroom/all-releases/2021/january/headline-891601-en.html>



# Economic Development in Petersburg

From agriculture to pharmaceuticals, Petersburg, Virginia is on the cutting edge of bioscience technology



Petersburg has been a leader in bioscience for centuries as a bioagricultural giant in the South's tobacco industry and now in the pharmaceutical industry with a \$354 million grant from the Federal Government to Phlow in 2020. Petersburg will lead the United States in developing new chemical and pharmaceutical drugs and vaccines will be manufactured locally.

# Biobusiness in Petersburg

# Plane Train Automobile

Petersburg is accessible via the following paths:

- Richmond International Airport (RIC) via Interstate 95,295 or Route 1
- Train via Amtrak, CSX, Norfolk Southern
- Major Highways



Interstate 95

Interstate 295

Interstate 85

Route 460

Route 360

Route 36

Route 1

Route 301

Nearly 70% of the US population can reach Petersburg within a day's drive or by train or plane in 3-4 hours.

Petersburg will complete the Park and Ride facility in late 2021 that will house 200+ cars for daily commuters from surrounding counties, cities and towns.

Petersburg, Virginia was settled in the 17th century and incorporated in 1748. After the American Revolution, Petersburg became a hub for railroads and by 1860, was the 2nd largest city in Virginia. The City is located 100 miles south of Washington DC and 25 miles from Virginia's capital, Richmond. Detail history segments from NPR appear on slide 9 of this presentation.

## Accessibility to Petersburg



Pharmaceutical and chemical companies, AMPAC Fine Chemicals (AFC), Phlow and Civica will have production facilities located on a 200 acre campus in Petersburg. Technology developed at nearby Virginia Commonwealth University (VCU) School of Engineering has enabled these companies to produce drugs and vaccines in a continuous flow. Instead of outsourcing 80% of its generic drugs, the US will be able to produce current and future pharmaceutical compounds internally. With three colleges/universities in the Petersburg area, companies will be able to employ graduates from any of the following:

- **Virginia Commonwealth University**

VCU is a public research university in Richmond, Virginia. VCU was founded in 1838 as the medical department of Hampden–Sydney College, becoming the Medical College of Virginia in 1854. In 1968, the Virginia General Assembly merged MCV with the Richmond Professional Institute, founded in 1917, to create Virginia Commonwealth University.

- **Virginia State University**

Virginia State University is a historically black public land-grant university in Ettrick, Virginia. Founded on March 6, 1882, Virginia State developed as the United State's first fully state-supported four-year institution of higher learning for black Americans.

- **Richard Bland College of William and Mary**

Richard Bland College is a public junior college associated with the College of William and Mary and located in Prince George County, Virginia. Richard Bland College was established in 1960 by the Virginia General Assembly as a branch of the College of William and Mary under the umbrella of "the Colleges of William and Mary"

- **John Tyler Community College**

John Tyler Community College, which opened in 1967, is named after Virginia native John Tyler, the tenth president of the United States. It serves the cities of Colonial Heights, Hopewell and Petersburg and the counties of Amelia, Charles City, Chesterfield, Dinwiddie, Prince George, Surry and Sussex.



# Higher Education near Petersburg

# Business Sectors

According to the Petersburg Chamber of Commerce (2018) Petersburg is home to over 4,221 businesses with 31,750 citizens

The types of businesses include the following:

- Banking
- Business and professional services
- Construction
- Education
- Government
- Health Care
- Manufacturing, production and wholesale
- Pharmaceutical and BioScience
- Real estate, moving and storage

The largest employers in the area are:

- Fort Lee
- Bon Secours Medical Hospital
- City of Petersburg Government and Schools
- Walmart



## Employment in Petersburg

# Benefits of living and working in Petersburg

According to Redfin.com, the cost of living in Petersburg is rated as “very competitive.” The median sale price of a home is \$170,000 or \$117 per sq foot. Data from areavibes.com also rates the city’s housing costs at 11% below the national average and ranks primary education test scores 22% higher than the national average.

Petersburg is home to Southside Medical Hospital, a 300-bed hospital. Founded in 1948 by the City of Petersburg, it was sold to Bon Secours Hospitals in 2019.

Old Towne Petersburg is consistently used as movie and television backdrops because of its nearly intact 1700s and 1800s architecture. *Movies, Harriet* and *Lincoln* were filmed in Petersburg; television shows, *Turn* and *Mercy Street* were also filmed here. The Virginia Film Office, which is a division of Virginia Tourism and Virginia’s Economic Development Partnership works with the Petersburg government to assuage permitting and policing for filming on location in a variety of areas around the city.

Old Towne has over 20 restaurants within walking distance of the courthouse and boasts numerous museums and shops which are part of the tourism brochure also located on this website.



*Lincoln, Harriet* and *Walking Dead* were filmed here at The Southside Depot.

## Assets in Petersburg

# Regional and National Recognition



CBS6 Saturday Morning with Phlow  
[Click here to watch video](#)



Virginia Municipal League  
Local Champion Awards 2020 Distributed statewide during the  
VML digital annual conference Oct 2020

[Click here to watch video](#)



ABC8/WRIC interview with Deputy City Manager  
Darnetta Tyus covering Cares Act Business Grants for  
Petersburg businesses

[Click here to watch video](#)



How the movie Harriet was filmed in Petersburg  
[Click here to watch video](#)

## TV Media in Petersburg

# Local Media in Petersburg

## ABC8/WRIC

[Petersburg delivering 7,500 Thanksgiving meals to residents | 8News](#)

## NBC12/WWBT

[https://www.nbc12.com/2020/11/15/petersburg-announces-holiday-meals-initiative/](#)

## CBS6/WTVR

### Thanksgiving 2020

[https://www.wtvr.com/our-rva/feed-the-need-city-restaurants-team-up-to-feed-families-in-petersburg](#)

# TV Media in Petersburg

# Regional and National Recognition

Links to radio media on NPR both locally and nationally  
These segments have aired on over 150 NPR stations across the US and  
The Armed Forces Radio Network from 2015 through 2020

The Keziah Affair, 1858	<a href="https://www.amomentintime.com/the-keziah-affair-1858/">https://www.amomentintime.com/the-keziah-affair-1858/</a>
The Lincoln and Grant Meeting	<a href="https://www.amomentintime.com/the-lincoln-and-grant-meeting/">https://www.amomentintime.com/the-lincoln-and-grant-meeting/</a>
Revolutionary War Battle of Petersburg	<a href="https://www.amomentintime.com/revolutionary-war-battle-of-petersburg/">https://www.amomentintime.com/revolutionary-war-battle-of-petersburg/</a>
Peter Jones-A Mystery	<a href="https://www.amomentintime.com/peter-jones-a-mystery/">https://www.amomentintime.com/peter-jones-a-mystery/</a>
Petersburg Cotton Industry	<a href="https://www.amomentintime.com/petersburg-cotton-industry/">https://www.amomentintime.com/petersburg-cotton-industry/</a>
Petersburg Harbor and Port	<a href="https://www.amomentintime.com/petersburg-harbor-and-port/">https://www.amomentintime.com/petersburg-harbor-and-port/</a>
Old Towne Petersburg P1	<a href="https://www.amomentintime.com/old-towne-petersburg-i/">https://www.amomentintime.com/old-towne-petersburg-i/</a>
Old Towne Petersburg P2	<a href="https://www.amomentintime.com/old-towne-petersburg-ii/">https://www.amomentintime.com/old-towne-petersburg-ii/</a>
McKenney Library Sit In 1960	<a href="https://www.amomentintime.com/mckenney-library-sit-in-1960/">https://www.amomentintime.com/mckenney-library-sit-in-1960/</a>
Petersburg Jones Trading Station	<a href="https://www.amomentintime.com/peter-jones-trading-station/">https://www.amomentintime.com/peter-jones-trading-station/</a>

A Moment in Time is hosted and produced by Dan Roberts, Professor of History at the University of Richmond  
Each of the segments also appears on SoundCloud across the globe



## Radio Media in Petersburg

# Local Recognition

## Links to radio media

<https://newsradiowrva.radio.com/media/audio-channel/sam-parham-and-aretha-ferrell-benavides-may-27-2020>

John Reid Show on WRVA May 2020  
Announcement of Phlow grant for the City of Petersburg

<https://newsradiowrva.radio.com/media/audio-channel/aretha-ferrell-benavides-july-22-2020>

John Reid Show on WRVA Sept 2020 Announcement of positive fund balance

# Radio Media in Petersburg

# National and Regional Magazine Recognition

## Links to print media



<https://icma.org/articles/pm-magazine/reconnecting-petersburg-virginia>

ICMA Magazine December 2020



<https://www.vml.org/vol-55-no-7-september-2020/>

VML Town and City Spotlight September 2020 Page 29



[https://vml.org/wp-content/uploads/pdf/VTCJulAug2018\\_web.pdf](https://vml.org/wp-content/uploads/pdf/VTCJulAug2018_web.pdf)

VML Town and City Spotlight August 2018 Page 24



<https://pamplinpark.org/wp-content/uploads/2019/07/Petersburg.pdf>

AAA Mid Atlantic Magazine July 2019



<http://www.virginaliving.com/culture/petersburg-rising/> Virginia Living Magazine

March 2019

# Print Media in Petersburg

# The Team

CITY MANAGER | Aretha R. Ferrell-Benevides | [city.manager@petersburg-va.org](mailto:city.manager@petersburg-va.org) | 804-733-2301

DEPUTY CITY MANAGER COMMUNITY OPERATIONS AND DEVELOPMENT | Lionel T. Lyons | [llyons@petersburg-va.org](mailto:llyons@petersburg-va.org) | 804-733-2301

DEPUTY CITY MANAGER COMMUNITY AFFAIRS | Darnetta Tyus | [dtyus@petersburg-va.org](mailto:dtyus@petersburg-va.org) | 804-203-4636

INTERIM DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT | Reginald Tabor [rtabor@petersburg-va.org](mailto:rtabor@petersburg-va.org) | 804-733-2308

ECONOMIC DEVELOPMENT FELLOW | Clay Mansell | [cmansell@petersburg-va.org](mailto:cmansell@petersburg-va.org) | 804-924-6623

ECONOMIC DEVELOPMENT MANAGER | Clay Hamner | [chamner@petersburg-va.org](mailto:chamner@petersburg-va.org) | 804-339-5818

DIRECTOR OF TOURISM | Sergei Troubetzkoy | [stroubetzky@petersburg-va.org](mailto:stroubetzky@petersburg-va.org) | 804-733-2300 Ext 3223

ECONOMIC DEVELOPMENT ADMIN ASSISTANT | Cynthia Boone | [cboone@petersburg-va.org](mailto:cboone@petersburg-va.org) | 804-733-2300 Ext 3223



## Economic Development in Petersburg

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# Economic Development

Petersburg, Virginia



For more information visit:

[www.petersburg-va.org/126/Economic-Development](http://www.petersburg-va.org/126/Economic-Development)



AMPAC Fine Chemicals and Phlow Corp. have made Petersburg, Virginia the location of their pharmaceutical manufacturing facilities on a 200 acre campus within the city limits.



General Contact Info  
[econdev@petersburg-va.org](mailto:econdev@petersburg-va.org)  
or 804.898.3645

### Here you will find:

- Contact Information
- Business Information
- Amenities
- Incentive Opportunities
- Real Estate Opportunities
- Access to the city



# Start Your Business

Longwood University/Crater  
Small Business Development Center (SBDC)

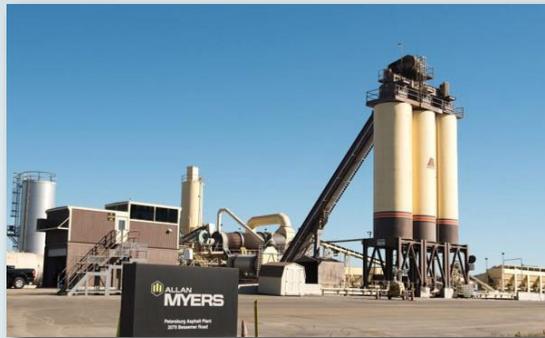
- Business Plan development, Financial Analysis and Concept Feasibility
- Resources such as Industry Reports and Demographics
- Training on General Business Topics  
(804) 518-2003  
[templetonme@longwood.edu](mailto:templetonme@longwood.edu)

City of Petersburg  
Commissioner of the Revenue

- Business License  
(804) 733-2315  
[bflowers@petersburg-va.org](mailto:bflowers@petersburg-va.org)

VSU Center for Entrepreneurship

- Research, Entrepreneurship Education and Services
- Tools to Help You with Your Business  
(804) 504-7080  
[www.vsuentrepreneurship.com/index.html](http://www.vsuentrepreneurship.com/index.html)



## City of Petersburg

Department of Economic Development  
135 N Union Street  
Petersburg, VA 23803  
(804) 898-3645  
[econdev@petersburg-va.org](mailto:econdev@petersburg-va.org)  
[petersburg-va.org](http://petersburg-va.org)



## Petersburg Business Resource Directory

We are your business partners, here to help you:

- Start your Business in Petersburg
- Locate Your Business in Petersburg
- Grow Your Business in Petersburg
- Finance Your Business in Petersburg
- Maintain a Workforce for your Business

## Locate Your Business

### City of Petersburg

#### Department of Economic Development

- Development Incentives
- Real Estate Development
- (804) 898-3645
- [econdev@petersburg-va.org](mailto:econdev@petersburg-va.org)
- [www.petersburg-va.org/126/Economic-Development](http://www.petersburg-va.org/126/Economic-Development)

### VA Economic Development Partnership (VEDP)

- Site selection and Development
- Retention and Expansion Assistance
- (804) 545-5600
- [info@vedp.org](mailto:info@vedp.org)
- [www.yesvirginia.org](http://www.yesvirginia.org)

### Virginia's Gateway Region

- Economic Development Information
- Available Sites and Buildings
- (804) 732-8971
- [info@gatewayregion.com](mailto:info@gatewayregion.com)
- [www.gatewayregion.com](http://www.gatewayregion.com)

## Workforce for Your Business

### Virginia Career Works – Crater Region

- Recruitment and Hiring Assistance
- Employee Training Services
- (804) 862-6155
- [admin@vcwcraterregion.com](mailto:admin@vcwcraterregion.com)
- [www.vcwcraterregion.com](http://www.vcwcraterregion.com)

### Community College Workforce Alliance

- Individual Workforce Training
- Custom-Designed Workforce Training
- (804) 706-5175
- [help@ccwa.vccs.edu](mailto:help@ccwa.vccs.edu)
- [www.ccwatraining.org](http://www.ccwatraining.org)

## Grow Your Business

### The Petersburg Chamber of Commerce

- Business Training and Networking Events
- Business Referral Services
- (804) 733-8131
- [info@petersburgvachamber.com](mailto:info@petersburgvachamber.com)
- [www.petersburgchamber.com](http://www.petersburgchamber.com)

### VA Dept. of Small Business & Supplier Diversity

- Virginia's Procurement Opportunities Certification
- Small, Women-Owned and Minority-Owned Business Enterprise Assistance
- (804) 786-6585
- [www.vdba.virginia.gov](http://www.vdba.virginia.gov)

### Crater Procurement Technical Assistance Center (PTAC)

- Training on Federal, State and Local Government Contracting and Contract Administration
- HUBZone Certification
- (804) 861-1667
- [info@craterptac.org](mailto:info@craterptac.org)
- [www.craterptac.org](http://www.craterptac.org)



## Finance Your Business

### The U.S. Small Business Administration Virginia District Office

- Small Business Loan and Assistance Programs
- Free Counseling and Technical Assistance
- (804) 771-2400
- [richmond.va@sba.gov](mailto:richmond.va@sba.gov)
- [www.sba.gov/offices/district/va/richmond](http://www.sba.gov/offices/district/va/richmond)

### Virginia Small Business Financing Authority

- Loans Directly to Businesses and Non-Profits
- Credit Enhancements to Banks
- (804) 786-6585
- [sbsd@sbsd.virginia.gov](mailto:sbsd@sbsd.virginia.gov)
- [www.sbsd.virginia.gov/virginia-small-business-financing-authority/](http://www.sbsd.virginia.gov/virginia-small-business-financing-authority/)

### Virginia Community Capital

- Real Estate Lending
- Small Business Lending
- (804) 344-5484
- [www.vacommunitycapital.org](http://www.vacommunitycapital.org)

### Virginia Local Initiatives Support Corporation

- Micro & Small Business Lending
- Technical Assistance & Business Coaching
- (804) 505-4165
- [Wshayes@Lisc.Org](mailto:Wshayes@Lisc.Org)
- [www.Virginialisc.Org](http://www.Virginialisc.Org)





# City of Petersburg

## Ordinance, Resolution, and Agenda Request

**DATE:** March 2, 2021

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

**THROUGH:** Kenneth Miller, Interim City Manager  
Lionel Lyons, Deputy City Manager of Development

**FROM:** Reginald Tabor

**RE:** **The Department of Economic Development reports on Deficient Properties, City Property Update (Sold, Pending Closing, Available), and Project Status Report.**

**PURPOSE:** To provide the City Council with an update from the Department of Economic Development on Deficient Properties, City Property Update (Sold, Pending Closing, Available), and Project Status Report.

**REASON:** To provide the City Council with an update from the Department of Economic Development on Deficient Properties, City Property Update (Sold, Pending Closing, Available), and Project Status Report.

**RECOMMENDATION:** To provide the City Council with an update from the Department of Economic Development on Deficient Properties, City Property Update (Sold, Pending Closing, Available), and Project Status Report.

**BACKGROUND:** The Department of Economic Development monitors the Vacant City Property List, Sold and Pending Closing City Property List, and the status of major projects in the City. On a monthly/quarterly basis the department will provide updates to the City Council on the status of properties and projects.

**COST TO CITY:**

**BUDGETED ITEM:**

**REVENUE TO CITY:**

**CITY COUNCIL HEARING DATE:**

**CONSIDERATION BY OTHER GOVERNMENT ENTITIES:**

**AFFECTED AGENCIES:**

**RELATIONSHIP TO EXISTING ORDINANCE OR RESOLUTION:**

**REQUIRED CHANGES TO WORK PROGRAMS:**

**ATTACHMENTS:**

1. City Property Update Presentation (03022021)
2. Deficient Properties Presentation (03022021)
3. Projects Update Presentation (03022021)

# City-owned Property Update

Presented by:

Department of Economic Development

# Introduction

In the following presentation,

Background on the Disposition Process

Status of Sold Properties

Status of Closing Pending Properties

Available and Under Review Properties List

Notable Developments

Action Items

# Background Information

**May 25, 2018**, Robert Bobb Group in a performance review report recommended the disposition of City-owned properties.

Prior to **March 2019**, the disposition of City-owned property was unorganized.

On **March 19, 2019**, approved a Resolution that structured the disposition of these properties into the guidelines recognizable today.

On **December 8, 2020**, additional amendments to the guidelines were made to clarify the process, clarify purchase price criteria, and clarify assessment criteria.

**Today**, Staff is constantly evaluating the process for ways to improve and is working with prospective purchasers to dispose of property following the December 8 guidelines.

# Sold Properties

Since December 2017, Petersburg has sold **23 properties** (15 residential, 5 commercial, 3 industrial) totaling **\$1,209,075**.

Most sold parcels (**70.83%**) have not received a building permit yet. Commercial and Industrial properties must go before the development review committee, which requires site plan approval and a land disturbance permit.

The following two slides include tables describing the properties and current status.

Address of Property	Sale Date	Proposed Use	Assessed Value	Sale Price	Proposed Investment	Project Status
108 E Washington St	August 2019	Commercial	\$177,290	\$135,000	\$350,000	Development Review Committee
915 W High St	November 2019	SF Residential	\$27,100	\$1,375	\$100,000	No Build Permit
804-806 Bolling St	October 2020	SF Residential	\$7300	\$100	\$100,000	No Build Permit
411 Shore St	October 2020	SF Residential	\$4600	\$100	\$100,000	No Build Permit
520 Shore St	October 2020	SF Residential	\$5600	\$100	\$100,000	No Build Permit
524 Shore St	October 2020	SF Residential	\$5300	\$100	\$100,000	No Build Permit
525 Shore St	October 2020	SF Residential	\$4300	\$100	\$100,000	No Build Permit
530 Shore St	October 2020	SF Residential	\$8000	\$100	\$100,000	No Build Permit
516-18 Shore St	October 2020	SF Residential	\$6400	\$100	\$100,000	No Build Permit
725 Wilson St	October 2020	SF Residential	\$4300	\$100	\$100,000	No Build Permit
729 Wilson St	October 2020	SF Residential	\$5600	\$100	\$100,000	No Build Permit
735 Wilson St	October 2020	SF Residential	\$15,600	\$100	\$100,000	No Build Permit

Address of Property	Sale Date	Proposed Use	Assessed Value	Sale Price	Proposed Investment	Project Status
745 Wilson St	October 2020	SF Residential	\$2800	\$100	\$100,000	No Build Permit
747 Wilson St	October 2020	SF Residential	\$14,800	\$100	\$100,000	No Build Permit
20 W Tabb St	December 2017	Hotel	\$670,000	\$200,000	\$10,000,000	EDA Discussions – Gap Funding
714 Commerce St	July 2020	Commercial	\$10,700	\$5000	N/A	No Build Permit
308 University Blvd	April 2018	Mixed Use	\$166,800	\$100,000	N/A	Awaiting Plan Submittal
380 E Washington St	April 2018	N/A	\$1,182,400	\$250,000	N/A	Council Action – Ramada Inn
326 E Washington St	April 2018	N/A	\$277,400	\$250,000	N/A	Council Action – Ramada Inn
400 E Washington St	April 2018	N/A	\$322,200	\$250,000	N/A	Council Action – Ramada Inn
602 Commerce St	October 2020	N/A	\$30,300	\$10,000	N/A	No Build Permit
107-09 S West St	January 2020	Parcel Extension	\$6500	\$1500	\$1	N/A
901 Halifax St	May 2020	SF Residential	\$33,000	\$5000	N/A	No Build Permit

# Closing Pending Properties

Currently, Petersburg has **57 properties** worth \$6,273,129 pending closing totaling \$105,010.

**94.74%** of properties are awaiting survey work or title and deed work.

The following slide includes a table describing the property and current status of properties pending closing.

Address of Property	Sale Date	Proposed Use	Assessed Value	Sale Price	Proposed Investment	Project Status
600 Reservoir Ave	Hasn't Closed	Various	\$1600	\$1800	N/A	Deposit refunded
115 Harrison St	Hasn't Closed	Commercial	\$20,700	\$1700	\$27,000	Council Review
627 N South St	Hasn't Closed	MF Residential	\$87,600	\$1000	\$2,500,000	Pending City approval of survey
1000 Diamond St	Hasn't Closed	Mixed Use	\$5,168,100	\$10	\$6,000,000	Pending Closing
Numerous (45 parcels - Ward 5 Lots)	Hasn't Closed	SF Residential	\$501,929	\$500	\$12,000,000	Title work in process
429 Fifth St	Hasn't Closed	Various	\$68,900	\$12,500	N/A	Awaiting survey from Timmons*
209 Rear River St	Hasn't Closed	Various	\$94,800	\$12,500	N/A	*
275 River St	Hasn't Closed	Various	\$247,700	\$12,500	N/A	*
209 River St	Hasn't Closed	Various	\$5,300	\$12,500	N/A	*
433 River St	Hasn't Closed	Various	\$13,400	\$12,500	N/A	*
236 River St	Hasn't Closed	Various	\$4300	\$12,500	N/A	*
240 River St	Hasn't Closed	Various	\$30,600	\$12,500	N/A	*
501 Second St	Hasn't Closed	Various	\$28,200	\$12,500	N/A	*

# Available and Under Review Properties

As of February 2021, Petersburg has **180** properties authorized for sale, and 117 of these properties are currently under review by prospective purchasers.

However, **147** of the 180 properties have been identified as having potential issues associated with them that will be discussed in the Deficient Properties presentation.

# Action Items

Monthly List of Sold, Pending, and Available Properties uploaded to City website and provided to the City Council

Monitoring of Sold Properties status and Clawback dates.

Consideration of an RFP to procure real estate services to better dispose of properties.

# Questions & Comments?

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# Deficient Properties

Presented by:

Department of Economic Development

# Introduction

In the following presentation,

Background on Identifying Deficient Properties

Action Items

List of Deficient Properties Recommend for Removal

# Background Information

Many properties approved for disposition have contingencies that make them a liability for the community.

Upon further review of the **180** available properties for sale by the **Development Review Committee** (Planning, Economic Development, Engineering, Neighborhood Services, Utilities, Fire, Police) several properties have been identified for removal from the disposition list.

Issues include floodplains, preservation areas, natural drainage ways, unidentified site conditions that could prevent developments.

The City Council approved the select list of parcels for disposition, therefore City Council must also take action to remove these select parcels from the disposition list.

# Action Items

Immediate: Removal of the **147** identified deficient properties until further engineering analysis to determine feasibility for disposition.

Later: Conservation Easement study on **38** of 147 properties to determine benefits for stormwater management. A conservation easement prohibits development on a parcel to conserve natural or man-made resources on the land.

Later: Upon engineering analysis, authorization by City Council to reconfirm non-deficient properties for disposition.

# Properties to be Removed for Future Analysis

The following properties have been identified for removal pending further engineering analysis.

**2** properties (red text), at the top of the table in the following slide, have been identified for permanent removal regardless of further analysis.

**38** properties (orange text) have been identified for possible conservation easements (highlighted in orange).

**107** properties (black text) have been identified for further general engineering analysis.

Address of Property	Zoning
2056 Overbrook Rd	Residential
110 Richland Rd	Residential
300 St John St	Residential
931 Clarke St	Residential
448 Forest Ln	Residential
1116 Stainback St	Residential
803 Augusta Ave	Residential
3645 Halifax Rd	Industrial
2607 Pinehurst Dr	Residential
500 St John St	Residential
527 E Bank St	Industrial
519 REAR W Washington St	Residential
522 Hinton St	Residential

Address of Property	Zoning
516 Hinton St	Residential
527 Hinton St	Industrial
150 Sapony St	Residential
980 S Sycamore St	Residential
1600 Shirley Ave	Residential
2761 Boydton Plank Rd	Residential
600 Reservoir Ave	Residential
412 St Andrew St	Residential
246 St Luke St	Residential
52 North Carolina Ave	Residential
1553 Brandon Ave	Residential
1210 Byrd St	Industrial
1611 Hare St	Residential

Address of Property	Zoning
341 Graham Rd	Residential
39 REAR River St	Industrial
119 Pocahontas St	Industrial
627 REAR N South St	Industrial
800 Magazine Rd	Industrial
409 N Old Church St	Industrial
2120 Dock St	Industrial
873 Bollingbrook St	Industrial
1011 Mckenzie St	Residential
105 North Carolina Ave	Residential
343 Rolfe St	Residential
138 W Bank St	Commercial
42 S Union St	Commercial

Address of Property	Zoning
230 Kentucky Ave	Residential
331 Witten St	Residential
321 Witten St	Residential
155 Halifax St	Commercial
116-22 Halifax St	Commercial
121 Halifax St	Commercial
106 Halifax St	Commercial
119 Halifax St	Commercial
125 E Washington St	Commercial
10 N Jefferson St	Commercial
44 E Bank St	Commercial
116 South Ave	Commercial
114 South Ave	Commercial

Address of Property	Zoning
112 South Ave	Commercial
110 South Ave	Commercial
127 Halifax St	Commercial
151 Halifax St	Commercial
153 Halifax St	Commercial
39 REAR River St	Industrial
1701 Dock St	Industrial
703 Hinton St	Industrial
501 Piamingo Aly	Industrial
980 S Sycamore St	Residential
522 Hinton St	Residential
151 St Mark St	Residential
829 S Jonest St	Residential

Address of Property	Zoning
811 Halifax St	Residential
517 St Matthew St	Residential
742 Mount Airy St	Residential
715 S West St	Residential
724 Harding St	Residential
709 Ann St	Residential
135 Kentucky Ave	Residential
436 Byrne St	Residential
334 Harrison St	Residential
1826 Chuckatuck Ave	Residential
1654 West Clara Dr	Residential
1017 S Sycamore St	Residential
340 Mistletoe St	Residential

Address of Property	Zoning
244 New St	Residential
115 Jolly Aly	Residential
101 Witten St	Residential
914 Logan St	Residential
205 Maple Ln	Residential
1127 Hawk St	Residential
706 Independence Ave	Residential
704 Wesley St	Residential
706 Wesley St	Residential
710 Wesley St	Residential
126 Kentucky Ave	Residential
469 Byrne St	Residential
1150 Rome St	Residential

Address of Property	Zoning
421 S Jefferson St	Residential
1162 Hinton St	Residential
201 Terrace Ave	Residential
135 Franklin St	Residential
120 N Jefferson St	Residential
137 Franklin St	Residential
110 Spruce St	Residential
120 Spruce St	Residential
813 St James St	Residential
129 Blank Aly	Residential
2761 Boydton Plank Rd	Residential
505 High St	Residential
735 Wilson St	Residential

Address of Property	Zoning
806 E Washington St	Residential
6 Ross Ct	Residential
12 Ross Ct	Residential
9 Ross Ct	Residential
215 S Jonest St	Residential
206 S Jonest St	Residential
1230 W High St	Residential
1119 W High St	Residential
716 E Wythe St	Residential
105 N Burch St	Residential
109 N Burch St	Residential
113 N Burch St	Residential
115 N Burch St	Residential

Address of Property	Zoning
2233 Halifax Rd	Agriculture
602 Harrison St	Residential
450 Harrison St	Residential
440 Harrison St	Residential
438 Harrison St	Residential
432 Harrison St	Residential
1015 Commerce St	Industrial
135 N Union St	Commercial
851 E Bank St	Residential
650 Lawrence St	Residential
333 University Blvd	Residential
347 University Blvd	Residential
429 Harrison St	Residential

Address of Property	Zoning
427 Harrison St	Residential
431 Harrison St	Residential
801 S Adams St	Residential
605 Halifax St	Residential
2401 County Dr	Commercial
523 Hinton St	Industrial
421 N Market St	Industrial
149 Rolfe St	Residential
334 S Sycamore St	Residential
116 N Jefferson St	Residential
802 Rosement St	Residential
746 Mount Airy St	Residential
449 Harding St	Residential

Address of Property	Zoning
505 High St	Residential
734 E Washington St	Residential
130 Pocahontas St	Industrial
1200 Baylors Ln	Residential
331 Witten St	Residential
321 Witten St	Residential

# Questions & Comments?

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# Projects and Proposals Update

Presented by:

Department of Economic Development

# Introduction

In the following presentation,

Background on the Business Development Process

Update on Opened Projects

Update on Under Review Projects

Update on Prospective Projects

Notable Projects

Action Items

# Background Information

The purpose of the **Projects Tracker** is to monitor developments that are undergoing site plan and development review.

Businesses that do not require development review, such as home businesses, are often not tracked.

# Background Information

Businesses seeking to construct or rehab structures must complete the following items:

**Site Plan Review:** Detailed documents describing the proposed architectural, landscape, and engineering improvements of a given lot.

**Land Disturbance Permit:** Required for land clearing and disturbance to move dirt and reduce sediment runoff and pollution.

**Zoning Verification:** Verification of zoning is conducted to ensure compliance with the Comprehensive Zoning Plan.

**Building Permit:** Required to begin construction of residential, commercial, and industrial facilities. Mechanical, electrical, and plumbing permits required as well.

**Business License:** Required to conduct business within the specified jurisdiction. Petersburg requires approval from Billing & Collections, Planning, Fire Marshal, Health Department if applicable, and the Commissioner of the Revenue.

# Under Review Projects (Industrial and Commercial)

Project Name	Description	Status
Project Tube (Phlow, Civica, AMPAC)	Construction and rehab of pharmaceutical manufacturing facilities	Site Plans submitted. Land Disturbance Permit pending. Performance Agreements pending.
Clearfield	New construction of Waste Processing Facility	Land Disturbance Permit under review.
Triad Metals	New construction of metal storage facility	Land sale completed. Meeting with Developer pending.
Dollar General	Conversion of former IGA Supermarket	Building Permit submitted.
Dollar Tree	Conversion of former Rite Aid	Certificate of Occupancy submitted.
Cigar Lounge	Conversion of former Trailways Building	Site Plans submitted. Review Pending.
9 West Old St	Apartments	Building Permit submitted.
Hotel Petersburg	Historic hotel renovation	Gap financing pending.
115 Harrison St	Ice cream and crepe shop	Development Agreement submitted.

# Under Review Projects (Residential)

Project Name	Description	Status
Berkeley Estates	Single Family development	Plan submittal required.
S. Crater Road	Single and Multi Family development	Plan submittal required. Rezoning petition submitted and under review by Planning Commission.
607 High St. Church Conversion	Rehab of church into Multi Family units	Rezoning approved.
Market St Lofts	Rehab of Multi Family development	Under construction.
1000 Diamond St	Rehab of VA Ave School for senior and veteran housing	Rezoning approved.
308 University Blvd	New construction. Mixed Use and Multi Family	Follow up with developer required.
235 Hinton St	Rehab of Single Family for Mixed Use w/ Multi Family	Under construction.
Stainback Apts	Rehab of Multi Family for Mixed w/ Multi Family	Building Permit pending.

# Under Review Projects (Public)

Project Name	Description	Status
Library Expansion	Expansion of library to include event and meeting spaces	Under construction
Jarratt House	Structural stabilization	Under construction
Park and Ride Structure	Construction of Park and Ride facility	Site Plan approved. Land Disturbance permit pending.
FOLAR Trail	Paving of ¼ mile trail	Under Design. Plan submittal pending.
Governor School	Use for recreational programs	MOU pending.
FOLAR Gateway Park	Property acquisition and development. Potential City park and local welcome area	MOU pending.

# Prospective Projects

Project Name	Description	Status
Potential Grocery Store	Property Acquisition and development of grocery store	Followed up. Pending developer response.
Potential Grocery Store	Property Acquisition and development of grocery store	Followed up. Pending developer response.
Potential Micro Brewery	Relocation of a regional micro brewery into Petersburg	Site identification and negotiations.
Ramada Inn		Code Compliance process.
Workforce Ready Certification		Application pending.
Revitalization of Chamber of Commerce		Continue and expand relationship.
Main Street Grants		Meeting scheduled with Main Street Board.

# New Businesses

In 2020, Petersburg had

**98** new Brick and Mortar businesses

**69** new Home Businesses

**19** new Remote Businesses

# Tourism and Film

## **Tourism and Film**

Working with multiple film production campaigns that are filming in Petersburg.

Conducted two customer service workshops for museum volunteers.

Working with Main Street Petersburg on various projects being planned for the downtown area.

# Marketing

## Marketing

Working on copy for new campaign supported by grants from the Virginia Tourism Corporation (VTC) to market during COVID-19.

Working on materials requested by VTC on efforts to market Petersburg and the Commonwealth in various European markets.

Developing business marketing materials and resources to educate new and existing businesses on resources and incentives available. Please see attached documents. **All resources will be available on the City's Economic Development page.**

# Economic Development

Petersburg, Virginia



For more information visit:

[www.petersburg-va.org/126/Economic-Development](http://www.petersburg-va.org/126/Economic-Development)



## Start Your Business

Longwood University/Crater  
Small Business Development Center (SBDC)

- Business Plan development, Financial Analysis and Concept Feasibility
- Resources such as Industry Reports and Demographics
- Training on General Business Topics  
(804) 518-2003  
[templetonme@longwood.edu](mailto:templetonme@longwood.edu)

City of Petersburg  
Commissioner of the Revenue

- Business License  
(804) 733-2315  
[bflowers@petersburg-va.org](mailto:bflowers@petersburg-va.org)

VSU Center for Entrepreneurship

- Research, Entrepreneurship Education and Services
- Tools to Help You with Your Business  
(804) 504-7080  
[www.vsuentrepreneurship.com/index.html](http://www.vsuentrepreneurship.com/index.html)



**City of Petersburg**  
Department of Economic Development  
135 N Union Street  
Petersburg, VA 23803  
(804) 898-3645  
[econdev@petersburg-va.org](mailto:econdev@petersburg-va.org)  
[petersburg-va.org](http://petersburg-va.org)



## Petersburg Business Resource Directory

We are your business partners, here to help you:

- Start your Business in Petersburg
- Locate Your Business in Petersburg
- Grow Your Business in Petersburg
- Finance Your Business in Petersburg
- Maintain a Workforce for your Business



# Action Items

Development of welcome packages and resource guides for new and prospective businesses in Petersburg.

Monthly updates of the list of opened, pending, and prospective projects to Council.

Quarterly update presentation of notable projects to Council.

# Questions & Comments?

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