



TOWN OF FRONT ROYAL, VIRGINIA TOWN COUNCIL MEETING

**Monday, May 12, 2014 @ 7:00 p.m.
Warren County Government Center**

1. Pledge of Allegiance
 2. Moment of Silence
 3. Roll Call
 4. Approval of the Regular Council Meeting minutes of April 28, 2014.
 5. Receipt of Petitions and/or Correspondence from the Public
 6. Reports:
 - a. Report of special committees or Town officials and Town Manager.
 1. Report from Northern Shenandoah Valley Regional Commission – Martha Shickle
 2. Finance Report from Finance Director Kim Gilkey-Breeden
 - b. Requests and inquiries of Council members.
 - c. Report of the Mayor
 - d. Proposals for addition/deletion of items to the Agenda.
 - *7. **CONSENT AGENDA ITEMS** – (ROLL CALL VOTE REQUIRED)
 - A. COUNCIL APPROVAL – Budget Amendment to Accept a Donation from the Front Royal-Warren County Anti-Litter Council
 - B. COUNCIL APPROVAL – Liaison Committee Meeting Agenda Items
 - C. COUNCIL APPROVAL – Wastewater Treatment Plant WQIF Grant Award Application
- *The nature of a consent agenda is such that discussion of individual items does not occur.*
8. **COUNCIL AUTHORIZATION AND SUPPORT** – Acquisition of Real Estate for Portion of Right-of-Way for Leach Run Parkway
 9. **COUNCIL APPROVAL** – Memorandum of Agreement (MOA) for Septage Receiving Station
 10. **COUNCIL APPROVAL** – Terminate Retention of Law Firm Troutman Sanders LLP
 11. **CLOSED MEETING** – Disposition of Real Property and Consultation with Legal Counsel Regarding Specific Legal Matters



**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 7(A)

Meeting Date: May 12, 2014

Agenda Item: COUNCIL APPROVAL – Budget Amendment to Accept Donation from Front Royal-Warren County Anti-Litter Council

Summary: Council is requested to consider approval of a Budget Amendment to accept a donation of \$1,700.00 from the Front Royal-Warren County Anti-Litter Council to purchase (2) Victorian trash cans that will be installed along the Happy Creek Trail.

Budget/Funding: Revenue 1000-3189902 [Donations] \$1,700.00
Expense 4305-7974 [Beautification Projects] \$1,700.00

Attachments: Memorandum from Director of Finance

Meetings: None

Staff

Recommendation: Approval ☒ Denial ☐

Should Council wish to remove this item from the consent agenda, the following motion would allow approval of this request:

Proposed Motion: I move that Council approve a Budget Amendment to accept a donation of \$1,700.00 from the Front Royal-Warren County Anti-Litter Council to purchase (2) Victorian trash cans that will be installed along the Happy Creek Trail.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JB

Date: May 2, 2014

To: S. Burke, Town Manager

From: Kim Gilkey-Breeden, Director of Finance

RE: Budget amendment

Steve, the Town has received a check from the Front Royal Warren County Anti Litter Council in the amount of \$1,700.00 for the purchase of 2 Victorian Trash units that will be installed along the Happy Creek Trail. These funds need to be added to the FY14 budget as an amendment at a future Council meeting.

Revenue 1000-3189902 [Donations]	\$1,700.00
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Expense 4305-7974 [Beautification projects]	\$1,700.00
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Please let me know if you need anything else.



**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 7(B)

Meeting Date: May 12, 2014

Agenda Item: COUNCIL APPROVAL – Liaison Committee Meeting Agenda Items

Summary: Council is requested to approve the following items to be included on the May 15, 2014 Liaison Committee Agenda:

- 1) Liaison Meeting Rules/Regulations
- 2) Law Enforcement of the Skate Park
- 3) Catlett Mountain Landfill Improvements
- 4) Leach Run Parkway Project
- 5) Waste Water Treatment Plant/Septage Receiving Facility
- 6) Route 340/522 Corridor
- 7) FRLP
- 8) Proposed Park-N-Ride Location
- 9) Property Boundary Adjustment Process
- 10) Building Inspection Software
- 11) Working with citizens on 13th Street with regard to parking and mail boxes

Budget/Funding: None

Attachments: None

Meetings: Work Session held May 5, 2014

Staff

Recommendation: Approval ☒ Denial ☐

Should Council wish to remove this item from the consent agenda, the following motion would allow approval of this request:

Proposed Motion: I move that Council approve the following items to be included on the May 5, 2014 Liaison Committee Agenda: 1) Liaison Meeting Rules/Regulations; 2) Law Enforcement of the Skate Park; 3) Catlett Mountain Landfill Improvements; 4) Leach Run Parkway Project; 5) Waste Water Treatment Plant/Septage Receiving Facility; 6) Route 340/522 Corridor; FRLP; 8) Proposed Park-N-Ride Location; 9) Property Boundary Adjustment Process; 10) Building Inspection Software; 11) Working with citizens on 13th Street with regard to parking and mail boxes

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: SB



**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 7(C)

Meeting Date: May 12, 2014

Agenda Item: COUNCIL APPROVAL – Wastewater Treatment Plant WQIF Grant Award Application

Summary: The Town has been notified by the Department of Environmental Quality (DEQ) that the Town has qualified for a Water Quality Improvement Fund (WQIF) Grant for the construction of the improvements at the Wastewater Treatment Plant in the amount of \$11,869,387.00. Council is requested to authorize the Town Manager to execute all documents and agreements necessary to secure the WQIF Grant.

Budget/Funding: N/A

Attachments: Grant Operation and Maintenance Agreement

Meetings: Work Session held May 5, 2014

Staff

Recommendation: Approval ✓ Denial

Should Council wish to remove this item from the consent agenda, the following motion would allow approval of this request:

Proposed Motion: I move that Council authorize the Town Manager to execute all documents and agreements necessary to secure the Water Quality Improvement Fund (WQIF) Grant by the Department of Environmental Quality (DEQ) in the amount of \$11,869,387.00 for the construction of the improvements at the Wastewater Treatment Plant.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JB

**VIRGINIA WATER QUALITY IMPROVEMENT FUND
POINT SOURCE GRANT AND
OPERATION AND MAINTENANCE AGREEMENT
Contract #440-S-14-08**

THIS AGREEMENT is made as of this th day of _____, 2014, by and between the Director of the Virginia Department of Environmental Quality in his official capacity, or his designee (the "Director"), and the Town of Front Royal (the "Grantee").

Pursuant to the Virginia Water Quality Improvement Act of 1997, Chapter 21.1, Title 10.1 of the Code of Virginia (1950), as amended (the "Act"), the General Assembly created the Virginia Water Quality Improvement Fund (the "Fund"). The Director, in coordination with the Director of the Department of Conservation and Recreation, is authorized by the Act to make Water Quality Improvement grants related to point source pollution control, in accordance with guidelines established pursuant to Section 10.1-2129 of the Code, and enter into agreements with grantees under the Act which shall, in accordance with Sections 10.1-2130 and 10.1-2131, provide for the payment of the total amount of the grant and require proper long-term operation, monitoring and maintenance of funded projects.

The Grantee has been approved by the Director to receive a Grant from the Fund subject to the terms and conditions herein to finance sixty percent (60%) of the cost of the Eligible Project, which consists of the design and installation of Nutrient Removal Technology as described herein. The Grantee will use the Grant to finance that portion of the Eligible Project Costs not being paid for from other sources as set forth in the Total Project Budget in Exhibit B to this Agreement. Such other sources may include, but are not limited to, the Virginia Water Facilities Revolving Fund, Chapter 22, Title 62.1 of the Code of Virginia (1950), as amended.

As required by the Act, this Agreement provides for payment of the Grant, design and construction of the Project, and proper long-term operation, monitoring, and maintenance of the Project. This Agreement is supplemental to the State Water Control Law, Chapter 3.1, Title 62.1 of the Code of Virginia (1950), as amended, and it does not limit in any way the other water quality restoration, protection and enhancement, or enforcement authority of the Director, the State Water Control Board (the "Board") or the Department of Environmental Quality (the "Department").

**ARTICLE I
DEFINITIONS**

1. The capitalized terms contained in this Agreement shall have the meanings set forth below unless the context requires otherwise and any capitalized terms not otherwise defined herein shall have the meaning assigned to such terms in the Act:

(a) "Agreement" means this Virginia Water Quality Improvement Fund Point Source Grant and Operation and Maintenance Agreement between the Director and the Grantee, together with any amendments or supplements hereto.

(b) "Authorized Representative" means any member, official or employee of the Grantee authorized by resolution, ordinance or other official act of the governing body of the Grantee to perform the act or sign the document in question.

(c) "Eligible Project" means the particular Nutrient Removal Technology described in Exhibit A to this Agreement to be designed and constructed by the Grantee with, among other monies, the Grant, with such changes thereto as may be approved in writing by the Director and the Grantee.

(d) "Eligible Project Costs" means costs of the individual items comprising the Eligible Project as permitted by the Act with such changes thereto as may be approved in writing by the Director and the Grantee.

(e) "Extraordinary Conditions" means unforeseeable or exceptional conditions resulting from causes beyond the reasonable control of the Grantee such as, but not limited to fires, strikes, acts of God, and acts of third parties that singly or in combination cause material breach of this Agreement.

(f) "Facility" means all plants, systems, unit processes, equipment or property related to the Project, and owned, operated, or maintained by the Grantee and used in connection with the treatment of wastewater.

(g) "Grant" means the particular grant described in Section 4.0 of this Agreement, with such changes thereto as may be approved in writing by the Director and the Grantee.

(h) "Monetary Assessment" means a contractual or stipulated penalty as described in Section 10.1-2130 of the Code.

(i) "Nutrient Removal Technology" means state-of-the-art nutrient removal technology, biological nutrient removal technology, or other nutrient removal technology, as further described in Section 10.1-2117 of the Code.

(j) "Preliminary Engineering Proposal" means the engineering report and preliminary plans for the Project as described in 9 VAC 25-790-110, as modified by the final engineering design approved by the Department.

(k) "Total Eligible Project Budget" means the sum of the Eligible Project Costs as set forth in Exhibit B to this Agreement, with such changes thereto as may be approved in writing by the Director and the Grantee.

(l) "Total Project Budget" means the sum of the Eligible Project Costs and any ineligible costs that are solely the responsibility of the Grantee, as set forth in Exhibit B to this Agreement, with such changes thereto as may be approved in writing by the Director and the Grantee.

(m) "Project Engineer" means the Grantee's engineer who must be a licensed professional engineer registered to do business in Virginia and designated by the Grantee as the Grantee's engineer for the Project in a written notice to the Department.

(n) "Project Schedule" means the schedule for the Project as set forth in Exhibit C to this Agreement, with such changes thereto as may be approved in writing by the Director and the Grantee.

ARTICLE II

SCOPE OF PROJECT

2. The Grantee will cause the Project to be designed, constructed and placed in operation as described in Exhibit A to this Agreement to meet effluent concentration limitations of 3.0 mg/l for total nitrogen, and 0.22 mg/l for total phosphorus, both on an annual average basis.

ARTICLE III

SCHEDULE

3. The Grantee will cause the Eligible Project to be designed, constructed and placed in operation in accordance with the Project Schedule in Exhibit C to this Agreement.

ARTICLE IV **COMPENSATION**

4.0. Grant Amount. The total grant award from the Fund under this Agreement is \$11,869,387 and represents the Commonwealth's sixty percent (60%) share of the Total Eligible Project Budget. Any material changes made to the Eligible Project after execution of this Agreement, which alters the Total Eligible Project Budget, will be submitted to the Department for review of grant eligibility. The amount of the grant award set forth herein may be modified from time to time by agreement of the parties to reflect changes to the Eligible Project or the Total Eligible Project Budget.

4.1. Payment of Grant. Payment of the Grant is subject to the availability of monies in the Fund allocated to point source pollution control and Section 4.4 herein. Disbursement of the Grant will be in accordance with the payment provisions set forth in Section 4.2 herein and the eligibility determinations made in the Total Project Budget (Exhibit B).

4.2. Disbursement of Grant Funds. The Department will disburse the Grant to the Grantee not more frequently than once each calendar month upon receipt by the Department of the following:

(a) A requisition for approval by the Department, signed by the Authorized Representative and containing all receipts, vouchers, statements, invoices or other evidence that costs in the Total Project Budget, including the applicable local share for the portion of the project covered by such requisition, have been incurred or expended and all other information called for by, and otherwise being in the form of, Exhibit D to this Agreement.

(b) If any requisition includes an item for payment for labor or to contractors, builders or material men, a certificate, signed by the Project Engineer, stating that such work was actually performed or such materials, supplies or equipment were actually furnished or installed in or about the construction of the Eligible Project.

Upon receipt of each such requisition and accompanying certificate(s) and schedule(s), the Director shall request the Comptroller to issue a warrant directing the State Treasurer to disburse the Grant to the Grantee in accordance with such requisition to the extent approved by the Department.

Except as may otherwise be approved by the Department, disbursements shall be held at ninety-five percent (95%) of the total grant amount to ensure satisfactory completion of the Eligible Project. Upon receipt from the Grantee of the certificate specified in Section 4.5 and a final requisition detailing all retainage to which the Grantee is then entitled, the Director, subject to the provisions of this section and Section 4.3 herein, shall request the Comptroller to issue a warrant directing the State Treasurer to disburse to the Grantee the final payment from the Grant.

4.3. Application of Grant Funds. The Grantee agrees to apply the Grant solely and exclusively to the reimbursement of Eligible Project Costs.

4.4. Availability of Funds. The Director and Grantee recognize that the availability of monies in the Fund allocated to point source pollution control is subject to appropriation by the General Assembly and allocations made by the Secretary of Natural Resources, and that at times there may not be sufficient monies in the Fund to permit prompt disbursement of grant funds due and owing the Grantee pursuant to this Agreement. To minimize the potential for such disruption in disbursements of grant funds and in satisfaction of its obligations under the Act, the Department covenants and agrees to (1) manage the allocation of grants from the Fund to ensure full funding of executed grant agreements, (2) forecast the estimated disbursements from the Fund in satisfaction of approved grants and make this forecast publicly available each year for use in the Commonwealth's budgetary process, and (3) promptly disburse to the Grantee any grant funds due and owing the Grantee pursuant to this Agreement when sufficient monies are available in the Fund to make such disbursements. The Department may determine that monies are not sufficient to promptly disburse grant funds when there are competing grant requests. To assist the Department in forecasting estimated disbursements, prior to

September 30 of each year the Grantee will provide the Department with a written estimate of its projected expenditures on the Project during the next fiscal year using the same line item cost categories in the Project Budget.

4.5. Agreement to Complete Project. The Grantee agrees to cause the Project to be designed and constructed, as described in Exhibit A to this Agreement, and in accordance with (i) the schedule in Exhibit C to this Agreement and (ii) plans and specifications prepared by the Project Engineer and approved by the Department.

4.6 Notice of Substantial Completion. When the Project has been completed, the Grantee shall promptly deliver to the Department a certificate signed by the Authorized Representative and by the Project Engineer stating (i) that the Project has been completed substantially in accordance with the approved plans and specifications and addenda thereto, and in substantial compliance with all material applicable laws, ordinances, rules, and regulations; (ii) the date of such completion; (iii) that all certificates of occupancy and operation necessary for start-up for the Project have been issued or obtained; and (iv) the amount, if any, to be released for payment of the final Project Costs.

ARTICLE V **PERFORMANCE**

5.0 The Grantee's Facility shall meet a total nitrogen effluent concentration limitation of 3.0 mg/l, and a total phosphorus effluent concentration limitation of 0.22 mg/l, both on an annual average basis, except as provided in paragraph 5.1 and Article VIII of this Agreement

5.1 If, pursuant to Section 10.1-1187.6 of the Code, the State Water Control Board approves an alternative compliance method to technology-based concentration limitations in Virginia Pollutant Discharge Elimination System permits, the concentration limitations in Section 5.0 above shall be suspended subject to the terms of such approval. The terms of approval shall include requirements for operation of the installed Nutrient Removal Technology at the treatment levels for which it was designed.

ARTICLE VI **OPERATION AND MAINTENANCE**

6.0 No later than ninety (90) days after issuance of a Certificate to Operate for the Project, the Grantee shall submit to the Department, for review and approval, an operation and maintenance manual for the Project. As required by the Grantee's VPDES permit, the Facility shall be operated and maintained in a manner consistent with the operation and maintenance manual as approved by the Department.

ARTICLE VII **MONITORING AND REPORTING**

7.0. Monitoring. The Grantee shall monitor compliance with the numerical concentrations in Article V of this Agreement. Monitoring will be conducted at the final effluent from the facility and immediately prior to discharge. Sampling frequency and type shall be in accordance with VPDES permit requirements. In the absence of total phosphorus VPDES permit monitoring requirements, monitoring shall consist of a sample type and collection frequency as specified in the Chesapeake Bay General Watershed Permit Regulation (9 VAC 25-820-70. Part 1.E.). Each sample will be analyzed for total phosphorus using EPA-approved test methods and reported to the Department.

7.1. Reporting. Beginning with the Project's first full calendar year of operation and each year thereafter, the Grantee will calculate the annual average concentration for total phosphorus for the calendar year just ended by dividing the sum of the monthly average concentrations by twelve, and submit the results to the Department using the form attached as Exhibit E to this Agreement on or before February 1 of each year. Data excluded from the average based on the occurrence of

extraordinary conditions will be identified in the report.

ARTICLE VIII **MATERIAL BREACH**

8.0. Material Breach. Any failure or omission by the Grantee to perform its obligations under this Agreement, unless excused by the Department, is a material breach.

8.1. Notice of Material Breach. If at any time the Grantee determines that it is unable to perform its obligations under this Agreement, the Grantee shall promptly provide written notification to the Department. This notification shall include a statement of the reasons it is unable to perform, any actions to be taken to secure future performance and an estimate of the time necessary to do so.

8.2. Monetary Assessments for Breach. In no event shall total Monetary Assessments pursuant to this Agreement exceed (i) \$951,900 annually or (ii) \$19,038,000 during the life of this Agreement. Monetary Assessments will be paid into the State Treasury and credited to the Fund. The Director's right to collect Monetary Assessments does not affect in any way the Director's right to secure specific performance of this Agreement using such other legal remedies as may otherwise be available. Within 90 days of receipt of written demand from the Director, the Grantee shall pay the following Monetary Assessments for the corresponding material breaches of this Agreement unless the Grantee asserts a defense pursuant to the requirements of Section 8.3 herein.

(a) Beginning with the Project's first full calendar year of operation following issuance of a Certificate to Operate for the Project, for exceedance of one or both of the numerical concentration limitations applicable under Article V of this Agreement, except where the exceedance is no greater than 0.8 mg/L for total nitrogen or no more than 10%, whichever is greater, or no greater than 0.1 mg/L for total phosphorus or no more than 10%, whichever is greater, an assessment calculated as follows:

(i) For noncompliance with the total nitrogen effluent limitation in Article V, an assessment calculated using the formula in Exhibit F to this Agreement for each one-tenth of a milligram per liter of total nitrogen in excess of the limitation in Article V.

(ii) For noncompliance with the total phosphorus effluent limitation in Article V, an assessment calculated using the formula in Exhibit F to this Agreement for each one-tenth of a milligram per liter of total phosphorus in excess of the limitation in Article V.

(b) For noncompliance with any deadline in Exhibit C to this Agreement, Article VII of this Agreement, or the failure to submit the operations and maintenance manual in accordance with Article VI of this Agreement, an assessment in the amount of \$500 per day for the first 10 days of noncompliance, and \$1,000 for each day of noncompliance thereafter. Noncompliance with interim deadlines shall be excused where the Grantee complies with the final deadline in Exhibit C to this Agreement.

(c) For noncompliance with the obligation to operate and maintain the Project in a manner consistent with the manual pursuant to Article VI of this Agreement, an assessment in the amount of \$1,000 for each day of noncompliance.

8.3 Extraordinary Conditions.

(a) The Grantee may assert and it shall be a defense to any action by the Director to collect a Monetary Assessment or otherwise secure performance of this Agreement that the alleged non-performance was due to Extraordinary Conditions, provided that the Grantee:

(1) takes reasonable measures to effect a cure or to minimize any non-performance with the Agreement, and

(2) provides written notification to the Department of the occurrence of Extraordinary Conditions, together with an explanation of the events or circumstances contributing to such Extraordinary Conditions, no later than 5 days after the discovery of the Extraordinary Conditions and the resulting impacts on performance.

(b) If the Department disagrees that the events or circumstances described by the Grantee constitute Extraordinary Conditions, the Department must provide the Grantee with a written objection within sixty (60) days of Grantee's notice under paragraph 8.3(a)(2), together with an explanation of the basis for its objection.

8.4 Resolution and Remedy. If no resolution is reached by the parties, the Director or Department may immediately pursue any remedy available at law or equity. In any such action, the Grantee shall have the burden of proving that the alleged noncompliance was due to Extraordinary Conditions. In addition to any other remedy that may be available to the Director or the Department, the Director or Department may bring an action in the Circuit Court of the City of Richmond to enforce this Agreement by injunction or mandamus or stipulated penalties or to recover part or all of the grant funds. No such remedy of the Director or Department shall be deemed to be exclusive or to estop any other such remedy or the bringing of an action to enforce this Agreement. The Grantee agrees to venue to any such action in the Circuit Court of the City of Richmond, either north or south of the James River in the option of the Director. The Grantee further agrees that, in light of the public purpose of nutrient removal, any failure of the Grantee to perform its duties under this Agreement and any failure of the Project to meet the requirements of this Agreement or the requirements of any permit that may be issued by the Board regarding the Project constitutes irreparable harm to the Commonwealth for which the Director or Department lacks an adequate remedy at law.

ARTICLE IX

GENERAL PROVISIONS

9.0. Effect of the Agreement on Virginia Pollutant Discharge Elimination System (VPDES) Permit. This Agreement shall not be deemed to relieve the Grantee of its obligations to comply with the terms of its VPDES permit issued by the Board.

9.1. Disclaimer. Nothing in this Agreement shall be construed as authority for either party to make commitments which will bind the other party beyond the covenants contained herein.

9.2. Non-Waiver. No waiver by the Director of any one or more defaults by the Grantee in the performance of any provision of this Agreement shall operate or be construed as a waiver of any future default or defaults of whatever character.

9.3. Integration and Modification. This Agreement constitutes the entire Agreement between the Grantee and the Director. No alteration, amendment or modification of the provisions of this Agreement shall be effective unless reduced to writing, signed by both the parties and attached hereto. The Department and the Grantee shall confer within six months after each reissuance of the Grantee's VPDES permit for the purpose of determining whether this Agreement should be modified or terminated. This Agreement may be modified by agreement of the parties for any purpose, provided that any significant modification to this Agreement must be preceded by public notice of such modification.

9.4. Collateral Agreements. Where there exists any inconsistency between this Agreement and other provisions of collateral contractual agreements which are made a part of this Agreement by reference, the provisions of this Agreement shall control.

9.5. Non-Discrimination. In the performance of this Agreement, the Grantee warrants that it will not discriminate against any employee, or other person, on account of race, color, sex, religious creed, ancestry, age, national origin or other non-job related factors. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

9.6. Conflict of Interest. The Grantee warrants that it has fully complied with the Virginia Conflict of Interest Act as it may apply to this Agreement.

9.7. Applicable Laws. This Agreement shall be governed in all respects whether as to validity, construction, capacity, performance or otherwise, by the laws of the Commonwealth of Virginia. The Grantee further agrees to comply with all laws and regulations applicable to the Grantee's performance of its obligations pursuant to this Agreement.

9.8. Records Availability. The Grantee agrees to maintain complete and accurate books and records of the Project Costs, and further, to retain all books, records, and other documents relative to this Agreement for three (3) years after final payment. The Department, its authorized agents, and/or State auditors will have full access to and the right to examine any of said materials during said period. Additionally, the Department and/or its representatives will have the right to access work sites during normal business hours, after reasonable notice to the Grantee, for the purpose of ensuring that the provisions of this Agreement are properly carried out.

9.9. Severability. Each paragraph and provision of this Agreement is severable from the entire Agreement; and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect.

9.10. Notices. All notices given hereunder shall be in writing and shall be sent by United States certified mail, return receipt requested, postage prepaid, and shall be deemed to have been received at the earliest of: (a) the date of actual receipt of such notice by the addressee, (b) the date of the actual delivery of the notice to the address of the addressee set forth below, or (c) five (5) days after the sender deposits it in the mail properly addressed. All notices required or permitted to be served upon either party hereunder shall be directed to:

Department: Virginia Department of Environmental Quality
Chesapeake Bay Program
P.O. Box 1105
Richmond, VA 23218
Attn: WQIF Program Manager

Grantee: Town of Front Royal
102 E. Main Street
Front Royal, VA 22630
Attn: Town Manager

9.11. Successors and Assigns Bound. This Agreement shall extend to and be binding upon the parties hereto, and their respective legal representatives, successors and assigns.

9.12. Exhibits. All exhibits to this Agreement are incorporated herein by reference.

9.13. Termination. This Agreement shall terminate 20 years after the Agreement is executed by both parties or by an earlier date by agreement of the parties; provided, however, that except for termination for cause due to Material Breach, the Director's obligation under Section 4.1 herein to pay the Grant amount shall survive termination if such amount has not been paid in full as of the termination date.

**ARTICLE X
COUNTERPARTS**

10. This Agreement may be executed in any number of Counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

**ARTICLE XI
NUTRIENT CREDITS TO BE MADE AVAILABLE FOR EXCHANGE**

11. To aid in implementing the Nutrient Credit Exchange Program, the Grantee shall make all Point Source Nitrogen and Phosphorus Credits generated in a calendar year available for nutrient allocation compliance. "Point Source Nitrogen Credit" and "Point Source Phosphorus Credit" shall have the meaning as defined in Virginia Code §62.1-44.19:13. The amount of Credits and facilities authorized to generate Credits shall be governed by the Watershed General Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading (9 VAC 25-820). The Department shall control Credits not otherwise used by the Grantee for waste load allocations or compliance purposes and will make such Credits reasonably available to other dischargers for nutrient allocation compliance through the Water Quality Improvement Fund. For purposes of this Agreement, "used by the Grantee" shall include any use whereby the Credits are applied to any compliance obligation of the Grantee, included within an individual compliance plan or basin-level compliance plan of the Virginia Nutrient Credit Exchange Association, or traded to and used by the owner or operator of another facility for nutrient allocation compliance.

WITNESS the following signatures, all duly authorized.

DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

By: _____

Date: _____

GRANTEE'S AUTHORIZED REPRESENTATIVE

By: _____

Date: _____

EXHIBIT A
PROJECT DESCRIPTION

Grantee: Town of Front Royal

Grant: #440-S-14-08

The Front Royal Wastewater Treatment Plant (WWTP) is a 4.0 million gallon per day (mgd) municipal wastewater treatment plant that currently treats an average flow of 3.25 mgd to typical secondary effluent limits for biological oxygen demand (BOD) and total suspended solids (TSS). Effluent from the facility is discharged to the Shenandoah River.

The Virginia DEQ (VADEQ) has developed a waste load allocation for the Front Royal WWTP, limiting the amount of nitrogen and phosphorus that the plant can discharge annually. These limits are 48,729 lbs/year total nitrogen (TN) and 3,655 lbs/yr total phosphorus (TP) and will go into effect when the VADEQ issues the Certificate to Operate (CTO). The Front Royal WWTP will be required to undergo a plant upgrade in order to comply with this waste load allocation. At the plant expansion capacity of 5.3 mgd, the resulting effluent annual average TN and TP concentration limits will be 3.0 mg/L and 0.22 mg/L, respectively, in order to meet the annual waste load allocation.

Three alternatives were considered for the Front Royal WWTP ENR Upgrade and Expansion. A Four-stage Bardenpho process enhanced with magnetite ballasted settling and followed by secondary clarifiers was selected. This technology which uses magnetite to increase the specific gravity of biological floc. This process allows for higher concentrations of mixed liquor in the aeration tanks (allowing a four-stage process to fit within the same tankage as a conventional MLE) and higher loading rates to the clarifiers (reducing the clarifier surface area required). This process can achieve low levels of effluent TP without downstream filtration.

The following list of improvements is based on the Preliminary Engineering Report (PER):

- New Headworks Building Including Fine Screening – not grant eligible
- New Grit Removal System – not grant eligible
- New Primary Clarifier – partially grant eligible
- Existing Primary Clarifier Improvements – not grant eligible
- New Reactor Flow Distribution Box – partially grant eligible
- Existing Reactor Tank Improvements – partially grant eligible
- New Post Anoxic and Reaeration Reactors – partially grant eligible
- New Process Equipment Building – partially grant eligible
- Parallel Final Clarifier Flow Distribution Box – partially grant eligible
- Existing Final Clarifier Improvements – not grant eligible
- New Final Clarifiers and Return Activated Sludge (RAS) Pumping Station – partially grant eligible
- New UV Structure – not grant eligible
- Chemical Feed Facilities for Alum, Caustic Soda, and Supplemental Carbon – grant eligible
- New Sludge Cake Storage Building – partially grant eligible
- Conversion of Existing Digesters to Auto-Thermal Aerobic Digesters (ATAD) – partially grant eligible
- Second Dewatering Fan Press (to be installed by the Town, not included in primary contract) partially grant eligible

EXHIBIT B

TOTAL PROJECT BUDGET

Grantee: Town of Front Royal

Grant: #440-S-14-08

The following budget reflects the "engineer's estimated" costs associated with eligible project components.

PROJECT COMPONENT	PROJECT COSTS	% ELIGIBLE	ELIGIBLE PROJECT COSTS	NOTES*
Influent Pumping Station Mods, Headworks/Screening, Grit Removal	\$3,590,000	0.00%	\$0	1
UV System, Plant Water, Post Aeration, Control Building Mods, Septage Receiving	\$5,260,000	0.00%	\$0	1
Flow EQ Distribution Box	\$160,000	50.00%	\$80,000	2
Process Building	\$2,480,000	80.00%	\$1,984,000	2
Reactors and Reactor Equipment	\$5,120,000	55.00%	\$2,816,000	2
Bio Mag Reactor Equipment	\$5,060,000	100.00%	\$5,060,000	2
New Primary Clarifiers & Pump Station	\$1,730,000	20.00%	\$346,000	2
Primary Clarifier Modifications	\$400,000	0.00%	\$0	1
63' Final Clarifiers, Dist Box, BioMag Mods	\$2,020,000	50.00%	\$1,010,000	3
Existing Final Clarifier Modifications (non BioMag)	\$386,000	0.00%	\$0	1
Return Sludge Pumping Station	\$670,000	50.00%	\$335,000	3
Solids Handling Building Mods, Dewatering Fan Press, ATAD Digestion Process, New Cake Storage Building	\$9,030,000	15.00%	\$1,354,500	4
Alum/Caustic/Methanol Feed Systems	\$964,000	100.00%	\$964,000	2
CONSTRUCTION SUBTOTAL	\$36,870,000		\$13,949,500	
Yard Piping	\$2,700,000	37.83%	\$1,021,410	5
Site Work	\$2,080,000	37.83%	\$786,864	5
Electrical	\$6,553,000	37.83%	\$2,479,000	5
TOTAL CONSTRUCTION COSTS	\$48,203,000	37.83%	\$18,236,774	
Design Engineering	\$2,636,000	37.83%	\$997,199	5
Construction Administration	\$3,760,000	37.83%	\$1,422,408	5
Contingency (10% of Construction)	\$4,820,300	37.83%	\$1,823,519	5
TOTAL PROJECT COSTS	\$59,419,300		\$22,479,900	
Grant Percentage			60%	
Proration Based On "Reasonable and Necessary" Expanded Design Flow			88%	6
Grant Amount			\$11,869,387	

*See next page for details about costs attributable to Nutrient Removal Technology.

EXHIBIT B

PROJECT BUDGET

(continued)

Grantee: Town of Front Royal

Grant: #440-S-14-08

Page B-2: Notes on costs attributable to Nutrient Removal Technology (NRT):

1. Not Nutrient Removal Technology, (NRT), ineligible for WQIF cost share.
2. The eligible percentage as outlined in DEQ Guidance Memo 06-2012.
3. A negotiated percentage after using Best Professional Judgment and the eligible percentage as outlined in DEQ Guidance Memo 06-2012.
4. Eligibility based on the percentage increase in annual solids produced as a result of NRT as calculated by the Authority's consulting engineer. $(14,284 \text{ lbs} - 12,150 \text{ lbs}) / 14,284 \text{ lbs} = 15 \%$.
5. Eligibility calculated by dividing the total eligible construction cost associated with NRT by the total construction cost.
6. Reasonable flow proration amount of 88% calculated.

EXHIBIT C

PROJECT SCHEDULE

Grantee: Town of Front Royal

Grant: #440-S-14-08

The Grantee has proposed the following schedule of key activities/milestones as a planning tool which may be subject to change. In particular, the Grantee acknowledges that the appropriate approval (Certificate to Construct) must be issued by the Department prior to proceeding with construction. Unless authorized by a grant modification, it is the responsibility of the Grantee to adhere to the anticipated schedule for the project as follows:

Activity	Date/Duration
a. Bid Phase Completion	On or before August 6, 2014
b. Award Bids	On or before October 5, 2014
c. Submit Letter of Substantial Completion	On or before April 2, 2017

EXHIBIT D

REQUISITION FOR REIMBURSEMENT
(To be on Grantee's Letterhead)

Department of Environmental Quality
Clean Water Financing and Assistance Program
P.O. Box 1105
Richmond, VA 23218
Attn.: WQIF Program Manager

RE: **Virginia Water Quality Improvement Fund Grant**
Town of Front Royal WQIF Contract #440-S-14-08
Town of Front Royal Loan # C515529-01

Dear Program Manager:

This requisition, Number ____, is submitted in connection with the referenced Financing Agreements between the Virginia Resource Authority (loan), Director of the Virginia Department of Environmental Quality, and the Town of Front Royal. The effective date of the grant agreement is [insert date of grant agreement] and the effective date of the loan agreement is [insert effective date].

Unless otherwise defined in this requisition, all capitalized terms used herein shall have the meaning set forth in Article I of the Grant Agreement. The undersigned Authorized Representative of the Grantee hereby requests disbursement of grant proceeds under the Grant Agreement in the amount of \$_____ and loan proceed under the Financing agreement in the amount of \$_____, for the purposes of payment of the Eligible Project Costs as set forth on Schedule I attached hereto.

Copies of invoices relating to the items for which payment is requested are attached.

The undersigned certifies that the amounts requested by this requisition will be applied solely and exclusively to the reimbursement of the Grantee for the payment of Eligible Project Costs.

This requisition includes (if applicable) an accompanying Certificate of the Project Engineer as to the performance of the work.

Sincerely,

(Authorized Representative of the Grantee)

Attachments

C. DEQ-Regional CAP Engineer

SCHEDULE 1
VIRGINIA WATER QUALITY IMPROVEMENT FUND
FORM TO ACCOMPANY REQUEST FOR REIMBURSEMENT

REQUISITION # _____
 Grantee: Front Royal WWTP
 Grant: #440-S-14-08

CERTIFYING SIGNATURE: _____

TITLE: _____

Cost Category	Total Project Budget	Eligible Project Cost	52.80% WQIF Grant Share (60% x 88%)	Total Expenditures This Period	Previous Grant Disbursements	Grant Disbursement This Period	Grant Balance
Construction	\$48,203,000	\$18,236,774	\$9,629,017	\$0.00	\$0.00	\$0.00	\$9,629,017
Design Engineering	\$2,636,000	\$997,199	\$526,521	\$0.00	\$0.00	\$0.00	\$526,521
Construction Administration	\$3,760,000	\$1,422,408	\$751,031	\$0.00	\$0.00	\$0.00	\$751,031
Contingency (10% of Construction)	\$4,820,300	\$1,823,519	\$962,818	\$0.00	\$0.00	\$0.00	\$962,818
TOTALS:	\$59,419,300	\$22,479,900	\$11,869,387.00	\$0.00	\$0.00	\$0.00	\$11,869,387.00

Total Grant Amount: \$11,869,387.00
 Previous Grant Disbursements: \$0.00
 This Grant Request: \$0.00
 Total Grant Requested to Date: \$0.00
 Grant Proceeds Remaining: \$11,869,387.00

CERTIFICATE OF THE PROJECT ENGINEER
FORM TO ACCOMPANY REQUEST FOR REIMBURSEMENT

Grantee: Town of Front Royal WWTP

Grant: #440-S-14-08

This Certificate is submitted in connection with Requisition Number _____, dated _____, 20__, submitted by the Town of Front Royal County (the "Grantee") to the Virginia Department of Environmental Quality. Capitalized terms used herein shall have the same meanings set forth in Article I of the Grant Agreement referred to in the Requisition.

The undersigned Project Engineer for _____ hereby certifies that insofar as the amounts covered by this Requisition include payments for labor or to contractors, builders or material men, such work was actually performed or such materials, supplies, or equipment were actually furnished to or installed in the Project.

(Project Engineer)

(Date)

EXHIBIT E
REPORTING OF ANALYTICAL RESULTS

Grantee: Town of Front Royal WWT

Grant: #440-S-14-08

Year: _____

MONTH	PARAMETER	CONCENTRATION (monthly average)	UNITS	FREQUENCY OF ANALYSIS	SAMPLE TYPE
January	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		
February	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		
March	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		
April	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		
May	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		
June	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		
July	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		
August	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		
September	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		
October	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		
November	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		
December	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		
Annual Average	Total Nitrogen		mg/l		
	Total Phosphorus		mg/l		

EXHIBIT E

REPORTING OF ANALYTICAL RESULTS
(continued)

Grantee: Town of Front Royal
Grant: #440-S-14-08

Data Excluded Due to the Occurrence of Extraordinary Conditions: (if applicable; attach explanation)

Date(s): _____

Operator Responsible for Samples: _____ Date: _____

Telephone: _____ Certificate Number: _____

EXHIBIT F

FORMULA FOR CALCULATING MONETARY ASSESSMENT FOR EXCEEDANCE OF NUMERICAL NITROGEN CONCENTRATIONS

Grantee: Town of Front Royal

Grant: #440-S-14-08

Section 2: Nitrogen Exceedances

$$CN = (TNe/TNr) \times AnPay \times PerGrant$$

where:

CN	=	Assessment for Nitrogen Exceedance.
TNe	=	Exceedance in tenths of a milligram per liter.
TNr	=	Expected nitrogen removal (difference between "pre-nutrient removal" annual average concentration and 3.0 mg/l limitation) in tenths of a milligram per liter.
AnPay	=	Annual Payment on grant; assumes principal payments amortized over 20 years and an interest rate of 5 percent. Using these assumed values leads to a "cost recovery factor" of 0.0802. The "cost recovery factor" times the grant amount yields the Annual Payment amount.
PerGrant	=	Percentage of grant received by year of exceedance.

Values used for Grant #440-S-14-08:

Pre-Nutrient Removal TN Concentration	=	13.2 mg/l
Effluent TN Concentration Limitation	=	3.0 mg/l
Total Grant Amount for TN Removal	=	\$6,787,046
Useful Service Life	=	20 years
Interest Rate	=	5 percent

Calculated (assumes grant paid 100%):

Expected Removal (TNr)	=	10.2 mg/l
AnPay	=	\$544,300
CN	=	\$5,340 (for each 0.1 mg/l TN exceedance)

EXHIBIT F

FORMULA FOR CALCULATING MONETARY ASSESSMENT FOR EXCEEDANCE OF NUMERICAL PHOSPHORUS CONCENTRATIONS

Grantee: Town of Front Royal

Grant: #440-S-14-08

Section 2: Phosphorus Exceedances

$$CP = (TPe/TPr) \times AnPay \times PerGrant$$

where:

CP	=	Assessment for Phosphorus Exceedance.
TPe	=	Exceedance in tenths of a milligram per liter.
TPr	=	Expected phosphorus removal (difference between "pre-nutrient removal" annual average concentration and 0.22 mg/l limitation) in tenths of a milligram per liter.
AnPay	=	Annual Payment on grant; assumes principal payments amortized over 20 years and an interest rate of 5 percent. Using these assumed values leads to a "cost recovery factor" of 0.0802. The "cost recovery factor" times the grant amount yields the Annual Payment amount.
PerGrant	=	Percentage of grant received by year of exceedance.

Values used for Grant #440-S-14-08:

Pre-Nutrient Removal TP Concentration	=	1.05 mg/l
Effluent TP Concentration Limitation	=	0.22 mg/l
Total Grant Amount for TP Removal	=	\$5,082,342
Useful Service Life	=	20 years
Interest Rate	=	5 percent

Calculated (assumes grant paid 100%):

Expected Removal (TPr)	=	0.83 mg/l
AnPay	=	\$407,600
CP	=	\$49,110 (for each 0.1 mg/l TP exceedance)



**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 8

Meeting Date: May 12, 2014

Agenda Item: COUNCIL AUTHORIZATION AND SUPPORT – Acquisition of Real Estate for Portion of Right-of-Way for Leach Run Parkway

Summary: Council is requested to authorize and support the purchase, by the Economic Development Authority (EDA), of the house and lots at Tax Map Parcel 20-A15-1-3-13, 1528 John Marshall Highway from Mary Lou Williams for a purchase price of \$233,000, plus other associated costs, including realtor's fees of \$9,320, home inspection, closing costs, and relocation costs for Ms. Williams, relocation costs will not exceed \$500, the property to be used as a portion of the right-of-way for the Leach Run Parkway. Council is further requested to support the purchase through the Town's continued funding of the debt service of the EDA's capital expense budget according to the terms of the Town – County Fair Funding Formula whereby the Town currently funds approximately 1/3 (34%) of the EDA debt service through an annual appropriation and expenditure from the Town's adopted budget.

Budget/Funding: N/A

Attachments: N/A

Meetings: Work Session held May 12, 2014

Staff Recommendation: Approval ☒ Denial ☐

Proposed Motion: I move that the Town Council authorize and support the purchase by the EDA of the house and lots at Tax Map Parcel 20-A15-1-3-13, 1528 John Marshall Highway from Mary Lou Williams for a purchase price of \$233,000, plus other associated costs, including realtor's fees of \$9,320, home inspection, closing costs, and relocation costs for Ms. Williams, relocation costs will not exceed \$500, the property to be used as a portion of the right-of-way for the Leach Run Parkway. I further move that the Council support the purchase through the Town's continued funding of the debt service of the EDA's capital expense budget according to the terms of the Town – County Fair Funding Formula whereby the Town currently funds approximately 1/3 (34%) of the EDA debt service through an annual appropriation and expenditure from the Town's adopted budget.

ROLL CALL VOTE REQUIRED

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JS



**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 9

Meeting Date: May 12, 2014

Agenda Item: COUNCIL APPROVAL – Memorandum of Agreement for Septage Receiving Station

Summary: Council is requested to approve a Memorandum of Agreement (MOA) between the Town of Front Royal and County of Warren for Septage Receiving Station as presented. As the Town continues design of the improvements to the Wastewater Treatment Plant, the MOA was developed to update the 1991 Septage Agreement.

Budget/Funding: None

Attachments: Letter from County Attorney, Memo from County Administrator and Memorandum of Agreement

Meetings: Work Session held March 17, 2014 and several Liaison Committee Meetings

Staff

Recommendation: Approval ✓ Denial

Proposed Motion: I move that Council approve a Memorandum of Agreement (MOA) between the Town of Front Royal and County of Warren for Septage Receiving Station as presented.

ROLL CALL VOTE REQUIRED

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JB



COUNTY OF WARREN

Office of the County Attorney
Warren County Government Center
220 North Commerce Avenue, Suite 100
Front Royal, Virginia 22630

Phone: (540) 636-6674

FAX: (540) 636-6980

email: bmitchell@warrencountyva.net

dwhitten@warrencountyva.net

pblamer@warrencountyva.net

April 23, 2014

Blair D. Mitchell
County Attorney

Dan N. Whitten
Assistant County Attorney

Paula J. Blamer
Paralegal

BOARD OF SUPERVISORS

CHAIRMAN
Daniel J. Murray, Jr.
North River
District

VICE-CHAIR
Linda P. Glavis
South River
District

Tony F. Carter
Happy Creek
District

Archie A. Fox
Fork
District

Richard H. Traczyk
Shenandoah
District

Douglas P. Stanley
County Administrator

Douglas W. Napier, Town Attorney
Town Administration Building
102 E Main Street
Front Royal, Virginia 22630

RE: Memorandums of Agreement -- Septage Receiving Station

Dear Doug:

On April 15, 2014, at its regularly scheduled meeting, the Board of Supervisors adopted and/or approved the above styled Memorandum of Agreement.

Two (2) originals of the Memorandum are enclosed for appropriate signatures as required. Once signatures are obtained, please return one original to this office for our files and records.

If you have any questions or concerns regarding the enclosed Memorandum, please feel free to contact either Doug Stanley or myself.

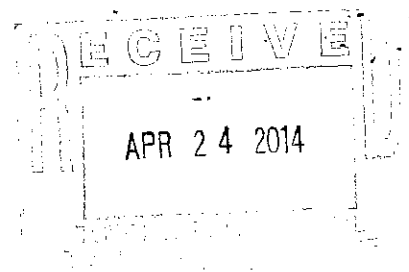
Sincerely,

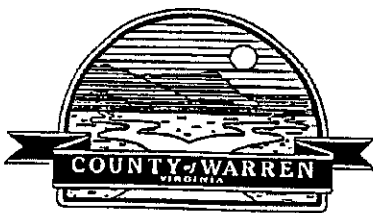
Blair D. Mitchell /pjb

Blair D. Mitchell
County Attorney

BDM/pjb
Enclosures

Cc: ~~Steven M. Burke~~, Town Manager
Douglas P. Stanley, County Administrator
County Attorney Files





COUNTY OF WARREN

County Administrator's Office
Warren County Government Center
220 North Commerce Avenue, Suite 100
Front Royal, Virginia 22630

Phone: (540) 636-4600

FAX: (540) 636-6066

Email: dstanley@warrencountyva.net

Douglas P. Stanley
County Administrator

BOARD OF SUPERVISORS

CHAIRMAN
Daniel J. Murray, Jr.
North River
District

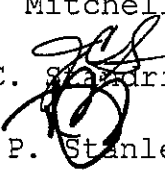
VICE-CHAIR
Linda P. Glavin
South River
District

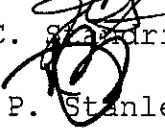
Tony F. Carter
Happy Creek
District

Archie A. Fox
Fork
District

Richard H. Traczyk
Shenandoah
District

MEMO TO: Blair D. Mitchell, County Attorney

FROM: Janice C.  Stanbridge, Deputy Clerk of the Board

THRU: Douglas P.  Stanley, County Administrator

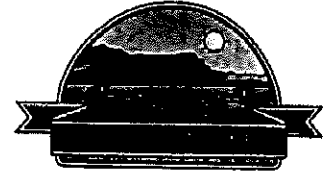
SUBJECT: MOA w/Town of Front Royal re: Acceptance of
Warren County Septage

DATE: April 17, 2014

This is to confirm that the Warren County Board of Supervisors, at its regular meeting of April 15, 2014, approved the Memorandum of Agreement with the Town of Front Royal for the Town to receive and process septage originated from with Warren County with capital costs to be paid by the County and operational costs to be paid by individual septage haulers.



MEMORANDUM OF AGREEMENT SEPTAGE RECEIVING STATION



This Memorandum of Agreement, made and executed in two original copies on this _____ day of _____, 2014, by and between the **Town of Front Royal**, a Virginia municipal corporation (hereinafter the "Town") and the **County of Warren**, a political subdivision of the Commonwealth of Virginia (hereinafter the "County") confirms the following:

WHEREAS, the Town owns and operates the Town's Wastewater Treatment Plant (WWTP); and

WHEREAS, the Town has been receiving and treating septage from County residents based upon the agreement executed in 1991; and,

WHEREAS, the Town and County wish to cooperate to provide for the efficient design, construction, operation, and maintenance of a new septage receiving station; and

WHEREAS, the Town and County wish to establish an understanding for the receipt and treatment of septage.

NOW, THEREFORE, WITNESSETH, to that end, and in consideration of the premises and the mutual covenants contained herein, and to the extent permitted by the Constitution and the Code of Virginia, the parties hereto agree as follows:

1. The Town and County agree that the Town's WWTP is to provide an effective and reliable means for septage haulers operating in the County of Warren to dispose of septage in a safe manner. To that end, the Town and County wish to jointly set forth the terms for the design, construction, operation, and maintenance of a septage receiving station to achieve the aforementioned purpose.
2. This MOA shall remain in effect for five (5) years from the date executed, and shall automatically renew in five (5) year increments. This agreement shall not be terminated unless the WWTP is closed by the Virginia Department of Environmental Quality or the United States Environmental Protection Agency for reasons relating to operational deficiencies in the WWTP and/or the Septage Receiving Station that cause or would cause the WWTP to be in violation of its permits; the Town ceases operations at the WWTP; or alternative septage treatment facilities are established. In such an event, written notice shall be sent providing explanation and cause for the termination of the agreement. Upon receipt of such notice, the notified party shall have the option to evaluate and pursue remedies that would negate the need for such a termination of the agreement. The parties shall resolve any outstanding capital investments and terminate this agreement.
3. The Town shall manage the design and construction of a septage receiving station that delivers septage into the Town's WWTP with the County providing comments and approval of the design. The County shall reimburse the Town for the cost to design and construct the septage receiving

station through the annual appropriation and payment of the debt service due the Town for the design and construction of the septage receiving station improvements.

4. The ownership, operation, and maintenance of the septage receiving station shall be by the Town. The Town shall receive septage from approved, licensed septage haulers from properties in Warren County for functional life of the septage receiving station.
5. The Town shall recover all operation and maintenance costs for the receipt and treatment of septage through a fee for a select volume received from each hauler. The County shall recover all capital costs through a fee for a select volume received from each hauler. The Town and County shall review their individual fees annually.
6. The County shall administer collection of recovery fees for both the Town and County. On a monthly basis, the Town shall provide volume discharged from each hauler. The County shall calculate the amount due to the Town and County based upon the current rates and the volume discharged. The County shall forward the invoices to the haulers and shall collect the amounts due from such haulers, including any delinquent charges. Within forty-five (45) days of receipt of payments from the haulers, the County shall remit the Town's share to the Town and the County shall retain their share of payments made. Failure by a hauler to remit payment within forty-five (45) days of invoice shall result in their suspension from discharge at the receiving station.
7. The Town shall cease receipt of septage from the septage receiving station if transmission of septage would introduce substances harmful to or degrade the WWTP's function, would disrupt the WWTP's operation, would damage the WWTP's equipment, or would violate the WWTP's permits. Except in the event of an emergency, the Town shall provide the County reasonable advance notice of cessation of operation, not to be less than three (3) days prior to such a cessation. In the event of an emergency, the Town shall notify the County within two (2) hours of the cessation of the ability to receive septage at the septage receiving station. The County shall notify haulers of such a situation as timely as possible. In the event of an emergency or maintenance event, the Town will restore operations of the facility as soon as possible.
8. The County shall ensure that only licensed, approved septage haulers are issued permits to discharge to the septage receiving station. The County shall revoke issued permits upon request by the Town for demonstrated violations or failure to remit payment by septage haulers.
9. The County shall provide to the Town a list of licensed, approved septage haulers that are permitted to discharge to the septage receiving station within ten (10) calendar days of any addition or deletion of approved cleaner.
10. The County shall provide to each licensed, approved septic systems cleaner a copy of all operational procedures and regulations established by the Town.
11. The Town shall maintain records of septage deliveries made to the septage receiving station, and shall invoice the County monthly for septage received.

WITNESS the following signatures:

For the Town of Front Royal, Virginia:

Timothy W. Darr, Mayor

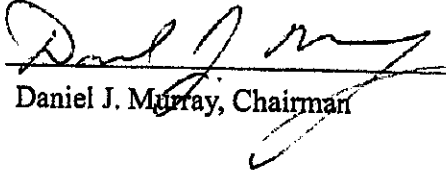
Attest:

Steven M. Burke
Town Manager

Approved as to form:

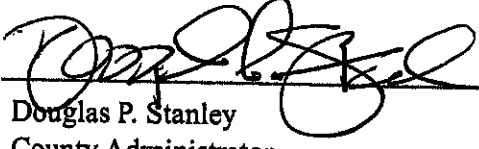
Douglas W. Napier, Esq.
Town Attorney

For the County of Warren, Virginia:



Daniel J. Murray, Chairman

Attest:



Douglas P. Stanley
County Administrator

Approved as to form:



Blair D. Mitchell, Esq.
County Attorney



**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 10

Meeting Date: May 12, 2014

Agenda Item: COUNCIL APPROVAL – Terminate Retention of Law Firm Troutman Sanders LLP

Summary: Councilman Sayre has requested that Council terminate the retention of the law firm of Troutman Sanders, LLP, and Carter Glass of that firm. Council approved retention of their legal service at their regular meeting held July 22, 2013. To date, \$21,275.30 has been invoiced and Council has authorized an additional \$31,800 that has not been invoiced.

Budget/Funding: N/A

Attachments: Minutes of July 22, 2013 regular meeting

Meetings: N/A

**Staff
Recommendation:** Approval ✓ Denial

Proposed Motion: I move that Council terminate the retention of the law firm of Troutman Sanders, LLP, and Carter Glass of that firm, authorize that any remaining unappropriated funds be transferred to the Water and Sewer Fund Balances.

ROLL CALL VOTE REQUIRED

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JB

EXCERPT OF MINUTES FROM JULY 22, 2013 REGULAR COUNCIL MEETING

COUNCIL APPROVAL – Retention of Legal Counsel

Summary: Council is requested to retain Carter Glass, Esquire for the purpose of providing legal advice relative to expanding the Town's revenue base, and obtaining information in support of that advice, to the Town on such matters as from time to time may be directed of him by Council, through the Town Manager or the Town Attorney.

Vice Mayor Parker moved, seconded by Councilman Hrbek, that the Town Council of the Town of Front Royal (i) retain the law firm of Troutman Sanders LLP, and Carter Glass of that firm, to provide legal advice relative to alternative methods of expanding the Town's revenue base, as directed from time to time by the Town Council through the Town Manager or the Town Attorney, and to obtain such information relating to that subject as may be necessary to render such advice and (ii) authorize and direct the Town Manager or the Town Attorney to execute an engagement letter with such law firm on behalf of the entire Council.

Councilman Funk noted that he has submitted a disclaimer to the Clerk of Council in full, from Town Attorney Napier, because his law firm does represent certain landowners.

Councilman Funk read the following statement into the record:

When I was still in high school, the Board of Supervisors and Town Council came together and executed a Voluntary Settlement Agreement that we now call the Corridor Agreement. In exchange for certain taxes, and transfer of expenditures to the County, the Town agreed to supply water and sewer to the burgeoning development across the bridges. However, in 2009, the Town was sued, and we lost our ability to collect certain taxes in the corridors that many in the Town believed were necessary to the stability of the Corridor Agreement.

While most of the citizens of Warren County, both in and out of Front Royal have been unaware, the Council and the Board of Supervisors have been in negotiations to settle the dispute over tax revenue from the 522/340 Corridor. To date, those negotiations have been fruitless.

Not helping matters, there are those on both bodies who, long ago, came to the conclusion that either settlement was unlikely or not in their best interest.

Our Motion states that the purpose is to obtain "legal advice...on expanding the Town's revenue base" and that we are budgeting an "unspecified amount." Let's call this motion what it is; this Motion is about preparing for annexation and there is a combined \$100,000 in those accounts. This Motion tonight is Council's first public action to move toward Annexation.

While, as I'm sure others will point out, we are not filing any formal action for some time, once we take this vote, this money is as good as gone. If you haven't guessed already, I am going to vote against this Motion.

When I was running for Council, one message was exceedingly clear: the people of Front Royal wanted a Town Council that would work for the good of all citizens and to stop fighting with each other. While the battles between Council members has abated, my time on Council has seen an increase in battles between the Town and the County; the Town and VDOT; the Town and our Delegates.

The Board has already taken action. The Board's Staff has placed an RFP for a study to begin building their case in anticipation of our action tonight. A pox on both our houses for wasting hundreds of thousands of dollars on a fight I do not believe we can win.

I want to thank Mayor Darr and Chairman Archie Fox for the hard work they put in trying to negotiate this issue in the preceding months.

Despite this Motion tonight, I am still committed to the effort of those still willing to broker an agreed solution to this dispute and I will continue working to build trust and unity of purpose between our Town and County.

Councilman Sayre noted that they were eloquent words from Councilman Funk. He noted that he had issue with the amount being open ended at \$100,000 for annexation issues. He asked what would take place if it went over \$100,000, and whether Council would then need a budget amendment. Mr. Napier noted that they could handle matters that way.

Councilman Sayre moved, seconded by Councilman Funk, to amend the motion to not to exceed \$100,000 without returning to Council for approval.

Vice Mayor Parker asked if that was essentially what Council's original motion was addressing. Mayor Darr noted that it seemed to be, as it would need to return to Council anyway.

Vice Mayor Parker asked if Councilman Sayre's amendment was a substantial change to the motion before Council. Mr. Napier noted that it was not.

Councilman Sayre stated that Mr. Glass could incur expenses over \$100,000 and that greatly concerns him.

Vote: Yes – Funk, Hrbek, Parker, Sayre, Tewalt and Tharpe

No – N/A

Abstain – N/A

Absent – N/A

(Mayor Darr did not vote as there was no tie to require his vote)

(By Roll Call; On Motion to Amend)

Vice Mayor Parker noted that some members of Council are throwing down the gauntlet that the Town was definitely going down the path of annexation, which concerned him. He stated that the annexation option was available years ago to the Town and they did not pursue it. Mr. Parker stated that the motion only meant that the Town was consulting with an attorney; only exploring options.

Mayor Darr noted that he met with Chairman Fox earlier in the day and he expressed to Mr. Fox that they were doing the Feasibility Study to see what options the Town had and they were not ready to discuss annexation. Mayor Darr stated that he appreciated Councilman Funk's concerns, but the Town was looking at all possibilities at this point. He noted that they were looking at research at this juncture.

Vice Mayor Parker added that the Town has offered that the Town and County can meet with the Commission on Local Government and meet with a moderator and the Board of Supervisors, rather than go to Court.

Councilman Sayre asked if it was proper to ask about the amounts being spent on the annexation fight via FOIA request from both the Town and the County. Mr. Napier noted that a FOIA request was not necessary for the Town's information, and he could request the amounts from the County via FOIA if he so chose.

Councilman Hrbek noted that he would hope those voting against the option for Mr. Glass would come to Council with ideas on how to come to terms with the County with what was for the good of the Town without being unfair to the businesses in the Corridor. He noted that any plan would need to also be fair to the residents in the Town and the plan would need to have matters resolved to have the issue go away once and for all.

Vote: Yes – Hrbek, Parker, Tewalt and Tharpe

No – Funk and Sayre

Abstain – N/A

Absent – N/A

(Mayor Darr did not vote as there was no tie to require his vote)

(By Roll Call; On Motion as Amended)

PURCHASE ORDER NO. 00027545

TOWN OF FRONT ROYAL

16 North Royal Avenue
Front Royal, VA 22630-1560

PAGE NO. 1

VENDOR 4474 FAX: 804-716-9022
AQUALAW or Troutman Sanders
6 SOUTH 5TH STREET
RICHMOND VA 23219
SHIP SERVICES
ATTN:

ORDER DATE: 07/01/13		BUYER:		REQ. NO.: 0	REQ. DATE:
TERMS: NET 30 DAYS		F.O.B.: DESTINATION		DESC.:	
ITEM#	QUANTITY	UOM	DESCRIPTION	UNIT PRICE	EXTENSION
THIS PURCHASE ORDER IS BEING GENERATED TO ENCUMBER FUNDING FOR POSSIBLE LEGAL ISSUES.					
01	1.00	YR	ROUTE 522 CORRIDOR EXPANSION LEGAL ISSUES	100000.0000	100,000.00
Troutman				10/24/13 (111,240.00)	(111,240.00)
					88,760.00
Troutman				10/12/13 (111,240.00)	(111,240.00)
					94,040.00
Aqualaw				2/25/12 (10,000.00)	(10,000.00)
					113,924.00
ITEM#	ACCOUNT		AMOUNT	PROJECT CODE	PAGE TOTAL \$ 100,000.00
01	9601	43002	50,000.00		TOTAL \$ 100,000.00
01	9801	43002	50,000.00		

APPROVED BY _____

DIRECTOR OF PURCHASING



**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 11

Meeting Date: May 12, 2014

Agenda Item: CLOSED MEETING – Disposition of Real Property and Consultation with Legal Counsel regarding specific legal matters

Summary: Council is requested to convene and go into Closed Meeting for the purpose of discussion or consideration of the disposition of publicly held real property, specifically, the former Town Hall property, where discussion in an Open Meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711 A. 3. of the Code of Virginia and pursuant to Virginia Code § 2.2-3711.7 for the purpose of consultation with legal counsel employed or retained by a public body regarding specific legal matters, specifically, possible acquisition of the Afton Inn property and the possible disposition of the former Town Hall Property, requiring the provision of legal advice by such counsel

Budget/Funding: None

Meetings: None

Staff

Recommendation: Approval ☒ Denial

Proposed Motion:

Motion to go Into Closed Meeting

I move that Council convene and go into Closed Meeting for the purpose of discussion or consideration of the disposition of publicly held real property, specifically, the former Town Hall property, where discussion in an Open Meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711 A. 3. of the Code of Virginia and pursuant to Virginia Code § 2.2-3711.7 for the purpose of consultation with legal counsel employed or retained by a public body regarding specific legal matters, specifically, possible acquisition of the Afton Inn property and the possible disposition of the former Town Hall Property, requiring the provision of legal advice by such counsel

Motion to Certify Closed Meeting at its Conclusion *[At the conclusion of the Closed Meeting, immediately re-convene in open meeting and take a roll call vote on the following:]*

I move that Council certify that to the best of each member's knowledge, as recognized by each Council member's affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Action as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the Closed Meeting by Council, and that the vote of each individual member of Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JD