

1. November 14, 2016 Agenda Summary

Documents:

[11-14-16 AGENDA SUMMARY\\_001.PDF](#)

1.1. 10-24-16 Minutes

Documents:

[10-24-16 MINUTES\\_001.PDF](#)

1.1.i. Health Care Bill

Documents:

[HEALTH CARE BILL\\_001.PDF](#)

1.1.i.1. Fire Fighter Position

Documents:

[FIRE AND RESCUE STAFFINGFINAL001.PDF](#)

1.1.i.1.1. Grant Proposal-Stryker Power Stretchers

Documents:

[GRANT FOR STRETCHER\\_001.PDF](#)

1.1.i.1.2. Post-Employment Benefits, Part 1

Documents:

[POST EMPLOYMENT BENEFITS\\_001.PDF](#)

1.1.ii. Post-Employment Benefits, Part 2

Documents:

[POST EMPLOYMENT BENEFITS\\_033.PDF](#)

1.1.iii. Appropriations & Transfers

Documents:

[APPROPRIATIONS-TRANSFERS\\_001.PDF](#)

1.1.iii.1. School Division-CIP Projects

Documents:

[SCHOOLS REAPPROPRIATION\\_001.PDF](#)

1.I.iv. Planning Commission & BZA Appointments

Documents:

[BZA PC APPMTS\\_001.PDF](#)

1.II. Closed Session -Consultation With Legal Counsel Re: Actual Litigation

Documents:

[CLOSEDSESRSL.PDF](#)

**POQUOSON CITY COUNCIL  
MEETING OF  
MONDAY, NOVEMBER 14, 2016  
7:00 P.M.  
REGULAR SESSION**

**A. MEETING CALLED TO ORDER**

**B. INVOCATION AND PLEDGE OF ALLEGIANCE – Brownie Girl Scouts**

**C. SPECIAL PRESENTATIONS – City Manager – Introduction of New Employees  
Fire Chief - Fire Department and Volunteer Association**

**D. AUDIENCE FOR VISITORS**

**E. APPROVAL OF THE MINUTES**

**1. Regular Session – October 24, 2016**

**F. NEW BUSINESS**

- 1. Resolution In Support of House Bill 350 and the Expansion of Charitable Care for Citizens Not Eligible for Medicare or Medicaid**
- 2. Resolution Redesignating One Federally Funded Fire Fighter Approved in the FY 2017 Budget to a Locally Funded Position and Authorizing The Hiring and Funding of this Position**
- 3. Resolution Authorizing the Submission of a Grant Application for the Purchase Of a Stryker Power Stretcher**
- 4. Ordinance Establishing a Trust for Other Post-Employment Benefits By Participating in the Virginia Pooled OPEB Trust Fund, Establishing a Local Finance Board, Appointing the Members to the Local Finance Board and Directing the Local Finance Board to Execute and Deliver the Trust Joinder Agreement And an Ordinance Establishing a Special Revenue Fund and Appropriating the Funds Necessary For the OPEB Costs for FY 2018 and Beyond**
- 5. Ordinance Making Additional Appropriations and Transfers for FY 2017**
- 6. Resolution Authorizing the School Division to Enter Into Contracts for Appropriated FY 2017 Capital Improvements Program Projects**
- 7. Resolution Making Appointments to the Board of Zoning Appeals and the Planning Commission**

**G. COMMENTS OF THE CITY MANAGER**

**H. COUNCIL DIRECTIVES**

**I. CLOSED SESSION**

**Closed session pursuant to Section 2.2-3711(A)(7) of the Code of Virginia (1950), as amended to Consult with Legal Counsel Regarding Actual Litigation; i.e. Moore v. City of Poquoson**

**J. RECONVENEMENT – Certification**

**K. ADJOURNMENT**

**MINUTES OF THE CITY COUNCIL MEETING  
OCTOBER 24, 2016, 7:00 P.M.  
REGULAR SESSION**

**PRESENT:** The Honorable W. Eugene Hunt, Jr., Mayor  
The Honorable Carey L. Freeman, Vice Mayor  
The Honorable Traci-Dale Crawford  
The Honorable Charles M. Southall III  
The Honorable Herbert R. Green, Jr.  
The Honorable Raymond D. Vernall  
The Honorable Henry W. Ayer III

J. Randall Wheeler, City Manager  
Judy F. Wiggins, Assistant City Manager/City Clerk  
D. Wayne Moore, City Attorney

**MEETING CALLED TO ORDER:**

Mayor Hunt called the meeting to order at approximately 7:00 p.m.

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

Mayor Hunt rendered the invocation and led the audience in the Pledge of Allegiance.

**SPECIAL PRESENTATIONS:**

*Councilman Vernall – Gift to the City*

Councilman Raymond Vernall presented to City Council, on behalf of the Polynesian Voyaging Society (PVS) President and the crew of the traditional Hawaiian canoe, Hokule'a, a beautiful photograph of the Hokule'a and its sister canoe. He pointed out that the photograph was presented to him as an official representative of the City, at a reception for the crew sponsored by the Poquoson Yacht Club in appreciation for the warm welcome they had received from the City.

Mayor Hunt expressed appreciation for the photograph and asked that it be framed and appropriately displayed in the lobby of City Hall.

*Councilman Green – Legislative Item*

Councilman Green reminded Council that at the September 26, 2016 meeting, he pointed out that many critically ill persons are not receiving needed medical attention as they do not qualify for Medicare, Medicaid or cannot afford health care premiums. He stated that State Delegate Gordon Helsel had provided him with three alternative bills, which were considered but not adopted at the 2016 General Assembly that could potentially address

the current health care gap if the preferred option is resubmitted to the General Assembly for consideration in 2017. He provided a brief overview of each of the following three draft bills for Council's consideration and possible inclusion in the City's legislative program for 2017.

- *HB 350 Certificate of Public Need; changes to Medical Care Facilities Certificate of Public Need Program.*
- *HB 193 Certificates of Public Need (COPN); creates three-phase process to sunset requirements for medical care.*
- *HB 1083 Medical Care Facilities Certificate of Pubic Need Program; changes to Program, report.*

In conclusion Councilman Green stated that he is recommending HB 350 as the optimal alternative as it will provide the best coverage for those who currently fall in the health care insurance gap.

The City Manager, J. Randall Wheeler, suggested that, if Council so desires, staff can prepare a resolution in support of whichever House Bill they deem the best option so that it can be considered and possibly adopted at a future meeting and subsequently forwarded to our state legislators.

In response to Council queries, Councilman Green explained that HB 350 was endorsed by the study group who was tasked by the General Assembly to consider the three aforementioned bills.

Mayor Hunt thanked Councilman Green for his extensive research into the three draft health care bills and sought Council's comments/recommendations on them. Following Council's discussion, it was apparent that HB 350 was the favored option.

In conclusion, Mayor Hunt asked staff to draft a resolution reflecting the desires of Council regarding this matter and include it in the next Council agenda.

#### **AUDIENCE FOR VISITORS:**

There were no public comments.

#### **APPROVAL OF THE MINUTES:**

Councilman Green moved, seconded by Vice Mayor Freeman, to adopt the minutes of the regular session held October 11, 2016 as submitted. Recorded vote on the motion:

**YES:** Councilmembers Green, Vernall, Ayer, Southall, Crawford, Freeman and Mayor Hunt.

**NO:** None.

Councilman Green moved, seconded by Councilman Vernall, to adopt the minutes of the work session held October 11, 2016 as submitted. Recorded vote on the motion:

**YES:** Councilmembers Southall, Freeman, Vernall, Green, Ayer, Crawford and Mayor Hunt.

**NO:** None.

**NEW BUSINESS:**

**1. ORDINANCE AMENDING CHAPTER 70 OF THE CITY CODE BY REVISING SECTION 5, INTERFERING WITH SIGNS, POLES OR STRUCTURES WITHIN STREET RIGHT-OF WAY**

Mayor Hunt reminded City Council that at the October 11, 2016 work session they reviewed the draft Sign Ordinance amendments and it was the consensus of Council to delay adoption of these amendments until after the first of the year so that the ordinance could be more thoroughly reviewed and additional amendments could be considered if necessary. However, he pointed out that the amendment to Chapter 70 of the City Code, allowing the removal of illegal signs in the public right-of-way, was included on this agenda for consideration since it was not part of the Sign Ordinance.

An ordinance approving the amendment was presented for Council's consideration and Councilman Green moved, seconded by Councilman Ayer, that it be adopted. Prior to the vote, Assistant City Manager/City Clerk, Judy F. Wiggins, stated that Council has the option of adopting the ordinance on first reading or dispensing with the second reading and adopting it to be effective in 30 days. Both Councilmen Green and Ayer amended their motion by dispensing with the second reading and adopting it on first reading. Recorded vote on the motion:

**YES:** Councilmembers Ayer, Crawford, Green, Freeman, Southall, Vernall and Mayor Hunt.

**NO:** None.

**2. RESOLUTION MAKING AN APPOINTMENT TO THE WETLANDS BOARD**

A resolution making an appointment to the Wetlands Board was presented for Council's consideration. Councilman Green moved, seconded by Vice Mayor Freeman, to reappoint Steve G. Pappas to the Board and to adopt the resolution with his name inserted. Recorded vote on the motion:

**YES:** Councilmembers Crawford, Ayer, Southall, Freeman, Vernall, Green and Mayor Hunt.

**NO:** None.

### **3. RESOLUTION CANCELLING THE SECOND MEETINGS OF THE MONTHS OF NOVEMBER AND DECEMBER 2016**

A resolution was presented cancelling the second meetings of November and December 2016 and Councilman Green moved, seconded by Vice Mayor Freeman, that it be adopted. Recorded vote on the motion:

**YES:** Councilmembers Green, Vernall, Ayer, Southall, Crawford, Freeman and Mayor Hunt.

**NO:** None.

#### **COMMENTS OF THE CITY MANAGER:**

The City Manager expressed appreciation to the entire community, City employees and all of the volunteers for an extremely successful Seafood Festival. He particularly thanked residents for their patience relative to the increased traffic experienced by the City over the Festival weekend.

In response to Mayor Hunt's request for an update on the pending Little Florida Road drainage improvements, the City Manager stated that the City used its social media, website and Code Red to update everyone on the imminent project and that signs, in response to Council's request, had also been erected to inform the public of the forthcoming, associated detours.

#### **COUNCIL DIRECTIVES:**

Councilman Southall applauded everyone that helped to make the Poquoson Seafood Festival (PSF) and the Workboat Races so successful.

Councilwoman Crawford echoed Councilman Southall's comments.

Vice Mayor Freeman also expressed gratitude for everyone who had worked so hard to make the Festival great and he pointed out that approximately 45,000 persons had attended this year's event.

In response to Councilman Vernall's query regarding the status of the Messick Point Breakwater, the City Manager stated that the City is currently working with its insurance firm, Virginia Municipal League, who will pay for a structural analysis of the damaged breakwater to determine why it failed.

Councilman Vernall reminded everyone to drive cautiously on Halloween.

Councilman Green stated that he had attended and enjoyed the first annual Sarah Bonwell Hudgins Run/Walk that Councilman Ayer, owner of Pomoco Nissan, had graciously sponsored and served as emcee. Lastly, he reminded everyone that the Foodbank distribution in the City would occur on October 25, 2016 with members of the Poquoson Woman's and Poquoson Garden Clubs assisting.

Councilman Ayer echoed all previous accolades relative to the PSF. He stated that the recent fundraiser at Sarah Bonwell Hudgins had been a very humbling experience. He stated that the PSF Workboat Races were well attended and that he appreciated the City's assistance with this important event.

Mayor Hunt stated that the Festival was great and congratulated everyone on its success. He also commended Councilman Ayer, Sonny Insley and the volunteers for doing such a great job organizing and overseeing the Workboat Races. He particularly pointed out that these individuals had to work extra hard since they had to cancel the original event due to severe weather. He announced that the recent City Business Breakfast was well attended and quite successful. He thanked Councilman Green for representing the City on the Hampton Roads Transportation Planning Organization and the Hampton Roads Transportation Accountability Commission to ensure that the Hampton Roads Bridge Tunnel (HRBT) expansion project moves forward. He also expressed appreciation for Virginia Delegate David Yancey whose collaborative efforts led to the approval of the best transportation alternative by the participating localities.

Councilman Green stated that the Hampton Roads Planning District Commission staff should also be commended for developing a hybrid alternative that was unanimously supported by all participating localities as well as the Army Corps of Engineers (ACOE) ensuring the forward movement on the HRBT improvements.

Mayor Hunt thanked all of the Council Members who represent the City on various regional boards/committees. Lastly he stated that he had signed and sent a letter to Colonel Kelly, on behalf of Council, expressing support for the Surry-Skiffes Creek Project and the need for a speedy decision regarding this issue.

**ADJOURNMENT:**

There being no further business, Councilman Green moved, seconded by Vice Mayor Freeman, to adjourn the meeting. Recorded vote on the motion:

**YES:** Councilmembers Southall, Freeman, Vernall, Green, Ayer, Crawford and Mayor Hunt.

**NO:** None.

The meeting was adjourned at approximately 7:45 p.m.



## **CITY OF POQUOSON**

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500 City Hall Avenue, Poquoson, Virginia 23662-1996

City Manager's Office

(757)868-3000 Fax (757)868-3101

November 14, 2016

**TO:** Poquoson City Council

**FROM:** City Manager

**SUBJECT:** **Resolution In Support of House Bill 350 And The Expansion Of Charitable Care For Citizens Not Eligible For Medicare Or Medicaid**

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At the Council Meeting on September 26, 2016 Councilman Green pointed out that many critically ill persons were not receiving needed medical attention because they do not qualify for Medicare, Medicaid or cannot afford other health care premiums. He mentioned three bills that had been considered during the 2016 General Assembly session that were not adopted but could potentially address the health care gap and asked for consensus of Council for him to further review the bills to see if Council wanted to include one or more of them in the City's legislative agenda for submission to our delegates for reconsideration during the 2017 General Session.

At the last meeting Councilman Green summarized the three bills and made a recommendation that House Bill 350 be endorsed by Council as it would provide the best coverage for those individuals currently falling through the health care insurance gap and that it be submitted to our delegates in the General Assembly as part of the City's legislative agenda for reconsideration during their upcoming 2017 session.

A resolution expressing support for and seeking reconsideration of House Bill 350 is presented for your consideration.

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION EXPRESSING SUPPORT FOR  
HOUSE BILL 350 AS IT MAY BE CONSIDERED  
BY THE VIRGINIA GENERAL ASSEMBLY AND EXPRESSING  
SUPPORT AND APPRECIATION TO MEMBERS OF THE GENERAL  
ASSEMBLY TO EXPAND CHARITABLE CARE FOR CITIZENS OF THE  
COMMONWEALTH NOT ELIGIBLE FOR MEDICARE OR MEDICAID**

**WHEREAS**, the City Council received a presentation from Councilman Herbert R. Green, Jr. at its October 24, 2016 regular meeting in coordination with Delegate Gordon C. Helsel, Jr. regarding three Bills considered by the General Assembly in 2016 intended to make changes to the Virginia Certificate of Public Need (COPN) process and make certain changes to the charity care requirements associated with the COPN designed to expand charity care available to persons that are not eligible for Medicare or Medicaid that cannot afford adequate health insurance without expanding Medicaid eligibility; and

**WHEREAS**, the City Council is supportive of legislative efforts through revisions to expand the COPN process to provide expanded charitable care for persons who are not eligible for Medicare and Medicaid who cannot afford adequate health insurance; and

**WHEREAS**, following presentation the City Council expressed specific support for House Bill (HB) 350 Certificate of public need; changes to Medical Care Facilities Certificate of Public Need Program patroned by Delegate Kathy J. Byron which has been carried over for consideration in the upcoming 2017 General Assembly Session as the best alternative among the three Bills considered by the General Assembly earlier this year, as well as expressing its general support for any future proposed legislation designed to expand charitable care.

**NOW THEREFORE BE IT RESOLVED**, that the City Council does hereby express its support for HB350 as it may be considered by the Virginia General Assembly; and

**BE IT FURTHER RESOLVED**, that the City Council does also express its support for and appreciation to the Members of the General Assembly for their continued consideration of means to expand charitable care for citizens of the Commonwealth who are not eligible for Medicare or Medicaid that cannot afford adequate health insurance without expanding Medicaid eligibility.

This resolution shall be in effect on and after its adoption.

**ADOPTED:** \_\_\_\_\_

**ATTESTE:** \_\_\_\_\_



**CITY OF POQUOSON**

Office of the City Manager  
J. Randall Wheeler

500 City Hall Avenue, Poquoson, Virginia 23662-1996  
(757)868-3000 Fax (757)868-3101

October 24, 2016

**To:** The Honorable City Council

**From:** City Manager

**Subject: Summaries Of The Three House Bills Introduced To The General Assembly Regarding Certificates Of Public Need For Your Consideration**

Background: At the September 26, 2017 City Council meeting Councilman Green brought to the Council's attention concerns regarding critically ill persons who are unable to receive medical attention since they do not qualify for Medicare or Medicaid and are not able to afford health insurance. He further explained that during the last General Assembly Session three bills were introduced to help resolve this issue, however none of these bills were passed by the General Assembly. Councilman Green requested the opportunity to present these three alternatives to Council in a work session in order to consider and formally endorse a preferred alternative which Council could officially incorporate support for a specific alternative into its legislative program for the 2017 Session. Copies of each bill reflective of all substitutes have been previously shared with Council.

Bill Summaries

2016 SESSION

HB 350 Certificate of public need; changes to Medical Care Facilities Certificate of Public Need Program.

Introduced by: Kathy J. Byron

**SUMMARY AS PASSED HOUSE:**

Certificate of public need. Makes changes to the Medical Care Facilities Certificate of Public Need Program. The bill removes various behavioral health facilities from the list of medical care facilities and projects subject to the requirement of a certificate of public need and makes various changes to procedures governing the certificate of public need process, including (i) defining "charity care" for purposes of the certificate of public need program; (ii) establishing an

expedited 45-day review process for applicants for projects determined by the Department of Health (the Department) to be uncontested and to present minimal health planning impacts and for which the applicant agrees to comply with quality assurance requirements established by the Board of Health (the Board) and consents to provide charity care in an amount specified by the Board; (iii) establishing an expedited 120-day review process for applicants for projects identified by the Department to be uncontested and to present limited health planning impacts that require an intermediate level of scrutiny and for which the applicant agrees to comply with quality assurance requirements established by the Board and consents to provide charity care in an amount specified by the Board; (iv) clarifies the content of a completed application for a certificate; (v) eliminates the requirement for a public hearing on applicants for certificates; (vi) reduces the timeline from 80 calendar days to four days for a person to be made party to the case for good cause following completion of the review and submission of recommendations related to an application; (vii) requires the Department to establish a website to make information about the certificate of public need program, including information about letters of intent received by the Department, available to the public; and (viii) establishes a permit process for projects that are no longer subject to the requirement for a certificate of public need, which includes provisions for charity care requirements and quality assurance. The bill also (a) directs the Secretary of Health and Human Resources to review requirements governing imposition and satisfaction of charity care requirements for certificates of public need, including provisions for defining charity care and calculating the amount and value of charity care required and provided, develop recommendations for standardizing and enforcing such requirements, and report his recommendations to the Governor and the General Assembly by December 1, 2016, and (b) requires the Department to work cooperatively with Virginia Health Information to develop a process for the collection of utilization data for recipients of certificates of public need describing specific types of equipment utilized.

#### SUMMARY AS INTRODUCED:

Certificate of public need. Makes changes to the Medical Care Facilities Certificate of Public Need Program. The bill (i) defines "charity care" for purposes of the certificate of public need program; (ii) removes mental hospitals from the list of reviewable medical care facilities; (iii) establishes an expedited 21-day review process for applicants for projects determined by the Department of Health (the Department) to be uncontested and to present minimal health planning impacts and for which the applicant agrees to comply with quality assurance requirements established by the Board of Health (the Board) and consents to provide charity care in an amount specified by the Board; (iv) establishes an expedited 45-day review process for applicants for projects identified by the Department to be uncontested and to present limited health planning impacts that require an intermediate level of scrutiny and for which the applicant agrees to comply with quality assurance requirements established by the Board and consents to provide charity care in an amount specified by the Board; (v) clarifies the content of a completed application for a certificate; (vi) reduces the timeline from 80 calendar days to four days for a person to be made party to the case for good cause following completion of the

review and submission of recommendations related to an application; (vii) requires the Department to establish a website to make information about the certificate of public need program, including information about letters of intent received by the Department, available to the public; and (viii) establishes a permit process for projects that are no longer subject to the requirement for a certificate of public need, which includes provisions for charity care requirements and quality assurance. The bill also (a) directs the Secretary of Health and Human Resources to review requirements governing imposition and satisfaction of charity care requirements for certificates of public need, including provisions for defining charity care and calculating the amount and value of charity care required and provided, develop recommendations for standardizing and enforcing such requirements, and report his recommendations to the Governor and the General Assembly by December 1, 2016, and (b) requires the Department to work cooperatively with Virginia Health Information to develop a process for the collection of utilization data for recipients of certificates of public need describing specific types of equipment utilized.

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#### 2016 SESSION

HB 193 Certificates of public need; creates three-phase process to sunset requirements for medical care.

Introduced by: John M. O'Bannon, III

SUMMARY AS PASSED HOUSE: (all summaries)

Certificates of public need. Creates a two-phase process to sunset certificate of public need requirements for many categories of medical care facilities and projects, with the requirement for a certificate of public need (i) for ambulatory and outpatient surgery centers other than rural ambulatory and outpatient surgery centers and for capital expenditures at medical care facilities other than rural medical care facilities repealed in effective July 1, 2016, and (ii) for all medical care facilities other than nursing homes, rehabilitation hospitals and beds, organ or tissue transplant services, certain open heart surgery services, and rural medical care facilities repealed effective January 1, 2017. The bill also creates a new permitting process for categories of facilities and projects exempted from the certificate of public need process that requires the Commissioner of Health to issue a permit but requires the Commissioner to condition a permit (a) on the agreement of the applicant to provide a specified level of care at a reduced rate to indigents, accept patients requiring specialized care, or facilitate the development and operation of primary medical care services in designated medically underserved areas of the applicant's service area and (b) on compliance of the applicant with quality of care standards. The bill also eliminates regional health planning agencies and makes numerous changes to the COPN process for facilities and projects that will still be subject to the requirement of a certificate.

2016 SESSION

HB 1083 Medical Care Facilities Certificate of Public Need Program; changes to Program, report.

Introduced by: Christopher P. Stolle

SUMMARY AS INTRODUCED:

Certificate of public need. Makes changes to the Medical Care Facilities Certificate of Public Need Program. The bill (i) removes specialized centers or clinics or that portion of a physician's office developed for the provision of lithotripsy, magnetic source imaging (MSI), or nuclear medicine imaging from the list of reviewable medical care facilities; (ii) provides that establishment of a medical care facility to replace an existing medical care facility with the same primary service area does not constitute a project; (iii) removes introduction into an existing medical care facility of any new lithotripsy, magnetic source imaging, or obstetrical service that the facility has never provided or has not provided in the previous 12 months and addition by an existing medical care facility of any medical equipment for the provision of lithotripsy and magnetic source imaging (MSI) from the definition of project; (iv) creates a new process for registration of projects exempted from the definition of project by the bill; (v) establishes an expedited 45-day review process for applicants for projects determined to be uncontested or to present limited health planning impacts; (vi) renames the State Medical Facilities Plan as the State Health Services Plan and establishes a State Health Services Plan Advisory Council to provide recommendations related to the content of the State Health Services Plan; (vii) clarifies the content of the application for a certificate; and (viii) reduces the timeline for a person to be made party to the case for good cause from 80 calendar days to four days following completion of the review and submission of recommendations related to an application.

The bill also (a) directs the Department to develop recommendations to reduce the duration of the average review cycle for applications for certificates of public need to not more than 120 days and to report on its recommendations to the Governor and the General Assembly no later than December 1, 2016; (b) directs the Secretary of Health and Human Resources to review charity care services delivered throughout the Commonwealth and recommend changes to the definition of charity and to the types of charity care requirements imposed on various health care services and report to the Governor and the General Assembly by December 1, 2016; (c) directs the Secretary of Health and Human Resources to convene a group of stakeholders to study and make recommendations related to the appropriate authority of the State Health Commissioner to impose additional conditions on certificates; (d) directs the Secretary of Health and Human Resources to implement a system to ensure that data needed to evaluate whether an application for a certificate is consistent with the State Health Services Plan is timely and reliable, to make all public records pertaining to applications for certificates and the review

process available in real-time in a searchable, digital format online, to make an inventory of capacity authorized by certificates of public need, both operational and not yet operational, available in a digital format online, and to make charity care conditions, charity care compliance reporting status, and details on the exact amount of charity care provided or contributed and to whom it was provided or contributed available in a digital format online; (e) directs the Commissioner of Health to develop an analytical framework to guide the work of the State Health Services Plan Advisory Council; and (f) directs the Joint Commission on Health Care to develop specific recommendations for eliminating differences in the certificate of public need review process from one region to another and report on the recommendations to the Chairmen of the House Health, Welfare and Institutions and Senate Education and Health Committees by December 1, 2016.

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## **CITY OF POQUOSON**

500 City Hall Avenue, Poquoson, Virginia 23662-1996

(757)868-3000 Fax (757)868-3101

City Manager's Office

November 14, 2016

**TO:** Poquoson City Council  
**FROM** City Manager  
**SUBJECT:** Fire & Rescue Staffing

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Summary of request: As you will recall as part of the current FY2017 Budget, the City Council authorized staff to submit a federal grant application to add two additional firefighter/medic positions to the Department of Fire and Rescue. Recently the City was informed that we were not successful with regard to this year's grant application cycle. It was hoped that through the addition of these two grant positions we would be able to achieve our three year goal of increasing the staffing levels of each of the three operation shifts by one a year early. The first position was added last year (FY2016).

As we approach mid-year, I am requesting that the Council authorize me to move forward to convert the first of the two originally designated federally funded positions to a locally funded position and to move forward to fill it. Staff anticipates that sufficient monies are available within the current budget to pay for the addition of this locally funded position for the remainder of the year. Should you approve this request, we will add sufficient monies to pay for this position in the FY2018 base budget. Unless otherwise directed, staff intends to resubmit for the federal grant program for an additional position(s) next year.

Additional Background: Increasing actual shift size and minimum staffing is dependent on both the number of positions authorized and our ability to hire and retain qualified personnel. As of this writing, the department is at full staff which means that our operational shifts have 10, 9 and 9 staff members respectively. Our goal by the end of the next fiscal year is to have 10 positions assigned to each shift and to establish 8 as the minimum staff levels of each shift. The City has implemented several initiatives over the last year to aid in recruitment and retention. These include, but are not limited to, the creation of a Master Firefighter designation on each shift, an increase in the pay supplement for advanced EMS certification and the enhancement to the Retiree Health Care program as well as continued progress in the area of employee compensation. Over the past year we have seen the number of quality applicants for positions within the department increase which has helped us achieve full staffing. This increase in the number and quality of applications may in some cases allow us to maintain a qualified applicant list for future vacancies. For example, through this process we have been able to identify a qualified applicant to fill the position of a current employee who is scheduled to retire from City service in February of next year.

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION REDESIGNATING A FEDERALLY FUNDED FIRE POSITION  
APPROVED IN THE FISCAL YEAR 2017 BUDGET TO AN  
ADDITIONAL LOCALLY FUNDED POSITION**

**WHEREAS**, as part of the Fiscal Year 2017 budget, City Council authorized the submission of a Federal grant application to add two additional firefighter/medic positions to the Department of Fire and Rescue; and

**WHEREAS**, it was the City's hope that the three year goal of increasing staffing levels of each of three operation shifts by one a year would be achieved by adding these two positions since one had already been included in the Fiscal Year 2016 budget; and

**WHEREAS**, notification was recently received that the grant was not approved thus making it impossible to attain this goal without one of the requested positions being locally funded this fiscal year and the submission of another grant application for the third position; and

**WHEREAS**, sufficient funds to pay for this position for the remainder of this fiscal year are available within the current Fiscal Year 2017 budget and full funding will be included in the Fiscal Year 2018 budget if the position is approved.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Poquoson, Virginia:

**Section 1:** That the City Manager is hereby authorized to convert one of the firefighter/medic positions sought in the Federal grant to a locally funded position and to immediately proceed with the hiring process.

**Section 2:** That a grant application should be submitted when applicable seeking funding of the third firefighter position.

**Section 3:** That this resolution shall be in effect on and after its adoption.

ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_  
City Clerk



## City of Poquoson Fire/Rescue

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11/7/16

To: Poquoson City Council

Through: Poquoson City Manager

From: John Young, Battalion Chief

Re: Grant Proposal

Members of Poquoson City Council:

I would like to take this opportunity to provide you with information on an upcoming grant opportunity that I believe would benefit our department. Due to the total cost of this project, if the grant is awarded, Council will have to approve the expense. For this year's Assistance to Firefighters Grant through FEMA I would like to seek funding for improving our stretcher system in the Fire Department.

Our current system is completely manual in function, requiring a minimum of two staff members to lift the weight of each patient they transport multiple times throughout the emergency call. The new systems are mechanically operated and will raise and lower patients with the push of a button. Additionally our fastener system used to hold these stretchers in place in the ambulance no longer meet the minimum safety standards. While we are not under a mandate to upgrade to the newest standard, I believe that we should be proactive in seeking out monies for this upgrade. The projected project cost is estimated at \$135,697.32.

This new equipment will help to relieve strains on our staff due to repetitive lifting and moving. It is my recommendation that we seek the monies to upgrade three of our four ambulance units. I believe that we should upgrade the fourth unit when we look to replace the ambulance in the next year. This way the installation can be done at the factory at a savings to us in the future.

I have attached a brief information page that should answer some questions and provide some background information. If you have any other questions or I can provide anything else, please do not hesitate to request it. Thank you for your consideration in this matter.

**RESOLUTION NO. \_\_\_\_**

**RESOLUTION APPROVING THE REQUEST TO SEEK GRANTS FOR THE  
PURCHASE OF THREE STRYKER POWER STRETCHERS**

**WHEREAS**, according to the American Journal of Emergency Medicine, more than half of all prehospital provider back injuries result from lifting patients; and

**WHEREAS**, the City's current restraint system does not meet the current standards governing ambulance operations; and

**WHEREAS**, the Power Load restraint system meets these new standards and are currently used by the three jurisdictions immediately surrounding our locality; and

**WHEREAS**, because of the cost of the Power Load restraint system and the need to install it on three units the City is desirous of seeking grants to pay for them and to install them as funds are received.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Poquoson, Virginia:

**Section 1:** That approval is hereby granted for the submission of a grant(s) application for the funds needed to purchase up to three Stryker power stretcher(s) for installation on City ambulances.

**Section 2:** That this resolution shall be in effect on and after its adoption.

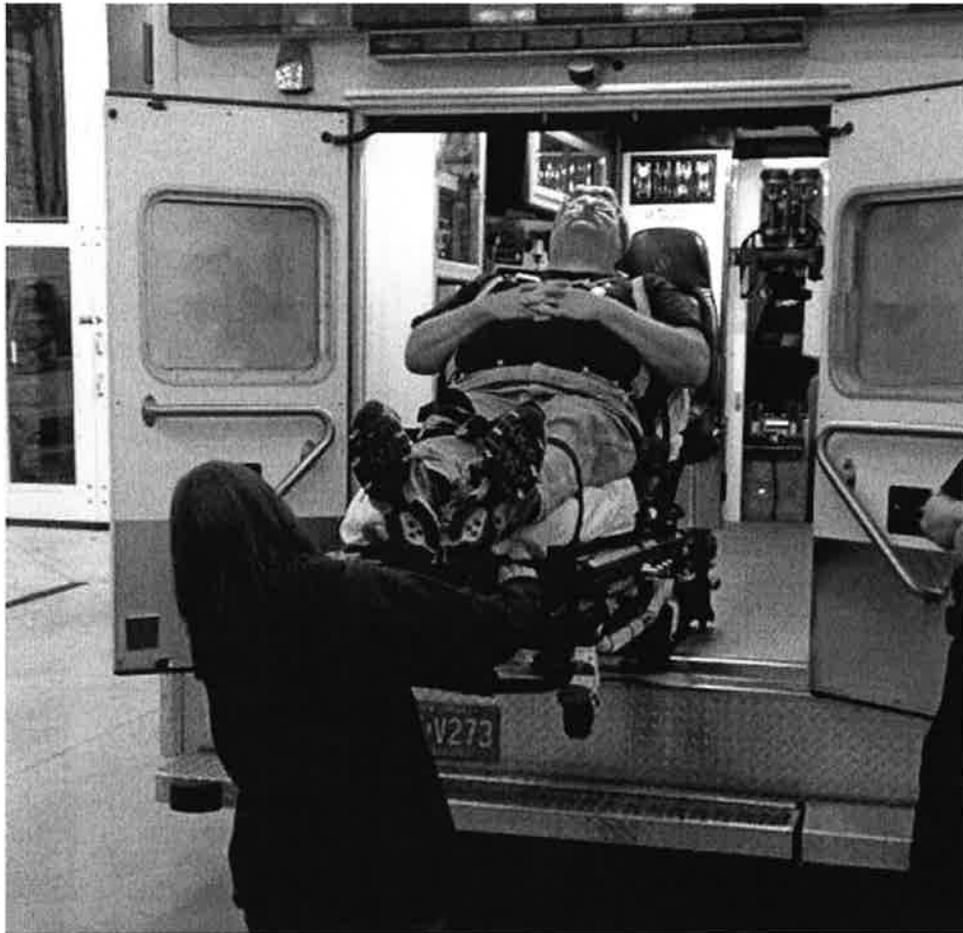
**ADOPTED:** \_\_\_\_\_

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

**City Clerk**

## Stryker Power Stretcher Information

- Currently being used by all three immediately surrounding jurisdictions: Hampton, Newport News, and York. The Power Load restraint system will meet the newest restraint standards governing ambulance operations. Our current restraint system does not meet these standards.
- The XPS (quoted) version is able to lift and hold up to 700 pounds without staff needing to lift. Additionally these stretchers will be outfitted to be used by any mutual aid ambulance in the surrounding area, whether they have the Power Load system or not.
- The Power Load fastener will lift the stretcher and patient into the ambulance with the push of a button. Will lift patients weighing up to 700 pounds. This system will meet the newest restraint requirements set forth by national guidelines. This system will also work with other non-Power Load stretchers in a mass casualty situation.
- The cost breakdown is as follows:
  - Power Pro XPS stretcher with Power Load compatibility - \$18,110.40
  - Power Load restraint system - \$23,542.04
  - Installation with an authorized center - \$3,580.00
  - Grand total per medic unit - \$45,232.44
- According to the American Journal of Emergency Medicine, more than half (62%) of all prehospital provider back injuries result from lifting patients. While these mechanical stretchers are more expensive than the traditional stretchers, they have been shown to decrease the back injury frequency rate. NIOSH has reported a reduction of workers' compensation filings by 41%, claim costs dropped by 49%, lost days by nearly 68%, and restricted days by 70% in one large urban EMS system that introduced mechanical stretchers to their fleet.
- It is my recommendation that these units only be placed on Medic 1, Medic 2, and Medic 11 (in that order, newest to oldest unit). Medic 21 should be the next unit up for replacement and the cost of the Power Load system can be built into the purchase price of the new unit. Having it factory installed will save some money.
- I am currently researching various grant opportunities to try and start this project. The estimated grand total for all three units will be \$135,697.32.





# CITY OF POQUOSON

FINANCE DEPARTMENT

500 CITY HALL AVENUE, POQUOSON, VIRGINIA 23662-1996

November 14, 2016

**TO:** City Council

**FROM:** Theresa Owens, Director of Finance

**THROUGH:** Randy Wheeler, City Manager

**SUBJECT:** Virginia Pooled Other Post-Employment Benefits (OPEB) Trust

On September 12, 2016, City Council approved a change to the personnel policy pertaining to retiree health insurance coverage. The change called for a portion of the cost of retiree health insurance to be paid by the City. Information, plan costs and a funding plan were made part of the discussion. The funding plan included establishing or joining a dedicated Trust Fund to fund the liability of the enhanced benefit.

After researching the requirements for establishing our own Trust Fund, staff recommends joining an already established Pooled Trust Fund. The only pooled trust fund offered in Virginia is the Virginia Pooled OPEB Trust (Trust) administered by VML/VACo Finance. Attached is an executive summary of the Trust.

In order to join the Trust, Council must take two actions. The City must pass an ordinance agreeing to participate in the Trust and must appoint a Local Finance Board to execute a Trust Joinder Agreement and make investment decisions on behalf of the City. The Local Finance Board is a requirement of the enabling OPEB trust legislation passed by the General Assembly. Currently there are only two investment strategies available at this time through the Trust.

Staff recommends the Local Finance Board be comprised of the Commissioner of Revenue, the Treasurer and Finance Director of the City and be given the authority to act on behalf of the City for matters relating to the Trust.

While the City can use funds in the trust to pay for current OPEB expenses, it is not recommended since the investment portfolios available in the Trust are intended to be long term. Therefore staff recommends establishing a special revenue fund to account for the current receipts and disbursements of the OPEB benefits and at the end of each year, fund the Trust to the extent possible up to the Annual Required Contribution actuarially calculated from any residual special revenue fund balances. This would be essentially using the special revenue fund as a check book and the Trust as a savings account. The rating agencies look favorably on municipalities funding an ongoing liability.

As part of the funding discussions in September, staff recommended prefunding the ARC for the incremental difference in the enhanced benefit with unspent budgeted insurance funds from FY 2016 as long as it does not conflict with the City's financial policies relating to fund balance.

The City ended FY 2016 with \$288,000 of undesignated fund balance in excess of 15% of general fund expenditures as required in the financial policies adopted by City Council. The incremental ARC for the enhanced benefit is \$56,740. This would leave \$231,300 in undesignated fund balance in excess of the fund balance policy.

Attached for consideration is an ordinance to establishing a trust for other post-employment benefits by participating in the Virginia Pooled OPEB Trust Fund, establishing a Local Finance Board, appointing the members of the Local Finance board and directing the Local Finance Board to execute and deliver the Trust Joinder Agreement.

Also attached for consideration is an ordinance establishing a special revenue fund and appropriating \$56,740 in the fund for the purpose of OPEB costs for FY 2018 and beyond.

**VIRGINIA ASSOCIATION OF COUNTIES/VIRGINIA MUNICIPAL LEAGUE  
VIRGINIA POOLED OPEB TRUST FUND**

**EXECUTIVE SUMMARY**

**OVERVIEW:**

Statement No. 45 of the Governmental Accounting Standards Board (“GASB”) requires the recognition of expenses relating to post-employment benefits other than pension benefits. Post-employment benefits other than pension benefits (“OPEB”) include post-employment health benefits, such as medical, dental, vision, hearing, and other health-related benefits and other types of post-employment benefits such as life insurance, disability, long-term care, and other benefits. Statement No. 45 permits assets to be set aside to offset the OPEB liability on the financial statements of the governing body.

Implementation of Statement No. 45 was required in three phases based on the government body’s total annual revenues in the first fiscal year ending after June 15, 1999:

Phase 1 Government bodies	Total annual revenues of \$100 million or more	Periods beginning after December 15, 2006
Phase 2 Government bodies	Total annual revenues of \$10 million or more but less than \$100 million	Periods beginning after December 15, 2007
Phase 3 Government bodies	Total annual revenues of less than \$10 million	Periods beginning after December 15, 2008

In response to this change in accounting standards, the Virginia General Assembly passed legislation allowing the governing body of certain political subdivisions to establish a trust for the purpose of accumulating and investing assets to fund OPEB. Va. Code §§ 15.2-1544, *et seq.* The governing bodies empowered to establish an OPEB trust include:

- The governing body of any county, city, town;
- The governing body of any other political subdivision that is appointed in whole or in part by the governing body of such county, city, or town, if authorized to establish an OPEB trust by such county, city or town; and
- Any appointed or elected school board.

Plan assets for purposes of Statement No. 45 are usually in the form of stocks, bonds, and other classes of investments, that have been segregated and restricted in a trust, or equivalent arrangement, in which (a) contributions to the plan are irrevocable, (b) assets are dedicated to providing benefits to retirees and their beneficiaries, and (c) assets are legally protected from creditors of the employer or plan administrator, for the payment of benefits in accordance with the terms of the plan.

The Virginia Association of Counties (VACo) and Virginia Municipal League (VML) sponsor a pooled trust fund (the “Trust”) to allow Virginia counties, cities, towns and school divisions and

other authorized political subdivisions to invest, manage and administer assets to provide for their OPEB liabilities in a cost effective manner in compliance with the requirements of the Virginia Code and Statement No. 45.

The Trust and its Board of Trustees are legally separate and distinct from VACo and VML; however, day-to-day administration of the Trust is provided by the Virginia Local Government Finance Corporation (the "VLGFC"), d/b/a VML/VACo Finance. Administration includes, but is not limited to, selection of investment advisor(s) and legal advisor(s), subject to review and approval of the Board of Trustees, oversight of investment results, review of documentation, processing of disbursements, education of prospective participants, and management of relationships to governing bodies that adopt the Trust. Agreements will be negotiated with third-party providers to offer related services on an optional basis to participating entities, including certain actuarial services to be provided by third-party providers at negotiated fee levels.

A. Purpose of Pooled OPEB Trust Fund

The Pooled OPEB Trust (the "Trust") has been established for the purpose of accumulating and investing assets to fund post-employment benefits other than pensions as defined in the Virginia Code. The Trust is open to counties, cities, towns, school divisions, and other authorized political subdivisions of Virginia for the sole purpose of providing for the funding of OPEB liabilities.

B. Authority and Organizational Structure

The governing body of any county, city, town, school division or other authorized political subdivision may establish a trust for the purpose of accumulating and investing assets to fund OPEB liabilities. Va. Code § 15.2-1544. The statute authorizing such a trust also requires the governing body to create a finance board to serve as trustee of such a trust. In lieu of establishing a local finance board, a governing body that has established a retirement board or deferred compensation board to manage pension benefits provided to or for its active and former employees may designate that retirement board or deferred compensation board to serve as trustee and to manage the assets of a trust or equivalent arrangement. Va. Code § 15.2-1547. The term "Local Finance Board," as used in the Trust, means the finance board, or any retirement board or deferred compensation board appointed to serve as trustee by the governing body.

The Trust contains all the customary provisions of a common trust. A common trust is a trust which consists of the assets of two or more participating entities and is maintained for the collective investment and reinvestment of assets contributed to such trust.

In addition, the Trust includes all terms necessary to comply with Virginia Code section 15.2-1544, including, at a minimum, the following:

- Deposits shall be irrevocable.

- Deposits and earnings shall be dedicated to providing post-employment benefits other than pensions to retirees and their beneficiaries in accordance with the terms of the participating employers' plans or programs.
- Investments in the Trust shall be exempt from the claims of creditors and taxation.

The Virginia Code provides that any power exercised or capable of exercise by any political subdivision of this Commonwealth may be jointly exercised with any other political subdivision of this Commonwealth having a similar power, privilege or authority. Va. Code § 15.2-1300.A. Based on this authority, the governing bodies described above may jointly exercise the power to establish a trust for the purpose of accumulating and investing assets to fund post-employment benefits other than pensions. Va. Code § 15.2-1544. In addition to approving the OPEB Trust as the vehicle for funding other post-employment benefits for its employees, each governing body of a locality participating in the OPEB Trust (a "Participating Employer") will appoint members to its Local Finance Board and direct the Local Finance Board, in its capacity as trustee for the locality, to execute the OPEB Trust Joinder Agreement and represent the beneficial interest of the locality in the OPEB Trust.

The counties of Fairfax and Henrico established the Trust by ordinance. Fairfax and Henrico Counties have the power to appoint one representative to the Board of Trustees for each of the first two three-year terms. The Board of Trustees will exercise the power to retain the services of investment advisors, managers and custodians.

Additional governing bodies may participate in the Trust by ordinance or resolution,<sup>1</sup> and by directing their Local Finance Boards to execute the Trust Joinder Agreement. Each adopting governing body will establish the Trust as a "trust or equivalent arrangement" under the statute. The Local Finance Board of each Participating Employer will fulfill its trustee duties under the statute by execution of the Trust Joinder Agreement, representing the interest of the Participating Employer under the Trust Agreement and by making investment elections, if available, from among the investment alternatives established by the Board of Trustees. Va. Code § 15.2-1547.

The Local Finance Board will act on behalf of the Participating Employer in monitoring investment results, exercising voting rights under the Trust, implementing local investment decisions, if any, managing cash flow and minimizing liabilities.

As required under Va. Code section 15.2-1548, the Trust has retained the services of an investment manager(s). The Trust Joinder Agreement ratifies the retention of the Trust's investment managers as the investment manager for each Participating Employer's beneficial interest in the Trust.

### C. Governance and Management

The Board of Trustees govern the Trust. The Board of Trustees are comprised of a minimum of five but not more than nine members elected at an annual meeting of the then-current Participating Employers, represented by their Local Finance Boards. Participation in the annual

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<sup>1</sup> Localities (*i.e.*, a county, city, or town) shall approve such agreements by ordinance. Other political subdivisions shall approve such agreements by resolution.

meeting is open to representatives of each Local Finance Board. The votes of the Local Finance Boards at the annual meeting will be weighted according to each Participating Employer's percentage of the total Trust fund assets; provided, however, that after the 5<sup>th</sup> Participating Employer joins the Trust, no one Local Finance Board may vote more than 45 percent of the total votes cast. A Local Finance Board may be represented at the annual meeting by its authorized representative.

No more than one member from the same Local Finance Board may serve on the Board of Trustees at the same time. Trustees serve for staggered three-year terms.

The Board of Trustees meet not fewer than four times per year (including the annual meeting). The Board of Trustees manage Trust fund assets through the appointment and oversight of investment managers and will utilize the services of an investment advisor as needed. The Board of Trustees will elect a Chair, a Vice Chair, and a Secretary. The Secretary, who will not be required to be a member of the Board of Trustees, shall have the power and authority to implement policy matters set by the Trustees relating to the operation and supervision of the Trust and applicable law.

Day-to-day administration of the Trust will be provided by VLGFC, including implementation of investment instructions and coordination of investment managers as directed by the Board of Trustees in consultation with its advisor(s). VLGFC will conduct its educational and promotional efforts on behalf of the Trust through VML/VACo Finance.

#### D. Funding

Statement No. 45 requires recognition of the current expense of OPEB based on each governing body's annual required contribution, but does not require funding of the related liability. Therefore, Participating Employers retain discretion in determining the amount that will be contributed to the Trust, if any.

Statement No. 45 further allows employers to count against their net OPEB obligation (1) payments made directly to or on behalf of a retiree or beneficiary, (2) premium payments made to insurers, or (3) assets irrevocably transferred to a trust.<sup>2</sup> Accordingly, the governing bodies are free to decide whether or not to make their contributions for employee benefits and premiums *through* the Pooled OPEB Trust or *directly* to beneficiaries and insurers. Contributions made *through* the Trust and intended to be paid out within a one-year period will require the selection of investment choices that are less volatile and appropriate for a short-term investment horizon. On the other hand, if a governing body contributes to the Trust only the amounts over and above its pay-as-you-go level, its investment choices should reflect a longer-term investment horizon with higher expected returns.

#### E. Investments

The Trust utilizes an investment manager selection process, with the assistance of the investment advisor, that may include, but not be limited to, a performance review and interviews with

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<sup>2</sup> GASB, "Other Postemployment Benefits: A Plain-Language Summary of GASB Statements No. 43 and 45."

managers. Funds held by the investment managers are required to satisfy the prudent person standard.<sup>3</sup>

The Board of Trustees initially selected one asset allocation model that, in its judgment and based upon professional investment advice, offers a prudent balance between investment volatility and earnings potential (the standard portfolio). Since then, the Board of Trustees has established a second portfolio that targets a lower rate of return but also has a lower level of expected volatility. Subject to certain restrictions, the Board of Trustees may, in its discretion, develop a third alternative asset allocation model with a different targeted rate of return and expected level of volatility.

#### F. Accounting for Trust Investments, Income and Disbursements

All assets of the common trust will be commingled for investment purposes; however, contributions, investment gains and losses, and distributions for each participating Local Finance Board will be accounted for separately.

#### G. Distributions

While it is expected that most Local Finance Boards will initially be in an accumulation phase, funds will always be available for disbursement for the purpose of providing post-employment benefits under the terms of a post-employment benefit plan. Funds may be disbursed from the Trust upon certified direction by Local Finance Board(s) for insurance, self-insured costs or benefit payments. Upon request with 90 days written notice (180 days during the first year of participation), the Local Finance Board may transfer its investment out of the Trust to another investment which is permitted under state law for holding designated OPEB funds.

#### H. Investment Authority

The Board of Trustees of the Trust has primary authority and power and is charged with the duty of supervising the investment operations of the Trust. The Board of Trustees has established investment guidelines for the investment managers. The investment managers invest and manage that portion of the Trust for which the investment manager is responsible.

#### I. Public Oversight of Trust Fund

The Trust constitutes a “public body” for purposes of the Virginia Freedom of Information Act (“VFOIA”). Therefore, meetings and records of the Trust will be available to the public to the extent provided by the VFOIA and appropriate measures will be established to comply with the provisions of VFOIA.

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<sup>3</sup> The prudent person standard provides that funds shall be invested with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with the same aims. Such investments shall be diversified so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so. Va. Code § 51.1-803.A.

J. Public Procurement Act

The Trust constitutes a “public body” for purposes of the Virginia Public Procurement Act (the “Procurement Act”). The OPEB statute provides that the selection of services related to the management, purchase, or sale of authorized investments shall not be subject to the provisions of the Procurement Act. In addition, the Procurement Act provides that competitive sealed bidding is not necessary if only one source is practicably available for the services being procured. The contract between the Trust and the VLGFC has been structured to satisfy the Procurement Act.

K. Federal and State Income Tax Status

The Trust will be designed as an integral part of the state government to satisfy the requirements for exemption from federal income taxation under Code § 115(1). We are seeking a private letter ruling confirming the Trust’s status as exempt from federal income tax as a governmental entity. The Trust is exempt from state or local taxation. Va. Code § 15.2-1547.

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO ADOPT TRUST FOR OTHER POST-EMPLOYMENT BENEFITS**

**WHEREAS**, the City of Poquoson wants to establish a trust, trusts, or equivalent arrangements for the purpose of accumulating and investing assets to fund post-employment benefits other than pensions in accordance with section 15.2-1544 of the Virginia Code.

**WHEREAS**, Section 15.2-1500 of the Virginia Code provides, in part, that every locality shall provide for all the governmental functions of the locality, including, without limitation, the organization of all departments, offices, boards, commissions and agencies of government, and the organizational structure thereof, which are necessary and the employment of the officers and other employees needed to carry out the functions of government; and

**WHEREAS**, in connection with the employment of the officers and other employees needed to carry out the functions of government, the City of Poquoson has established certain plans to provide post-employment benefits other than pensions (herein “Other Post-Employment Benefits”), as defined in Section 15.2-1545 of the Virginia Code, to individuals who have terminated their service to the City of Poquoson and to the beneficiaries of such individuals; and

**WHEREAS**, Article 8, Chapter 15, Subtitle II of Title 15.2 of the Virginia Code (§§ 15.2-1544 *et seq.*) provides that the governing body of a City may establish a trust for the purpose of accumulating and investing assets to fund Other Post-Employment Benefits; and

**WHEREAS**, Section 15.2-1300 of the Virginia Code provides that any power, privilege or authority exercised or capable of exercise by any political subdivision of the Commonwealth of Virginia may be exercised and enjoyed jointly with any other political subdivision of the Commonwealth having a similar power, privilege or authority pursuant to agreements with one another for joint action pursuant to the provisions of that section; and

**WHEREAS**, any two or more political subdivisions may enter into agreements with one another for joint action pursuant to the provisions of Section 15.2-1300 of the Virginia Code provided that the participating political subdivisions shall approve such agreement before the agreement may enter into force; and

**WHEREAS**, the County of Fairfax, Virginia and the County of Henrico, Virginia have determined to jointly establish and participate in the Virginia Pooled OPEB Trust Fund (the “Trust Fund”) for each such county; and

**WHEREAS**, it appearing to the Council of the City of Poquoson that it is otherwise in the best interests of the City to become a participating employer in the Trust Fund.

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the City of Poquoson, Virginia:

**Section 1:** That the City of Poquoson does hereby establish a trust pursuant to Section 15.2-1544 of the Virginia Code for the purpose of accumulating and investing assets to fund Other Post-Employment Benefits, in the form set forth in the Virginia Pooled OPEB Trust Fund Agreement (the “Agreement”), a copy of which is attached here as Exhibit A.

**Section 2:** That the City of Poquoson does hereby agree to become a “Participating Employer” in the “Virginia Pooled OPEB Trust Fund” (hereinafter, the “Trust Fund”), as further defined in the Agreement.

**Section 3:** That the City of Poquoson does hereby appoint the following individuals to the local finance board pursuant to Section 15.2-1547 of the Virginia Code to serve as the trustee of the City of Poquoson with respect to the Trust Fund, and as the “Local Finance Board” as defined in the Agreement:

The finance board shall be composed of at least three members who shall include the chief financial officer of the locality, the treasurer of the locality, and at least one other additional person who shall be a citizen of the Commonwealth with proven integrity, business ability, and

demonstrated experience in cash management and in investments. The third member of the board shall be the Commissioner of the Revenue of the City of Poquoson for a term of two years expiring on October 31, 2018.

**Section 4:** That the City of Poquoson does hereby direct the Local Finance Board to execute and deliver the Trust Joinder Agreement for Participating Employers under Virginia Pooled OPEB Trust Fund (“Trust Joinder Agreement”), a copy of which is attached hereto as Exhibit B.

**Section 5:** That the City of Poquoson does hereby designate the following benefits provided to qualified individuals who have terminated their service to the City of Poquoson and to the dependents of such individuals as Other Post-Employment Benefits:

All benefits included in the City of Poquoson’s personnel policy manual Section 43, Retiree Health Insurance Coverage.

**Section 6:** This ordinance shall be in force and effect immediately upon its adoption or passage.

**ADOPTED:** \_\_\_\_\_

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

**City Clerk**

**VIRGINIA POOLED OPEB TRUST FUND  
AGREEMENT**

THIS AGREEMENT (the "Agreement"), made by and between the Participating Employers and their Local Finance Boards who execute Trust Joinder Agreements to participate in the Virginia Pooled OPEB Trust Fund, and the individuals named as Trustees pursuant to Section 106 hereof and their successors (the "Board of Trustees"). The Participating Employers and their Local Finance Boards hereby establish with the Board of Trustees, and the Board of Trustees hereby accept, under the terms of this Agreement, a trust for the purpose of accumulating and investing assets to fund post-employment benefits other than pensions as provided in Article 8, Chapter 15, Subtitle II of Title 15.2 of the Virginia Code (§§ 15.2-1544 *et seq.*) to be held for the purposes set forth herein.

WITNESSETH:

**WHEREAS**, Section 15.2-1500 of the Virginia Code provides, in part, that every locality shall provide for all the governmental functions of the locality, including, without limitation, the organization of all departments, offices, boards, commissions and agencies of government, and the organizational structure thereof, which are necessary and the employment of the officers and other employees needed to carry out the functions of government; and

**WHEREAS**, in connection with the employment of the officers and other employees needed to carry out the functions of government, a locality may establish certain plans to provide post-employment benefits other than pensions (referred to hereinafter as "Other Post-Employment Benefits"), as defined in Section 15.2-1545 of the Virginia Code, to individuals who have terminated their service to the locality and to the dependents of such individuals; and

**WHEREAS**, Article 8, Chapter 15, Subtitle II of Title 15.2 of the Virginia Code (§§ 15.2-1544 *et seq.*) provides that the governing body of a city, county, or town, school district or the governing body of any other political subdivision that is appointed by a city, county, or town, if so authorized, may establish a trust, trusts, or equivalent arrangements for the purpose of accumulating and investing assets to fund Other Post-Employment Benefits; and

**WHEREAS**, Section 15.2-1300 of the Virginia Code provides that any power, privilege or authority exercised or capable of exercise by any political subdivision of the Commonwealth of Virginia may be exercised and enjoyed jointly with any other political subdivision of the Commonwealth having a similar power, privilege or authority pursuant to agreements with one another for joint action pursuant to the provisions of that section; and

**WHEREAS**, the County of Fairfax and the County of Henrico have adopted ordinances approving participation in the Virginia Pooled OPEB Trust Fund for each such locality; and

**WHEREAS**, the Participating Employers and their Local Finance Boards and the Board of Trustees of the Virginia Pooled OPEB Trust Fund (herein referred to as the "Trust Fund")

hereby establish a trust for the purpose of accumulating and investing assets to fund Other Post-Employment Benefits for Participating Employers; and

**WHEREAS**, the parties intend that the Trust Fund hereby established, when taken together with the plans providing Other Post-Employment Benefits, shall constitute a tax-exempt governmental trust under Section 115 of the Internal Revenue Code of 1986, as amended;

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

### **PART 1- GENERAL PROVISIONS**

#### Section 100. APPLICATION.

The provisions of Part 1 are general administrative provisions applicable to each Part of this Agreement and provisions applicable to the Board of Trustees.

#### Section 101. DEFINITIONS.

The following definitions shall apply to this Agreement, unless the context of the term indicates otherwise, and shall govern the interpretation of this Agreement:

A. Administrator. The term “Administrator” means the Virginia Local Government Finance Corporation (d/b/a “VML/VACo Finance Program”) or any successor designated by the Board of Trustees, with the consent of the Virginia Association of Counties and Virginia Municipal League, to administer the Trust Fund.

B. Beneficiary. The term “Beneficiary” means a person designated by an Employee, in accordance with the terms of a Plan, to be entitled to benefits under such Plan, and where the context requires, includes a dependent of the Employee.

C. Code. The term “Code” means the Internal Revenue Code of 1986, as amended, and, as relevant in context, the Internal Revenue Code of 1954, as amended.

D. Custodian. The term “Custodian” means the banks, mutual funds, insurance companies or other qualified entities selected by the Board of Trustees, under a separate written document with each, to hold the assets of the Trust Fund.

E. Effective Date. The term “Effective Date” means the date coinciding with the last to occur of each of the following events: (i) passage of an ordinance by each of the Counties of Fairfax and Henrico approving such Counties as Participating Employers in the Trust Fund; (ii) execution by the Local Finance Boards of the Counties of Fairfax and Henrico of the Trust Joinder Agreement; (iii) execution of this Agreement by all members of the initial Board of Trustees and the Administrator; and (iv) any contribution of cash to the Trust by a Participating Employer.

F. Employee. The term “Employee” means the employees and officials, if applicable, of an Employer, and where the context requires, includes former Employees who have terminated service with an Employer. The term may also include individuals who, though not employed by the political subdivision, are nonetheless eligible, as a result of their providing service to or on behalf of the political subdivision, to receive Other Post Employment Benefits under the Employer’s Plan. Such individuals may include, but are not limited to, members of a volunteer fire company or rescue squad.

G. Employer. The term “Employer” means (i) the governing body of any county, city, or town within the State, (ii) the governing body of any other political subdivision within the State authorized to establish a trust under Section 15.2-1544 of the Virginia Code by the governing body of any county, city, or town that appointed in whole or in part such governing body, or (iii) any appointed or elected school board within the State.

H. Fiscal Year. The first fiscal year of the Trust Fund shall be a short fiscal year beginning on the Effective Date of this Agreement and ending on June 30, 2008. Each subsequent fiscal year of the Trust Fund shall begin on the first day of July and end on the thirtieth day of June.

I. Investment Policy. The term “Investment Policy” means the Virginia Pooled OPEB Trust Fund Investment Policy, as established by the Board of Trustees, as amended from time to time.

J. Local Finance Board. The term “Local Finance Board” means the finance board, or any retirement board or deferred compensation board appointed by the governing body of a Participating Employer to serve as the trustee of such Participating Employer with respect to the Trust Fund, in accordance with Section 15.2-1547 of the Virginia Code, by execution of the Trust Joinder Agreement. Each Local Finance Board shall be the trustee and representative of its Participating Employer for purposes of this Agreement and shall vote the beneficial interest of such Participating Employer in the Trust Fund, as prescribed in Part 3 of this Agreement.

K. Other Post-Employment Benefits. The term “Other Post-Employment Benefits” means any and all post-employment benefits other than pensions, including but not limited to medical, dental, vision, disability and life insurance which may be provided to Employees and Beneficiaries, as may be provided under Plans of Participating Employers.

L. Participating Employer. The term “Participating Employer” means an Employer whose governing body has passed an ordinance or resolution to participate in the Trust Fund, and whose Local Finance Board, serving as the trustee of such Employer in accordance with Section 15.2-1547 of the Virginia Code, executes a Trust Joinder Agreement, as provided in Section 301 hereof.

M. Plan. The term “Plan” means the plan or plans established to provide Other Post-Employment Benefits, which are maintained by Participating Employers pursuant to any applicable statute, regulation, ordinance, resolution, plan, program, policy, agreement, understanding or other arrangement for the benefit of Employees and their Beneficiaries.

N. State. The term "State" means the Commonwealth of Virginia.

O. Trust Fund. The term "Trust Fund" means the Virginia Pooled OPEB Trust Fund, comprised of all of the assets set aside hereunder for the purpose of accumulating and investing assets to fund Other Post-Employment Benefits.

P. Trust Joinder Agreement. The term "Trust Joinder Agreement" means the agreement, in the form attached hereto as Exhibit A, pursuant to which the Local Finance Board joins in the Trust Fund, as the trustee of such Participating Employer, and agrees to be bound by the terms and conditions of the Virginia Pooled OPEB Trust Fund Agreement, as provided in Section 301 hereof.

Q. Trustees. The term "Trustees" means the individuals who serve on the Board of Trustees of the Trust Fund pursuant to Section 106 hereof and their successors.

R. Virginia Code. The term "Virginia Code" means the laws embraced in the titles, chapters, articles and sections designated and cited as the "Code of Virginia," under the laws of the State.

Section 102. GENERAL DUTIES AND MEETINGS OF THE BOARD OF TRUSTEES.

A. General Duties. The Board of Trustees and each Investment Manager appointed pursuant to this Agreement shall discharge their respective duties under this Agreement solely in the interest of Employees and Beneficiaries of the Participating Employers and: (i) except as otherwise provided by any applicable provision of any statute, regulation, ordinance, or resolution, for the exclusive purpose of providing Other Post-Employment Benefits to Employees and Beneficiaries of Participating Employers and defraying the reasonable expenses of administering the Trust Fund; (ii) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with the same aims; and (iii) by diversifying the investments of the Trust Fund so as to minimize the risk of large losses unless under the circumstances, it is clearly prudent not to do so. However, the duties and obligations of the Board of Trustees and each Investment Manager, respectively, as such, shall be limited to those expressly imposed upon them, respectively, by this Agreement notwithstanding any reference herein to the Plans. The Board of Trustees shall administer the Trust Fund in compliance with Code Section 503(b).

1. Authority of the Trustees. The Trustees shall have the power and authority and shall be charged with the duty of general supervision and operation of the Trust Fund, and shall conduct the business and activities of the Trust Fund in accordance with this Agreement, the Trust Joinder Agreements, bylaws, rules and regulations adopted by the Board of Trustees and applicable law.

2. Trustees' Liabilities. No Trustee shall be liable for any action taken pursuant to this Agreement in good faith or for an omission except bad faith or gross

negligence, or for any act of omission or commission by any other Trustee. The Trustees are hereby authorized and empowered to obtain, at the expense of the Trust Fund, liability insurance fully protecting the respective Trustees, the Administrator, and the Trust Fund from any loss or expense incurred, including reasonable attorney's fees, for all acts of the Trustees except bad faith or gross negligence. The Trust Fund shall save, hold harmless and indemnify the Trustees and Administrator from any loss, damage or expense incurred by said persons or entities while acting in their official capacity excepting bad faith or gross negligence.

3. Standard of Review. In evaluating the performance of the Trustees, compliance by the Trustees with this Agreement must be determined in light of the facts and circumstances existing at the time of the Trustees' decision or action and not by hindsight.

4. Limitations on Liabilities. The Trustees' responsibilities and liabilities shall be subject to the following limitations:

(a) The Trustees shall have no duties other than those expressly set forth in this Agreement and those imposed on the Trustees by applicable laws.

(b) The Trustees shall be responsible only for money actually received by the Trustees, and then to the extent described in this Agreement. The Trustees shall not be under any duty to require payment of any contribution to the Trust Fund or to see that any payment made to them is computed in accordance with the provisions of the Plans.

(c) The Trustees shall not be responsible for the correctness of any determination of payments or disbursements from the Trust Fund.

(d) The Trustees shall have no liability for the acts or omissions of any predecessor or successor in office.

(e) The Trustees shall have no liability for (i) the acts or omissions of any Investment Advisor or Advisors, or Investment Manager or Managers; (ii) the acts or omissions of any insurance company; (iii) the acts or omissions of any mutual fund; or (iv) following directions that are given to the Trustees by the Local Finance Board in accordance with this Agreement.

B. Reliance on Counsel. The Board of Trustees may employ, retain or consult with legal counsel, who may be counsel for the Administrator, concerning any questions which may arise with reference to the duties and powers or with reference to any other matter pertaining to this Agreement; and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Trustees in good faith in accordance with the opinion of such counsel, and the Trustees shall not be individually or collectively liable therefor.

C. Meetings. The Board of Trustees shall meet at least quarterly, and more frequently if called, at the principal office of the Trust Fund or at such other location as may be acceptable to a majority of the Trustees. One such quarterly meeting of the Board of Trustees shall be held as soon as practicable after the adjournment of the annual meeting of Local Finance Boards of Participating Employers at such time and place as the Board of Trustees may designate. Other meetings of the Board of Trustees shall be held at places within the Commonwealth of Virginia and at times fixed by resolution of the Board of Trustees, or upon call of the Chairperson of the Board or a majority of the Trustees, on not less than ten (10) days advance notice. Such notice shall be directed to the Trustees by mail to the respective addresses of the Trustees as recorded in the office of the Trust Fund. The notice of any special meetings of the Board of Trustees shall state the purpose of the meeting.

A majority of the number of Trustees elected and serving at the time of any meeting shall constitute a quorum for the transaction of business. The act of a majority of Trustees present at a meeting at which a quorum is present shall be the act of the Board of Trustees. Less than a quorum may adjourn any meeting.

D. Office of the Trust Fund. The Administrator shall establish, maintain and provide adequate funding for an office for the administration of the Trust Fund. The address of such office is to be made known to the parties interested in or participating in the Trust Fund and to the appropriate governmental agencies. The books and records pertaining to the Trust Fund and its administration shall be kept and maintained at the office of the Trust Fund.

E. Execution of Documents. A certificate signed by a person designated by the Board of Trustees to serve as Secretary shall be evidence of the action of the Trustees, and any such certificate or other instrument so signed shall be kept and maintained at the office of the Trust Fund and may be relied upon as an action of the Trustees.

F. Appointment and Removal of Administrator. The Virginia Local Government Finance Corporation is hereby initially designated the Administrator pursuant to an administrative services agreement between the parties. The Board of Trustees shall provide compensation for the Administrator to administer the affairs of the Trust Fund. Any three (3) Trustees may schedule a vote of the Board of Trustees to remove the Administrator by providing no less than 30 days' notice to the other Trustees and to the Administrator. Provided there is sufficient notice given, a vote will be scheduled at the next meeting of the Board of Trustees at which the Administrator may be removed on a three-fourths ( $\frac{3}{4}$ ) vote of the Trustees. Upon removal of the Administrator, the Board of Trustees may designate a successor Administrator.

G. Duty to Furnish Information. The Local Finance Boards and the Board of Trustees shall furnish to each other any document, report, return, statement or other information that the other reasonably deems necessary to perform duties imposed under this Agreement or otherwise imposed by law.

H. Reliance on Communications. The Board of Trustees may rely upon a certification of a Local Finance Board with respect to any instruction, direction, or approval of its Participating Employer and may continue to rely upon such certification until a subsequent

certification is filed with the Trustees. The Trustees shall have no duty to make any investigation or inquiry as to any statement contained in any such writing but may accept the same as fully authorized by the Local Finance Board and its Participating Employer.

Section 103. ADMINISTRATIVE POWERS AND DUTIES.

A. Trustees. The Board of Trustees, in addition to all powers and authorities under common law or statutory authority, including Article 8, Chapter 15, Subtitle II of Title 15.2 of the Virginia Code (§§ 15.2-1544 *et seq.*), shall have and in its sole and absolute discretion may exercise from time to time and at any time, either through its own actions, delegation to the Administrator, or through a Custodian selected by the Board of Trustees, the following administrative powers and authority with respect to the Trust Fund:

1. To receive for the purposes hereof all cash contributions paid to them by or at the direction of the Participating Employers or their Local Finance Boards.

2. To hold, invest, reinvest, manage, administer and distribute cash balances as shall be transferred to the Trustees from time to time by the Participating Employers or their Local Finance Boards and the increments, proceeds, earnings and income thereof for the exclusive benefit of Employees and Beneficiaries under the Plans of each Participating Employer.

3. To continue to hold any property of the Trust Fund that becomes otherwise unsuitable for investment for as long as the Board of Trustees in its discretion deem desirable; to reserve from investment and keep unproductive of income, without liability for interest, cash temporarily awaiting investment and such cash as it deems advisable, or as the Administrator from time to time may specify, in order to meet the administrative expenses of the Trust Fund or anticipated distributions therefrom.

4. To hold property of the Trust Fund in the name of the Trust Fund or in the name of a nominee or nominees, without disclosure of the trust, or in bearer form so that it will pass by delivery, but no such holding shall relieve the Board of Trustees of its responsibility for the safe custody and disposition of the Trust Fund in accordance with the provisions of this Agreement; the books and records of the Board of Trustees shall show at all times that such property is part of the Trust Fund and the Board of Trustees shall be absolutely liable for any loss occasioned by the acts of its nominee or nominees with respect to securities registered in the name of the nominee or nominees.

5. To employ in the management of the Trust Fund suitable agents, without liability for any loss occasioned by any such agents, selected with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with the same aims.

6. To make, execute and deliver, as trustee, any deeds, conveyances, leases, mortgages, contracts, waivers or other instruments in writing that it may deem necessary or desirable in the exercise of its powers under this Agreement.

7. To do all other acts that it may deem necessary or proper to carry out any of the powers set forth in this Section 103 or Section 202, to administer or carry out the purposes of the Trust Fund, or as otherwise is in the best interests of the Trust Fund; provided, however, the Board of Trustees need not take any action unless in its opinion there are sufficient Trust Fund assets available for the expense thereof.

8. To adopt bylaws governing the Trustees' operations and procedures.

9. To contract with municipal corporations, political subdivisions and other public entities of State or of local government and private entities for the provision of Trust Fund services and for the use or furnishing of services and facilities necessary, useful, or incident to providing Trust Fund services.

10. To advise the Administrator on the establishment of expectations with regard to the provision of administrative services and the establishment of appropriate fee levels.

11. To establish and charge fees for participation in the Trust Fund and for additional administrative services provided to a Participating Employer in addition to any fees charged by other administrative service providers.

12. To collect and disburse all funds due or payable from the Trust Fund, under the terms of this Agreement.

13. To provide for and promulgate all rules, regulations, and forms deemed necessary or desirable in contracting with Local Finance Boards and their Participating Employers, in fulfilling the Trustees' purposes of providing Other Post-Employment Benefits through the Trust Fund, and in maintaining proper records and accounts.

14. To employ insurance companies, banks, trust companies, investment brokers, investment advisors, or others as agents for the receipt and disbursement of funds held in trust for Participating Employers.

15. To determine, consistent with the applicable law and the procedures under the Trust Fund, all questions of law or fact that may arise as to investments and the rights of any Participating Employer to assets of the Trust Fund.

16. Subject to and consistent with the Code and the Virginia Code, to construe and interpret the Trust Agreement and to correct any defect, supply any omissions, or reconcile any inconsistency in the Agreement.

17. To contract for, purchase or otherwise procure insurance and investment products.

B. Administrator. Pursuant to an administrative services agreement between the Board of Trustees and the Administrator, the Administrator shall have the power and authority to implement policy and procedural matters as directed by the Board of Trustees as they relate to the ongoing operation and supervision of the Trust Fund and the provisions of this Agreement and applicable law.

Section 104. TAXES, EXPENSES AND COMPENSATION OF TRUSTEES.

A. Taxes. The Administrator, without direction from the Board of Trustees, shall pay out of the Trust Fund all taxes, if any, imposed or levied with respect to the Trust Fund, or any part thereof, under applicable law, and, in its discretion, may contest the validity or amount of any tax, assessment, claim or demand respecting the Trust Fund or any part thereof.

B. Expenses and Compensation. The Board of Trustees is authorized to set aside from Participating Employer contributions received and the investment income earned thereon a reasonable sum for the operating expenses and administrative expenses of the Trust Fund. All remaining funds coming into the Trust shall be set aside, managed and used only for the payment of Other Post-Employment Benefits.

By resolution of the Board of Trustees, Trustees may be provided a reasonable per diem fee and/or reimbursement for expenses for attendance at all meetings. Notwithstanding the preceding sentence, any person employed by a public body, including elected officials or appointed members of governing bodies of a county, city or town or other political subdivision, shall not be eligible to receive fees for services as Trustee from the Trust Fund other than reimbursement for reasonable expenses incurred in connection with his or her responsibilities as a Trustee.

C. Payment of Expenses. The Board of Trustees may use and apply assets in the Trust Fund to pay or provide for the payment of all reasonable and necessary expenses which may be incurred in connection with the establishment and maintenance of the Trust Fund, including but not limited to, the employment of such administrative, legal, accounting, and other expert and clerical assistance, and the purchase or lease of such materials, supplies and equipment as the Trustees, in its discretion, may deem necessary or appropriate in the performance of its duties, or the duties of the agents or employees of the Trust Fund or the Trustees.

Section 105. COMMUNICATIONS.

Until notice is given to the contrary, communication to the Trustees or to the Administrator shall be sent to them at the Trust Fund's office in care of the Administrator. The Administrator's address is VML/VACo Finance at 919 E. Main Street, Suite 1100 Richmond, VA 23219.

Section 106. APPOINTMENT, RESIGNATION OR REMOVAL OF TRUSTEES.

A. Trustees. Except as otherwise provided for the initial group of Trustees and in subsections B.2 and E of this section, the Trustees shall be selected from the members of Local Finance Boards. Notwithstanding any other provision of this Agreement, no more than one member of the Local Finance Board of any particular Participating Employer shall be eligible to sit on the Board of Trustees at one time unless an individual seeking election to the Board of Trustees is, and upon election continues to serve as, a member of a Local Finance Board not otherwise represented on the Board of Trustees.

B. Appointment of Trustees and Length of Appointment. The number of Trustees serving on the Board of Trustees shall be between five (5) and nine (9). The actual number of Trustees may be increased or decreased from time to time within this range by the Board of Trustees by resolution of the Board of Trustees. Only the Local Finance Boards, by vote taken in accordance with Section 307 hereof, may increase or decrease the range in the number of Trustees. No decrease in number shall have the effect of shortening the term of any incumbent Trustee.

1. The initial group of Trustees shall be an interim group of five (5) Trustees to establish the Trust Fund as follows: (a) one (1) individual selected by the Local Finance Board of the County of Fairfax from among its members, (b) one (1) individual selected by the Local Finance Board of the County of Henrico from among its members, and (c) three (3) individuals designated by agreement of the Virginia Association of Counties ("VACo") and the Virginia Municipal League ("VML").

With the first annual meeting of the Local Finance Boards, the Board of Trustees shall be divided into no fewer than two classes, Class A (which includes representatives of the Local Finance Boards of the two founding Participating Employers until the annual meeting of the Local Finance Boards for the Fiscal Year ending June 30, 2015 (the "Fiscal Year 2015 annual meeting")) and Class B (which includes the Trustees selected by VML and VACo until the first annual meeting of Local Finance Boards for the Fiscal Year ending June 30, 2009 (the "Fiscal Year 2009 annual meeting")). An additional Class C with two seats may be created by the Board of Trustees prior to any annual meeting, but only if there are at least seven total Participating Employers. Provided there are at least nine total Participating Employers, the Board of Trustees may create a nine-member Board of Trustees, in which case one additional seat shall be allocated to Class A and one additional seat to Class C.

2. On or after July 1, 2008, the Trustees shall solicit nominations from the Local Finance Boards for open Trusteeships and such nominees shall constitute the candidates for the election of Trustees by vote at the Fiscal Year 2009 annual meeting of the Local Finance Boards as provided in Section 307. In the event that there are not a sufficient number of eligible nominees, nominations will be provided by the Executive Directors of the Virginia Association of Counties and the Virginia Municipal League from among the members of any Local Finance Board, local government officials or local government employees.

The initial group of Trustees described in B.1(a) and (b) above shall be classified as Class A Trustees and shall serve until the Fiscal Year 2012 annual meeting of the Local Finance Boards and for one three-year term thereafter until successor Trustees are elected at the Fiscal Year 2015 annual meeting of the Local Finance Boards, in accordance with Section 106E below, from the pool of nominees selected by all Local Finance Boards. If an additional Class A Trustee seat is created for a non-founding Participating Employer's Local Finance Board before the Fiscal Year 2011 annual meeting, that seat will expire at the Fiscal Year 2012 annual meeting. If such an additional Class A board seat is created subsequent to the Fiscal Year 2011 annual meeting, then it will expire at the annual meeting when the founding Participating Employers' board seats expires beginning at the annual meeting held in Fiscal Year 2015, if appropriate, and every third succeeding year thereafter.

The initial group of Trustees described in B.1(c) above shall be classified as Class B Trustees and shall serve until successor Trustees are elected at the Fiscal Year 2009 annual meeting of Local Finance Boards. At the Fiscal Year 2009 annual meeting of Local Finance Boards, Trustees of Class B shall be elected to hold office for a one-year term expiring at the Fiscal Year 2010 annual meeting of Local Finance Boards until successor Trustees are elected at the Fiscal Year 2010 annual meeting of the Local Finance Boards, in accordance with Section 106E below, from the pool of nominees selected by all Local Finance Boards.

Trustees of the third class (Class C), if such a class is created, shall be elected to hold office for a two-year term expiring at the Fiscal Year 2011 annual meeting of Local Finance Boards until successor Trustees are elected at the Fiscal Year 2011 annual meeting of the Local Finance Boards, in accordance with Section 106E below, from the pool of nominees selected by all Local Finance Boards.

At each annual meeting of Local Finance Boards after the annual meetings of Local Finance Boards described above, the successors to the class of Trustees whose terms shall then expire shall be identified as being of the same class as the trustees they succeed and elected to hold office for a term expiring at the third succeeding annual meeting of Local Finance Boards. If a Class C is created at a subsequent annual meeting, its seats will expire one year following the year in which the Class B seats expire. Trustees shall hold their offices until the next annual meeting of Local Finance Boards for such Trustee's respective Class and until their successors are elected and qualify.

3. At each annual meeting of the Local Finance Boards, the incumbent Trustees will present all nominations received for each class of Trustees (A, B, or C) for which an election is to be held. If a Local Finance Board does not designate a particular class for its nominee(s), such names will be included on the lists of eligible nominees for each class for which an election is to be held unless the individual named is elected to another seat.

4. No individual Trustee may be elected or continue to serve as a Trustee after becoming an owner, officer or employee of the Administrator, an Investment Advisor, an Investment Manager or a Custodian. Except as otherwise provided in B.2 above, following the first election for Trustees, no Trustee may be elected or continue to serve as a Trustee unless he or she is a member of a Local Finance Board.

5. Each Trustee and each successor Trustee shall acknowledge and consent to his or her election as a Trustee by giving written notice of acceptance of such election to the Chairperson of the Trustees.

C. Resignation of a Trustee.

1. A Trustee may resign from all duties and responsibilities under this Agreement by giving written notice to the Chairperson of the Trustees. The Chairperson may resign from all duties and responsibilities under this Agreement by giving written notice to all of the other Trustees. Such notice shall state the date such resignation shall take effect and such resignation shall take effect on such date but not later than sixty (60) days after the date such written notice is given.

2. Any Trustee, upon leaving office, shall forthwith turn over and deliver to the Chairperson at the principal office of the Trust Fund any and all records, books, documents or other property in his or her possession or under his or her control which belong to the Trust Fund. The Chairperson, upon leaving office, shall forthwith turn over and deliver to the Administrator at the principal office of the Trust Fund any and all records, books, documents or other property in his or her possession or under his or her control which belong to the Trust Fund.

D. Removal of a Trustee. Each Trustee, unless due to the resignation, death, incapacity, removal, or conviction of a felony or any offense for which registration is required as defined in Virginia Code § 9.1-902 and for whom all rights of appeal under Virginia law have expired, shall serve and shall continue to serve as Trustee hereunder, subject to the provisions of this Agreement.

A Trustee shall relinquish his or her office or may be removed by a majority vote of the Trustees or *ipso facto* when the Employer which he represents is no longer a Participating Employer in the Trust Fund. Notice of removal of a Trustee shall be furnished to the other Trustees by the Chairperson of the Trustees and shall set forth the effective date of such removal. Notice of removal of the Chairperson shall be furnished to the other Trustees by the Administrator and shall set forth the effective date of such removal.

E. Appointment of a Successor Trustee. Except as otherwise provided in part B.1 of this Section with respect to the initial two terms of Class A Trustees, in the event a Trustee shall die, resign, become incapacitated, be removed from office, or convicted of a felony or any offense for which registration is required as defined in Virginia Code § 9.1-902 and for whom all rights of appeal under Virginia law have expired, a successor Trustee shall be elected forthwith by the affirmative vote of the majority of the remaining Trustees though less than a quorum of

the Board of Trustees. The notice of the election of a successor Trustee shall be furnished to the other Trustees by the Chairperson. In case of the removal, death, resignation, etc. of the Chairperson, notice of the election of a successor Trustee, and the new Chairperson, shall be furnished to the other Trustees by the Administrator. Eligible nominees will be provided by the members of the Local Finance Board of the Trustee being replaced; however, no more than one member of such board may serve as Trustee at one time. If such nominees do not receive the affirmative vote of a majority of the remaining Trustees, additional eligible nominees will be provided by the Executive Directors of the Virginia Association of Counties and the Virginia Municipal League from among the members of any Local Finance Board, and, if there are an insufficient number of nominees to fill available positions, local government officials or local government employees. The term of office of any Trustee so elected shall expire at the next Annual Meeting of Local Finance Boards at which Trustees are elected where a successor shall be elected to complete the term for the Class to which such Trustee has been assigned. Any successor Trustee for a Class A Trustee from a founding Participating Employer with respect to the initial two terms shall be appointed by that Trustee's Local Finance Board.

F. Trustees' Rights. In case of the death, resignation or removal of any one or more of the Trustees, the remaining Trustees shall have the powers, rights, estates and interests of this Agreement as Trustees and shall be charged with the duties of this Agreement; provided in such cases, no action may be taken unless it is concurred in by a majority of the remaining Trustees.

Section 107. Bonding. All Trustees shall immediately make application for a fidelity bond, to any company designated by the Board of Trustees, in such amount as may be specified by the Board of Trustees. Premiums on such bonds shall be paid from the Trust Fund, which bonds shall be continued in force in such amount as the Board of Trustees may from time to time require. If a Trustee's bond is refused, or is ever cancelled, except with the Board of Trustee's approval, such Trustee may be removed from office by majority vote of the Board of Trustees and such Trustee shall be entitled to compensation, if any, to the date of such removal only. A bond for a Trustee is not required under this section if a bond is obtained for such Trustee pursuant to Section 408.

## PART 2 – PROVISIONS APPLICABLE TO INVESTMENTS

### Section 200. APPLICATION.

The provisions of Part 2 apply to the investments of the Trust Fund.

### Section 201. ADMINISTRATION OF TRUST.

A. General. All such assets shall be held by the Trustees in the Trust Fund.

B. Contributions. The Board of Trustees hereby delegates to the Administrator the responsibility for accepting cash contributions to the Trust Fund and the Administrator shall have the responsibility for accepting cash contributions by Participating Employers. Contributions of a Participating Employer to fund Other Post-Employment Benefits are irrevocable. Assets held in the Trust Fund shall be dedicated to providing Other Post-Employment Benefits or to

defraying reasonable expenses of the Trust Fund. Neither the Trustees nor the Administrator shall be under any duty to determine whether the amount of any contribution is in accordance with the Participating Employer's Plan or Plans or to collect or enforce payment of any contribution. All contributions by a Participating Employer shall be transferred to the Trust Fund to be held, managed, invested and distributed as part of the Trust Fund by the Trustees in accordance with the provisions of this Agreement and applicable law.

C. Applicable Laws and Regulations. The Board of Trustees shall be authorized to take the steps it deems necessary or appropriate to comply with any laws or regulations applicable to the Trust Fund.

D. Accumulated Share. No Participating Employer shall have any right, title or interest in or to any specific assets of the Trust Fund, but shall have an undivided beneficial interest in the Trust Fund; however, there shall be a specific accounting of assets allocable to each Participating Employer.

#### Section 202. MANAGEMENT OF INVESTMENTS OF THE TRUST FUND.

A. Authority of Trustees. Except as set forth in subsections C, D, E, G or H of this Section, and except as otherwise provided by law, the Board of Trustees shall have exclusive authority and discretion to manage and control the assets of the Trust Fund held by them pursuant to the guidelines established by the Board of Trustees in the Investment Policy.

B. Investment Policy. The Board of Trustees, as its primary responsibility under this Agreement, shall develop a written Investment Policy establishing guidelines applicable to the investment of the assets of the Trust Fund, and from time to time shall modify such Investment Policy, in light of the short and long-term financial needs of the Plans. The Investment Policy shall serve as the description of the funding policy and method for the Trust Fund.

C. Investment Advisor. The Board of Trustees, from time to time, may direct the Administrator to appoint one (1) or more independent Investment Advisors ("Investment Advisor"), pursuant to a written investment advisory agreement with each, describing the powers and duties of the Investment Advisor with regard to the management of all or any portion of any investment or trading account of the Trust Fund. The Investment Advisor shall review, a minimum of every calendar quarter, the suitability of the Trust Fund's investments, the performance of the Investment Managers and their consistency with the objectives of the Investment Policy with assets in the portion of the Trust Fund for which the Investment Manager has responsibility for management, acquisition or disposition.

If the Administrator contracted with a lead Investment Advisor prior to the establishment of this Agreement, the Board of Trustees may ratify such contract. The lead Investment Advisor will serve at the pleasure of the Board of Trustees and will be compensated for its recurring, usual and customary services as part of the fee schedule established with the Administrator.

D. Investment Advisor Duties. Subject to the approval of the Board of Trustees, the Investment Advisor shall recommend an asset allocation for the Trust Fund that is consistent with the objectives of the Investment Policy. If the Board of Trustees shall approve a separate Investment Policy with respect to assets in a segregated portion of the Trust Fund, the Investment Advisor shall recommend an asset allocation for such segregated portion of the Trust Fund that is consistent with the objectives of such Investment Policy. At least annually, the Investment Advisor shall review the Investment Policy and asset allocation with the Board of Trustees. The Investment Advisor shall also advise the Board of Trustees with regard to investing in a manner that is consistent with applicable law, and, as advised by the Administrator, the expected distribution requirements of the Plans.

E. Investment Managers. The Board of Trustees, from time to time, may appoint one (1) or more independent Investment Managers ("Investment Manager"), pursuant to a written investment management agreement with each, describing the powers and duties of the Investment Manager to invest and manage all or a portion of the Trust Fund. The Investment Manager shall have the power to direct the management, acquisition or disposition of that portion of the Trust Fund for which the Investment Manager is responsible.

The Board of Trustees shall be responsible for ascertaining that each Investment Manager, while acting in that capacity, satisfies the following requirements:

1. The Investment Manager is either (i) registered as an investment adviser under the Investment Advisers Act of 1940, as amended; (ii) a bank as defined in that Act; or (iii) an insurance company qualified to perform the services described herein under the laws of more than one state; and

2. The Investment Manager has acknowledged in writing to the Board of Trustees that it is a fiduciary with respect to the assets in the portion of the Trust Fund for which the Investment Manager has responsibility for management, acquisition or disposition.

F. Custodians. The Custodian(s) shall no less frequently than annually or at the request of the Board of Trustees certify the value of any property of the Trust Fund managed by the Investment Manager(s). The Trustees shall be entitled to rely conclusively upon such valuation for all purposes under the Trust Fund.

G. Investment in Insurance Contracts. The Trustees may offer one (1) or more investment options pursuant to one (1) or more agreements with insurance companies qualified to do business in the Commonwealth of Virginia. Any asset invested pursuant to such an agreement shall be held by the insurance company. Each insurance company so selected shall certify the value of the Trust Fund's interest in the property held by it at least annually. The Trustees shall be entitled to rely conclusively on such valuation for all purposes under this Agreement.

H. Investment in Mutual Funds. The Trustees may offer one (1) or more investment options pursuant to one (1) or more agreements with companies offering mutual fund products.

Any asset invested pursuant to such an agreement shall be held by the Trustees. Each mutual fund so selected shall certify the value of the Trust Fund's interest in that fund at least annually. The Trustees shall be entitled to rely conclusively on such valuation for all purposes under the Trust Fund.

I. Absence of Trustees' Responsibility for Investment Advisor and Manager. Except to the extent provided in paragraph A of Section 102 above, the Board of Trustees, collectively and individually, shall not be liable for any act or omission of any Investment Manager and shall not be under any obligation to invest or otherwise manage the assets of the Trust Fund that are subject to the management of any Investment Manager. Without limiting the generality of the foregoing, the Board of Trustees shall be under no duty at any time to make any recommendation with respect to disposing of or continuing to retain any such asset. Furthermore, the Board of Trustees, collectively and individually, shall not be liable by reason of its taking or refraining from taking the advice of the Investment Advisor any action pursuant to this Section, nor shall the Board of Trustees be liable by reason of its refraining from taking any action to remove or replace any Investment Manager on advice of the Investment Advisor; and the Trustees shall be under no duty to make any review of an asset acquired at the direction or order of an Investment Manager.

J. Reporting. The Board of Trustees shall be responsible for and shall cause to be filed periodic audits, valuations, reports and disclosures of the Trust Fund as are required by law or agreements. Notwithstanding anything herein to the contrary, the Board of Trustees shall cause the Trust Fund to be audited by a certified public accounting firm retained for this purpose at least once each year.

The Board of Trustees may employ professional advisors to prepare such audits, valuations, reports and disclosures and the cost of such professional advisors shall be borne by the Trust Fund.

K. Commingling Assets. Except to the extent prohibited by applicable law, the Board of Trustees may commingle the assets of all Participating Employers held by the Board of Trustees under this Agreement for investment purposes in the Trust Fund and shall hold the Trust Fund in trust and manage and administer the same in accordance with the terms and provisions of this Agreement. However, the assets of each Participating Employer shall be accounted for separately. The Board of Trustees and the Administrator shall be under no duty to determine whether the amount of any contribution is in accordance with the Plans, or to collect or enforce payment of any contribution, or distribution to Plan participants.

#### Section 203. ACCOUNTS.

The Trustees shall keep or cause to be kept at the expense of the Trust Fund accurate and detailed accounts of all its receipts, investments and disbursements under this Agreement, with the Trustees accounting separately for each Investment Manager's portion of the Trust Fund.

#### Section 204. DISBURSEMENTS FROM THE TRUST.

A. Trust Payments. The Board of Trustees hereby delegates to the Administrator the responsibility for making payments from the Trust Fund. In accordance with rules and regulations established by the Board of Trustees, the Administrator shall make payments from the Trust Fund for Other Post-Employment Benefits, as directed by the Local Finance Board of each Participating Employer. Such rules and regulations shall include procedures for certification by the Local Finance Board that payments from the Trust Fund are for the purpose of: (i) paying Other Post-Employment Benefits to or on behalf of Employees or Beneficiaries, (ii) paying premiums to an insurer for Other Post-Employment Benefits, (iii) an irrevocable transfer of assets to a trust, or equivalent arrangement, for providing Other Post-Employment Benefits to Employees and Beneficiaries, which trust assets are legally protected from creditors of the Participating Employer, or (iv) for any purpose permitted under Governmental Accounting Standards Board (GASB) Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions* or applicable Virginia law. Payments shall be made in such manner, in such amounts and for such purposes, including the payment of Other Post-Employment Benefits under participating Plans, as may be directed by the Local Finance Board. Payments from the Trust Fund shall be made by electronic transfer or check (or the check of an agent) for deposit to the order of the payee. Payments or other distributions hereunder may be mailed to the payee at the address last furnished to the Administrator. The Trustees shall not incur any liability on account of any payment or other distribution made by the Trust Fund in accordance with this Section. Such payment shall be in full satisfaction of claims hereunder against the Trustee, Administrator or Participating Employer.

B. Allocation of Expenses. The Trustees shall pay all expenses of the Trust Fund from the assets in the Trust Fund. All expenses of the Trust Fund, which are allocable to a particular investment option or account, may be allocated and charged to such investment option or account as determined by the Trustees. All expenses of the Trust Fund which are not allocable to a particular investment option or account shall be charged to each such investment option or account in the manner established by the Trustees.

#### Section 205. INVESTMENT OPTIONS.

The Trustees shall initially establish one (1) investment option within the Trust Fund pursuant to the Investment Policy, for communication to, and acceptance by, Local Finance Boards. Following development of the initial "investment option" pursuant to the Investment Policy, the Board of Trustees may develop up to two (2) additional investment options, reflecting different risk/return objectives and corresponding asset mixes, for selection by Local Finance Boards, as alternatives to the initial investment option. The determination to add alternative investment options to the Investment Policy, and the development of each such investment option, are within the sole and absolute discretion of the Board of Trustees. The Trustees shall transfer to any deemed investment option developed hereunder such portion of the assets of the Trust Fund as appropriate. The Trustees shall manage, acquire or dispose of the assets in an investment option in accordance with the directions given by each Local Finance Board. All income received with respect to, and all proceeds received from, the disposition of property held in an investment option shall be credited to, and reinvested in, such investment option. If multiple investment options are developed, the Board of Trustees shall establish one (1) default investment option in the absence of valid Local Finance Board investment direction.

If multiple investment options are developed, from time to time, the Board of Trustees may eliminate an investment option, and the proceeds thereof shall be reinvested in the default investment option unless another investment option is selected in accordance with directions given by the Local Finance Board.

Notwithstanding anything hereinabove to the contrary, the Board of Trustees, in its sole discretion, may establish a separate, short-term investment option or fund, to facilitate contributions, disbursements or other short-term liquidity needs of the Trust or of particular Participating Employers. Separate investment funds within the Trust Fund and varying percentages of investment in any such separate investment fund by the Participating Employers, to the extent so determined by the Board of Trustees, are expressly permitted.

### **PART 3 – PROVISIONS APPLICABLE TO PARTICIPATING EMPLOYERS**

#### Section 300. APPLICATION.

The provisions of Part 3 set forth the rights of Participating Employers.

#### Section 301. PARTICIPATING EMPLOYERS.

A. Approval. The Board of Trustees or its designee shall receive applications from Employers for membership in the Trust Fund and shall approve or disapprove such applications for membership in accordance with the terms of this Agreement, the Trust Joinder Agreement, bylaws and the rules and regulations established by the Board of Trustees for admission of new Participating Employers. Before approving the participation of any Employer that has established a Plan, the Board of Trustees or its designee shall determine and affirm that such Employer is permitted to establish a trust pursuant to Article 8, Chapter 15, Subtitle II of Title 15.2 of the Virginia Code (§§ 15.2-1544 *et seq.*). The Board of Trustees shall have total discretion in determining whether to accept a new member. The Board of Trustees may delegate the authority for membership approval to the Administrator.

B. Execution of Trust Joinder Agreement by Local Finance Board. Each Employer will make its election to become a Participating Employer by directing its Local Finance Board to execute a Trust Joinder Agreement in such form and content as prescribed by the Board of Trustees. By the Local Finance Board's execution of the Trust Joinder Agreement, the Participating Employer agrees to be bound by all the terms and provisions of this Agreement, the Trust Joinder Agreement, the bylaws and any other rules and regulations adopted by the Trustees under this Agreement. The Local Finance Board of each Participating Employer, serving as such Employer's Trustee, in accordance with Virginia Code § 15.2-1547, shall represent such Participating Employer's interest in all meetings, votes, and any other actions to be taken by a Participating Employer hereunder. A Local Finance Board may designate one or more, but less than all, of its members to serve as the authorized representative of such Local Finance Board for purposes of this Agreement.

C. Continuing as a Participating Employer. Application for participation in this Agreement, when approved in writing by the Board of Trustees or its designee, shall constitute a continuing contract for each succeeding fiscal year unless terminated by the Trustees or unless the Participating Employer resigns or withdraws from this Agreement by written notice of its Local Finance Board. The Board of Trustees may terminate a Participating Employer's participation in this Agreement for any reason by vote of three-fourths ( $\frac{3}{4}$ ) of the Board of Trustees. If the participation of a Participating Employer is terminated, the Board of Trustees and the Administrator shall effect the withdrawal of such Participating Employer's beneficial interest in the Trust within one hundred eighty (180) days, by transfer of such assets to a trust, trusts or equivalent arrangement for the purpose of accumulating and investing assets to fund Other Post-Employment Benefits, established for this purpose by such Participating Employer. If withdrawal is not completed within this time period, the Board of Trustees, in its discretion, may make reasonable alternative arrangements for the distribution of the Participating Employer's beneficial interest.

Section 302. Places of Meetings. All meetings of the Local Finance Boards shall be held at such place, within the Commonwealth of Virginia, as from time to time may be fixed by the Trustees.

Section 303. Annual Meetings. The annual meeting of the Local Finance Boards, for the election of Trustees and for the transaction of such other business as may come before the annual meeting, shall be held at such time on such business day between September 1<sup>st</sup> and October 31<sup>st</sup> as shall be designated by resolution of the Board of Trustees.

Section 304. Special Meetings. Special meetings of the Local Finance Boards for any purpose or purposes may be called at any time by the Chairperson of the Board of Trustees, by the Board of Trustees, or if Local Finance Boards together holding at least twenty percent (20%) of all votes entitled to be cast on any issue proposed to be considered at the special meeting sign, date and deliver to the Trust Fund's Secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held. At a special meeting no business shall be transacted and no action shall be taken other than that stated in the notice of the meeting.

Section 305. Notice of Meetings. Written notice stating the place, day and hour of every meeting of the Local Finance Boards and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each Participating Employer's Local Finance Board of record entitled to vote at such meeting, at the address which appears on the books of the Trust Fund.

Section 306. Quorum. Any number of Local Finance Boards together holding at least a majority of the outstanding beneficial interests entitled to vote with respect to the business to be transacted, who shall be physically present in person at any meeting duly called, shall constitute a quorum of such group for the transaction of business. If less than a quorum shall be in attendance at the time for which a meeting shall have been called, the meeting may be adjourned from time to time by a majority of the Local Finance Boards present. Once a beneficial interest is represented for any purpose at a meeting of Local Finance Boards, it shall be deemed present

for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is, or shall be, set for that adjourned meeting.

Section 307. Voting. At any meeting of the Local Finance Boards, each Local Finance Board entitled to vote on any matter coming before the meeting shall, as to such matter, have one vote, in person, for each whole dollar invested in the Trust Fund standing in its name on the books of the Trust Fund on the date, not more than seventy (70) days prior to such meeting, fixed by the Board of Trustees, for the purpose of determining Local Finance Boards entitled to vote, as the date on which the books of the Trust Fund are to be closed or as the record date. Notwithstanding the preceding sentence, at any meeting held after the date the fifth (5<sup>th</sup>) Participating Employer joins the Trust, no one Local Finance Board may vote more than forty-five percent (45%) of the total votes cast. In the event that more than one member of a Local Finance Board attends a meeting, the Local Finance Board will designate one member authorized to cast its votes.

If a quorum is present at a meeting of the Local Finance Boards, action on a matter other than election of Trustees shall be approved if the votes cast favoring the action exceed the votes cast opposing the action, unless a vote of a greater number is required by this Agreement. If a quorum is present at a meeting of the Local Finance Boards, Trustees for all open seats for each class of Trustees on the Board of Trustees shall be elected by a plurality of the votes cast by the beneficial interests entitled to vote in such election.

Local Finance Boards at the annual meeting will vote at one time to fill all open positions within a single class of Trustees. Elections will be held by class, in the order of the length of the terms to be filled, beginning with the longest term. The designated representative of each Local Finance Board will cast up to the full number of its votes for each open position within a class of Trustees, but it may not cast votes for more than the number of open positions in such class. Those nominees receiving the largest plurality of votes, up to the number of positions to be filled, will be declared elected. Subsequent votes may be held to break any ties, if necessary, in order to elect the correct number of Trustees.

#### **PART 4 – PROVISIONS APPLICABLE TO OFFICERS**

Section 401. Election of Officers; Terms. The Board of Trustees shall appoint the officers of the Trust Fund. The officers of the Trust Fund shall consist of a Chairperson of the Board, a Vice-Chairperson, and a Secretary. The Secretary need not be a member of the Board of Trustees and may be the Administrator. Other officers, including assistant and subordinate officers, may from time to time be elected by the Board of Trustees, and they shall hold office for such terms as the Board of Trustees may prescribe. All officers shall hold office until the next annual meeting of the Board of Trustees and until their successors are elected.

Section 402. Removal of Officers; Vacancies. Any officer of the Trust Fund may be removed summarily with or without cause, at any time, on a three-fourths ( $\frac{3}{4}$ ) vote of the Board of Trustees. Vacancies may be filled by the Board of Trustees.

Section 403. Duties. The officers of the Trust Fund shall have such duties as generally pertain to their offices, respectively, as well as such powers and duties as are prescribed by law or are hereinafter provided or as from time to time shall be conferred by the Board of Trustees. The Board of Trustees may require any officer to give such bond for the faithful performance of such officer's duties as the Board of Trustees may see fit.

Section 404. Duties of the Chairperson. The Chairperson shall be selected from among the Trustees. Except as otherwise provided in this Agreement or in the resolutions establishing such committees, the Chairperson shall be ex officio a member of all Committees of the Board of Trustees. The Chairperson shall preside at all Board meetings. The Chairperson may sign and execute in the name of the Trust Fund stock certificates, deeds, mortgages, bonds, contracts or other instruments except in cases where the signing and the execution thereof shall be expressly delegated by the Board of Trustees or by this Agreement to some other officer or agent of the Trust Fund or as otherwise required by law. In addition, he shall perform all duties incident to the office of the Chairperson and such other duties as from time to time may be assigned to the Chairperson by the Board of Trustees. In the event of any vacancy in the office of the Chairperson, the Vice-Chairperson shall serve as Chairperson on an interim basis until such vacancy is filled by subsequent action of the Board of Trustees.

Section 405. Duties of the Vice-Chairperson. The Vice-Chairperson, if any, shall be selected from among the Trustees and shall have such powers and duties as may from time to time be assigned to the Vice-Chairperson.

Section 406. Duties of the Secretary. The Secretary shall act as secretary of all meetings of the Board of Trustees and the Local Finance Boards in the Trust Fund. When requested, the Secretary shall also act as secretary of the meetings of the Committees of the Board of Trustees. The Secretary shall keep and preserve the minutes of all such meetings in permanent books. The Secretary shall see that all notices required to be given by the Trust Fund are duly given and served. The Secretary may sign and execute in the name of the Trust Fund stock certificates, deeds, mortgages, bonds, contracts or other instruments, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Trustees or by this Agreement. The Secretary shall have custody of all deeds, leases, contracts and other important Trust Fund documents; shall have charge of the books, records and papers of the Trust Fund relating to its organization and management as a trust; and shall see that all reports, statements and other documents required by law (except tax returns) are properly filed.

Section 407. Compensation. The Board of Trustees shall have authority to fix the compensation, if any, of all officers of the Trust Fund. Notwithstanding the preceding sentence, any person employed by a public body, including elected officials or appointed members of governing bodies, shall not be eligible to receive compensation for services as an officer of the Trust Fund other than reimbursement for reasonable expenses.

Section 408. Bonding. All officers shall immediately make application for a fidelity bond, to any company designated by the Board of Trustees, in such amount as may be specified by the Board of Trustees. Premiums on such bonds shall be paid from the Trust Fund, which bonds shall be continued in force in such amount as the Board of Trustees may from time to time

require. If an officer's bond is refused, or is ever cancelled, except with the Board of Trustees' approval, such officer may be removed from office as provided in Section 402 and such officer shall be entitled to compensation, if any, to the date of such removal only.

## PART 5 – MISCELLANEOUS PROVISIONS

Section 501. Titles. The titles to Parts and Sections of this Agreement are placed herein for convenience of reference only, and the Agreement is not to be construed by reference thereto.

Section 502. Successors. This Agreement shall bind and inure to the benefit of the successors and assigns of the Trustees, the Local Finance Boards, and the Participating Employers.

Section 503. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute but one instrument, which may be sufficiently evidenced by any counterpart. Any Participating Employer that formally applies for participation in this Agreement by its Local Finance Board's execution of a Trust Joinder Agreement which is accepted by the Trustees shall thereupon become a party to this Agreement and be bound by all of the terms and conditions thereof, and said Trust Joinder Agreement shall constitute a counterpart of this Agreement.

Section 504. Amendment or Termination of this Agreement; Termination of Plans.

A. Amendment. This Agreement may be amended in writing at any time by the vote of a majority of the Trustees. Notwithstanding the preceding sentence, this Agreement may not be amended so as to change its purpose as set forth herein or to permit the diversion or application of any funds of the Trust Fund for any purpose other than those specified herein.

The Board of Trustees, upon adoption of an amendment to this Agreement, shall provide notice by sending a copy of any such amendment to each Local Finance Board within 15 days of adoption of such amendment. If a Local Finance Board objects to such amendment, the Local Finance Board must provide written notice of its objection and intent to terminate its participation in the Trust Fund by registered mail delivered to the Administrator within ninety (90) days of such notice, and if such notice is given, the amendments shall not apply to such Participating Employer for a period of 180 days from the date of adoption of such amendments. The Participating Employer's interest shall be terminated in accordance with the provisions of paragraph B of this section.

B. Termination. This Agreement and any trust created hereby may be terminated at any time by the Trustees with respect to a Participating Employer when the Participating Employer's participation interest in the Trust Fund is terminated or when a Trust Joinder Agreement has been terminated. The Trust Fund may be terminated in its entirety when all participation interests of all Participating Employers have been terminated in their entirety. This Agreement and the Trust Fund may be terminated in their entirety pursuant to Virginia law.

In case of a termination of this Agreement, either in whole or in part, the Trustees shall hold, apply, transfer or distribute the affected assets of the Trust Fund in accordance with

the applicable provisions of this Agreement and the direction of the Local Finance Board of each Participating Employer. Upon any termination, in whole or in part, of this Agreement, the Trustees shall have a right to have their respective accounts settled as provided in this Section 504.

In the case of the complete or partial termination of this Agreement as to one or more Participating Employers, the affected assets of the Trust Fund shall continue to be held pursuant to the direction of the Trustees, for the benefit of the Employees and Beneficiaries of such Participating Employer, until the Trustees, upon recommendation of the Administrator, distribute such assets to a trust, trusts or equivalent arrangement established by such Participating Employer for the purpose of funding Other Post-Employment Benefits, or other suitable arrangements for the transfer of such assets have been made. This Agreement shall remain in full effect with respect to each Participating Employer that does not terminate its participation in the Trust Fund on behalf of its Employees and Beneficiaries, or whose participation is not terminated by the Trustees. However, if distributions must be made, the Local Finance Board of each Participating Employer shall be responsible for directing the Administrator on how to distribute the beneficial interest of such Participating Employer. In the absence of such direction, the Administrator may take such steps as it determines are reasonable to distribute such Participating Employer's interest.

A Participating Employer must provide written notice of its intent to terminate its participation in the Trust Fund by registered mail signed by its Local Finance Board and delivered to the Administrator at least ninety (90) days in advance. Notwithstanding the preceding sentence, during its first year of participation, a Participating Employer must provide notice of its intent to terminate no less than one hundred eighty (180) days in advance.

Notwithstanding the foregoing, the Trustees shall not be required to pay out any assets of the Trust Fund to Participating Employers upon termination of this Agreement or the Trust Fund, in whole or in part, until the Trustees have received written certification from the Administrator that all provisions of law with respect to such termination have been complied with. The Trustees shall rely conclusively on such written certification and shall be under no obligation to investigate or otherwise determine its propriety.

When the assets of the Trust Fund affected by a termination have been applied, transferred or distributed and the accounts of the Trustees have been settled, then the Trustees and Administrator shall be released and discharged from all further accountability or liability respecting the Trust Fund, or portions thereof, affected by the termination and shall not be responsible in any way for the further disposition of the assets of the Trust Fund, or portions thereof, affected by the termination or any part thereof so applied, transferred or distributed; provided, however, that the Trustees shall provide full and complete accounting for all assets up through the date of final disposition of all assets held in the Trust.

Section 505. Spendthrift Provision; Prohibition of Assignment of Interest.

The Trust Fund shall be exempt from taxation and execution, attachment, garnishment, or any other process to the extent provided under Article 8, Chapter 15, Subtitle II of Title 15.2 of

the Virginia Code (§§ 15.2-1544 *et seq.*). No Participating Employer or other person with a beneficial interest in any part of the Trust Fund may commute, anticipate, encumber, alienate or assign the beneficial interests or any interest of a Participating Employer in the Trust Fund, and no payments of interest or principal shall be in any way subject to any person's debts, contracts or engagements, nor to any judicial process to levy upon or attach the interest or principal for payment of those debts, contracts, or engagements.

Section 506. Meetings; Virginia Freedom of Information Act.

The Administrator shall give the public notice of the date, time, and location of any meeting of the Board of Trustees' or of the Local Finance Boards in the manner and as necessary to comply with the Virginia Freedom of Information Act (Va. Code §§ 2.2-3700 *et seq.*). The Secretary or its designee shall keep all minutes of all meetings, proceedings and acts of the Trustees and Local Finance Boards, but such minutes need not be verbatim. Copies of all minutes of the Trustees and Local Finance Boards shall be sent by the Secretary or its designee to the Trustees.

All meetings of the Board of Trustees and Local Finance Boards shall be open to the public, except as provided in § 2.2-3711 of the Virginia Code. No meeting shall be conducted through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business, except as provided in §§ 2.2-3708 or 2.2-3708.1 of the Virginia Code.

Section 507. Jurisdiction. This Agreement shall be interpreted, construed and enforced, and the trust or trusts created hereby shall be administered, in accordance with the laws of the United States and of the Commonwealth of Virginia.

Section 508. Situs of the Trust. The situs of the trust or trusts created hereby is the Commonwealth of Virginia. All questions pertaining to its validity, construction, and administration shall be determined in accordance with the laws of the Commonwealth of Virginia. Venue for any action regarding this Agreement is the City of Richmond, Virginia.

Section 509. Construction. Whenever any words are used in this Agreement in the masculine gender, they shall be construed as though they were also used in the feminine or neuter gender in all situations where they would so apply and whenever any words are used in this Agreement in the singular form, they shall be construed as though they were also used in the plural form in all situations where they would so apply, and whenever any words are used in this Agreement in the plural form, they shall be construed as though they were also in the singular form in all situations where they would so apply.

Section 510. Conflict. In resolving any conflict among provisions of this Agreement and in resolving any other uncertainty as to the meaning or intention of any provision of the Agreement, the interpretation that (i) causes the Trust Fund to be exempt from tax under Code Sections 115 and 501(a), and (ii) causes the participating Plan and the Trust Fund to comply with all applicable requirements of law shall prevail over any different interpretation.

Section 511. No Guarantees. Neither the Administrator nor the Trustees guarantee the Trust Fund from loss or depreciation or for the payment of any amount which may become due to any person under any participating Plan or this Agreement.

Section 512. Parties Bound; No Third Party Rights. This Agreement and the Trust Joinder Agreements, when properly executed and accepted as provided hereunder, shall be binding only upon the parties hereto, *i.e.*, the Board of Trustees, the Administrator and the Participating Employers and their Local Finance Boards. Neither the establishment of the Trust nor any modification thereof, nor the creation of any fund or account, the payment of any Other Post-Employment Benefits, shall be construed as giving to any person covered under any Plan of a Participating Employer or any other person any legal or equitable right against the Trustees, or any officer or employee thereof, except as may otherwise be provided in this Agreement. Under no circumstances shall the term of employment of any Employee be modified or in any way affected by this Agreement.

Section 513. Necessary Parties to Disputes. Necessary parties to any accounting, litigation or other proceedings relating to this Agreement shall include only the Trustees and the Administrator. The settlement or judgment in any such case in which the Trustees are duly served or cited shall be binding upon all Participating Employers and their Local Finance Boards and upon all persons claiming by, through or under them.

Section 514. Severability. If any provision of this Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Agreement shall continue to be fully effective. If any provision of the Agreement is held to violate the Code or to be illegal or invalid for any other reason, that provision shall be deemed to be null and void, but the invalidation of that provision shall not otherwise affect the trust created by this Agreement.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, each of the members of the initial Board of Trustees has executed this Trust Agreement.

Date: 4/11/08

[Signature]  
\_\_\_\_\_, County of Fairfax

Date: 4/11/08

[Signature]  
\_\_\_\_\_, County of Henrico

Date: 4/11/08

[Signature]  
\_\_\_\_\_, Designee of VACo/VML

Date: 4/11/08

[Signature]  
\_\_\_\_\_, Designee of VACo/VML

Date: 4-11-08

[Signature]  
\_\_\_\_\_, Designee of VACo/VML

Accepted by the Administrator

VIRGINIA LOCAL GOVERNMENT  
FINANCE CORPORATION

By: [Signature]  
\_\_\_\_\_  
President

City of Richmond  
Commonwealth of Virginia

The forgoing instrument was  
acknowledged before me this  
11th day of April 2008 by:

Jesse Hall, Leon T. Johnson,  
Victoria Lucente, Deidra M.  
McLaughlin, Robert L. Mears,  
and Robert W. Lauterberg.

[Signature]  
\_\_\_\_\_

James D. Campbell  
Notary Public #22055  
M commission expires October 31, 2009.

\\ODMA\PCDOCS\DOCS\FK\1244190\18

**Exhibit B**

**TRUST JOINDER AGREEMENT  
FOR PARTICIPATING EMPLOYERS UNDER  
VIRGINIA POOLED OPEB TRUST FUND**

**THIS TRUST JOINDER AGREEMENT** is made by and between the Local Finance Board of City of Poquoson, Virginia (herein referred to as the "Local Finance Board") of the City of Poquoson, Virginia (herein referred to as the "Participating Employer"), and the Board of Trustees (herein collectively referred to as the "Trustees") of the Virginia Pooled OPEB Trust Fund (herein referred to as the "Trust Fund").

**WITNESSETH:**

**WHEREAS**, the Participating Employer provides post-employment benefits other than pensions (herein referred to as "Other Post-Employment Benefits"), as defined in section 15.2-1545 of the Virginia Code, for Employees and Beneficiaries; and

**WHEREAS**, the governing body of the Participating Employer desires to establish a trust for the purpose of accumulating and investing assets to fund Other Post-Employment Benefits as it may appropriate; and

**WHEREAS**, the governing body of the Participating Employer has adopted an ordinance and/or resolution (a certified copy of which is attached hereto as Exhibit A) to authorize participation in the Virginia Pooled OPEB Trust Fund and establish a Local Finance Board, and, pursuant to Virginia Code § 15.2-1547, has directed the Local Finance Board to enter into this Trust Joinder Agreement; and

**WHEREAS**, the Trust Fund, in accordance with the terms of the Virginia Pooled OPEB Trust Fund Agreement (the "Agreement"), provides administrative, custodial and investment services to the Participating Employers in the Trust Fund; and

**WHEREAS**, the Local Finance Board, upon the direction of the governing body of the City of Poquoson, Virginia, desires to submit this Trust Joinder Agreement to the Trustees to enable the City of Poquoson, Virginia, to become a Participating Employer in the Trust Fund and a party to the Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements flowing to each of the parties hereto, it is agreed as follows:

1. Pursuant to the Board of Trustees' acceptance of this Trust Joinder Agreement, the City of Poquoson, Virginia, is a Participating Employer in the Trust Fund, as provided in the Agreement, and the Local Finance Board is authorized to enter into this Trust Joinder Agreement, and to represent and vote the beneficial interest of the City of Poquoson, Virginia, in the Trust Fund in accordance with the Agreement.

2. Capitalized terms not otherwise defined in this Trust Joinder Agreement have the meaning given to them under the Agreement.

3. The Local Finance Board shall cause appropriations designated by the Participating Employer for deposit in the Trust Fund to be deposited into a depository designated by the Trustees.

4. The Local Finance Board shall timely remit, or timely approve the remittance of, administrative fees as may be due and payable by the Participating Employer under the Agreement into a depository designated by the Trustees.

5. The Participating Employer shall have no right, title or interest in or to any specific assets of the Trust Fund, but shall have an undivided beneficial interest in the Trust Fund; however, there shall be a specific accounting of assets allocable to the Participating Employer.

6. The Local Finance Board shall provide to the Administrator designated by the Trustees all relevant information reasonably requested by the Administrator for the administration of the Participating Employer's investment, and shall promptly update all such information. The Local Finance Board shall certify said information to be correct to the best of its knowledge, and the Trustees and the Administrator shall have the right to rely on the accuracy of said information in performing their contractual responsibilities.

7. The Trust Fund provides administrative, custodial and investment services to the Participating Employer in accordance with the Agreement.

8. The Trustees and the Administrator, in accordance with the Agreement and the policies and procedures established by the Trustees, shall periodically report Trust activities to the Participating Employer on a timely basis.

9. The Local Finance Board and the Participating Employer agree to abide by and be bound by the terms, duties, rights and obligations as set forth in the Agreement, as may be amended by the Trustees, which is attached hereto and is made a part of this Trust Joinder Agreement.

10. The Local Finance Board, in fulfillment of its duties as the trustee of the Participating Employer, retains the services of the Investment Manager or Managers selected by the Trustees pursuant to the Agreement.

11. The term of this Trust Joinder Agreement shall be indefinite; however, the Participating Employer may not terminate this Trust Joinder Agreement until 180 days after its initial investment. Thereafter, the Local Finance Board may terminate this Trust Joinder Agreement on behalf of the Participating Employer by giving at least 90 days prior notice in writing to the Trustees. Termination shall be governed by the provisions of the Agreement.

**IN WITNESS WHEREOF**, the Local Finance Board has caused this Trust Joinder Agreement to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**LOCAL FINANCE BOARD OF**  
\_\_\_\_\_, **VIRGINIA**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_

\* \* \* \*

ACCEPTANCE:

**VIRGINIA POOLED OPEB TRUST FUND**  
**Virginia Local Government Finance Corporation**

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

#.:ODMA\PCDOCS\DOCSNFK\1259891\7

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE MAKING ADDITIONAL APPROPRIATIONS  
AND TRANSFERS FOR FISCAL YEAR 2016-2017**

**WHEREAS**, the City personnel policies include other post-employment health insurance benefits, and

**WHEREAS**, the City has a need to account for those benefits in a separate fund, and

**WHEREAS**, an initial deposit into the fund is necessary to implement the funding for these benefits.

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the City of Poquoson, Virginia:

**Section 1:** That a Special Revenue Fund be established to account for other post-employment benefits.

**Section 2:** That an additional \$56,740 in revenues in the General Fund and \$56,740 in revenues in the Special Revenue Fund-OPEB be and the same hereby are appropriated within the Fiscal Year 2016-2017 Budget as follows:

**GENERAL FUND**

**Revenues:**

Transfer from Fund Balance \$56,740

**TOTAL** \$56,740

**Expenditures:**

Transfer to Special Revenue Fund-OPEB \$56,740

**TOTAL** \$56,740

**SPECIAL REVENUE FUND-OPEB**

**Revenues:**

Transfer from General Fund \$56,740

**TOTAL** **\$56,740**

**Expenditures:**

OPEB \$56,740

**TOTAL** **\$56,740**

**Section 3:** That the second reading of this ordinance is hereby dispensed with and the provisions contained herein shall become effective immediately upon adoption.

**ADOPTED:** \_\_\_\_\_

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

City Clerk



# CITY OF POQUOSON

FINANCE DEPARTMENT

500 CITY HALL AVENUE, POQUOSON, VIRGINIA 23662-1996

November 14, 2016

**TO:** City Council

**THROUGH:** Randy Wheeler, City Manager

**FROM:** Theresa Owens, Finance Director

**SUBJECT: Ordinance Making Additional Appropriations and Transfers for FY 2017**

Attached is an appropriation for City Council's consideration for FY 2017 transfers and additional revenues for various departments and funds.

- The Library received donations in fiscal year 2016 which were not spent by year end. In the current fiscal year, the Library has received \$1,061 in additional donations. This ordinance re-appropriates \$9,383 in carryover donations to the Library and \$1,061 in additional donations received.
- The Fire Department had carryover funds from the 4 for Life Program and Fire Fund program from the state that was unspent by the end of FY 2016. The carryover amounts for those funds were \$13,291 and \$144,875 respectively. This ordinance appropriates the carryover funds for FY 2017 to be used in accordance with the program requirements for 4 for Life and Fire Fund Program.
- The Police Department had carryover state and federal asset forfeiture funds of \$8,047 and \$58,717 respectively. Use of the funds will be spent in the Police Department in accordance with the asset forfeiture guidelines which require the funds to be used to enhance law enforcement capabilities of the Police Department and include a provision for supplanting.
- The City received from the Department of Environmental Quality \$6,192 for the Litter Control Grant for FY 2017. This ordinance appropriates the grant revenue to be used in accordance with the program.
- The Police Department received a DMV Alcohol Safety and a DMV Speed Safety grants in Fiscal Year 2016. The grant period runs from October 1, 2015 to September 30, 2016 for both grants and all grant funds had not been expended prior to year end. This ordinance appropriates the remaining grant funds of \$7,634 and \$5,572 respectively to be used in Fiscal Year 2017 for grant purposes.
- The City received an Emergency Management Performance Grant from the Virginia Department of Emergency Management for assisting the City in preparing for all hazard as

authorized by the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*. This ordinance appropriates the award of \$7,500 to be used in accordance with the guidelines.

- Attached is a letter from the School Superintendent requesting the re-appropriation of the \$27,124 of the local operating funds that were not expended in FY 2016. The funds will be used for the matching requirements the State School Security Grant awarded to the School as well as a match for the State Technology Grant and for technology that was not funded by the state grant.
- The Police Department has received a donation \$100 for crime prevention. This ordinance appropriates the donation in the police department budget for that purpose.
- The City received a grant from the US Department of Homeland Security through the Virginia Department of Emergency Management for Tactical EMS Training. This ordinance appropriates \$27,070 to be used in accordance with the grant.
- Recyclable scrap metal was sold for \$5,594. This ordinance appropriates the proceeds of the sale to the Public Works Department to be used for special projects in the department.
- Various pieces of equipment and vehicles were sold at auction for \$6,786. The City's general fleet and inspection vehicles are aging. This ordinance appropriates the proceeds from the auction as well as \$13,000 from fund balance for the replacement of at least one vehicle in general fleet and/or inspections.
- The Capital Projects Fund has one year three project for street drainage that was not spent in FY 2016. This ordinance appropriates \$72,084 in state highway funds budgeted in previous years to the current year to be used for drainage projects.
- In FY 2016, the City was awarded the Stormwater Local Assistance Fund Grant. The project was not completed until FY 2017. This ordinance appropriates in the Capital Projects Fund \$50,301 in grant funding for the completion of the project.
- The City received a grant from the Office of Emergency Medical Services, for the purchase of 2 Lifepack units to replace outdated equipment. The ordinance appropriates in the Capital Projects Fund \$33,251 for this purchase.
- The City received a grant from the Virginia Port Authority for dock and slip upgrades at Messick Point. This ordinance appropriates \$51,000 in grant funding in the Capital Projects Fund for the improvements.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE MAKING ADDITIONAL APPROPRIATIONS  
AND TRANSFERS FOR FISCAL YEAR 2016-2017

WHEREAS, the City has received additional revenue from various sources, and

WHEREAS, the City has additional needs to be appropriated.

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

**Section 1:** That an additional \$341,945 in revenues in the General Fund and \$206,636 in the Capital Projects Fund be and the same hereby are appropriated within the Fiscal Year 2016-2017 Budget as follows:

GENERAL FUND

**Revenues and Transfers:**

State Categorical Aid – Litter Control Grant	\$6,192
Federal Revenue –DMV Selective Enforcement	13,206
Federal Revenue-Emergency Management Grant	34,570
Donations-Police	100
Donations-Library	1,061
Miscellaneous Income	5,594
Sale of Equipment	6,786
Restricted Fund Balance	234,312
Unassigned Fund Balance	<u>40,124</u>
<b>TOTAL</b>	<b><u>\$341,945</u></b>

**Expenditures:**

Police Department	\$80,069
Fire Department	192,736
Public Works	5,594
Library Donations	10,444
Community Development	6,192
Facilities & Grounds	19,786
Transfer to Schools	<u>27,124</u>
<b>TOTAL</b>	<b><u>\$341,945</u></b>

**CAPITAL PROJECTS FUND**

**Revenues:**

State Grant-SLAF	\$50,301
State Grant-OMES	33,251
State Grant-VPA	51,000
Un-appropriated Fund Balance	<u>72,084</u>

**TOTAL** **\$206,636**

**Expenditures:**

Messick Point-Dock Improvements	\$51,000
Drainage	72,084
Lifepak	33,251
TMDL	<u>50,301</u>

**TOTAL** **\$206,636**

Section 2: That the second reading of this ordinance is hereby dispensed with and the provisions contained herein shall become effective immediately upon adoption.

**ADOPTED:** \_\_\_\_\_

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

City Clerk



## POQUOSON CITY PUBLIC SCHOOLS

500 City Hall Avenue, Poquoson, Virginia 23662 (757) 868-3055 Fax (757) 868-3107

October 21, 2016

Mr. J. Randall Wheeler  
City Manager  
City of Poquoson  
500 City Hall Avenue  
Poquoson, VA 23662

Dear Mr. Wheeler:

On behalf of Poquoson City Public Schools, I respectfully request authorization to re-appropriate the balance of FY2016 local operating funds, in the amount of \$27,124 to FY2017.

If the request for re-appropriation is approved, I am recommending to the School Board to use the funds to enhance the safety and security of our schools and address technology needs.

PCPS was awarded a State School Security Grant for FY2017 totaling \$49,815. The grant requires that PCPS provide \$12,454 in matching funds. Part of the \$27,124 will be used to match the State School Security Grant, and \$2,062 will be used for the required match fund to the State Technology Grant. The remaining \$12,608 will be used to purchase technology that was not funded by the State grant.

Thank you again for your continued support of our school division. Please let me know if you require any additional information.

Sincerely,

Jennifer Parish, Ed.D.  
Superintendent

cc: School Board Chairman  
Tara Woodruff, Executive Director of Finance



**CITY OF POQUOSON**

500 City Hall Avenue, Poquoson, Virginia 23662-1996

(757)868-3000 Fax (757)868-3101

City Manager's Office

November 14, 2016

**TO:** Poquoson City Council

**FROM:** City Manager

**SUBJECT:** **Resolution Authorizing The School Division To Enter Into Contracts For Appropriated Fiscal Year 2017 Capital Improvements Projects**

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Presented for your consideration is a resolution authorizing the School Division to enter into contracts for school projects that were approved and appropriated in the City's FY 2017 Capital Improvements Program.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING THE SCHOOL DIVISION TO ENTER INTO CONTRACTS FOR APPROPRIATED FY17 CIP PROJECTS**

**WHEREAS**, the City approves and appropriates capital improvement funds to Poquoson City Public Schools necessary to carry out its capital improvement plan; and

**WHEREAS**, the City has appropriated FY17 funds for High School Track 08-SCH-106, Primary School HVAC 10-SCH-107 and High School HVAC 11-SCH-006; and

**WHEREAS**, Poquoson City Public Schools has adopted the City of Poquoson Purchasing Manual as a guide for purchasing within the Division; and

**WHEREAS**, all schools and departments are required to adhere to the Code of Virginia pertaining to the Virginia Public Procurement Act as enacted by the General Assembly; and

**WHEREAS**, all goods and services must be purchased in accordance with provisions set forth by City and School Board procurement and administrative policies and procedures.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Poquoson, Virginia:

**Section 1:** That the School Board is hereby authorized to enter into contracts for School Division FY17 CIP projects (08-SCH-106, HVAC 10-SCH-107, HVAC 11-SCH-006) in accordance with procurement policies and guidelines for the City of Poquoson and Poquoson City Public Schools.

**Section 2:** That the School Board may not authorize any expenditure in excess of the amounts appropriated for each project approved and appropriated in the FY17 CIP.

**Section 3:** That once the School Division enters a contract, the City will process all payments in accordance with the City's policies and procedures.

**Section 4:** That this resolution shall become effective immediately upon adoption.

**ADOPTED:** \_\_\_\_\_

**TESTE:** \_\_\_\_\_  
City Clerk



**CITY OF POQUOSON**

City Manager's Office

500 City Hall Avenue, Poquoson, Virginia 23662-1996  
(757)868-3000 Fax (757)868-3101

November 14, 2016

**To:** City Council  
**From:** City Manager  
**Subject:** **Resolution Making Appointments to the Board of Zoning Appeals and the Planning Commission**

Presented for your consideration is a resolution making appointments to the Board of Zoning Appeals and the Planning Commission.

Five appointments are needed for the BZA; four regular members and one alternate. A list of the current membership is included with this item.

One appointment is needed for the Planning Commission from the Eastern precinct.

JFW/eb

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION MAKING APPOINTMENTS TO THE BOARD OF ZONING  
APPEALS AND THE PLANNING COMMISSION**

**BE IT RESOLVED** by the Council of the City of Poquoson, Virginia

**Section 1:** That the following persons be and the same hereby are appointed to the Board of Zoning Appeals for the terms indicated:

<u>Names</u>	<u>Terms Expire</u>
1.	November 30, 2021
2.	November 30, 2021
3.	November 30, 2021
4.	November 30, 2021

**Section 2:** That the following person be and the same hereby is appointed to the Planning Commission for the terms indicated:

<u>Name</u>	<u>Term Expires</u>
1.	November 30, 2020 Eastern

**Section 3:** That this resolution shall be in effect on and after its adoption.

**ADOPTED:** \_\_\_\_\_

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

RESOLUTION NO. \_\_\_\_\_

**CERTIFICATION OF CLOSED SESSION**

**WHEREAS**, the Council of the City of Poquoson, Virginia convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**WHEREAS**, Section 2.2-3712 of the Code of Virginia (1950), as amended requires a certification by this Council that such closed session was conducted in conformity with Virginia law.

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the City of Poquoson, Virginia does hereby certify that to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed session to which this certification resolution applies and only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Council.