

September 27, 2011

The regular meeting of the Council of the City of Martinsville, Virginia, was held on September 27, 2011, in Council Chambers, Municipal Building, at 7:30 PM, with Mayor Kim Adkins presiding. Council Members present included: Mayor Kim Adkins, Vice Mayor Kimble Reynolds, Gene Teague, Mark Stroud, Sr., and Danny Turner. Staff present included: Clarence Monday, City Manager, Brenda Prillaman, Eric Monday, Leon Towarnicki, Robert Ramsey, Dennis Bowles, Chris Morris, and Rob Fincher.

Mayor Adkins called the Council meeting to order and Gene Teague gave the invocation and Pledge of Allegiance to the flag.

The Mayor advised changes in the agenda: Commissioner of Revenue agenda item to be first and the AMP agenda item will be rescheduled due to travel issues.

Commissioner of Revenue Ruth Easley reported the following information: On December 13, 2005, Council adopted an ordinance that established a local program of personal property tax relief that requires City Council to annually set the relief allocation percentage that is anticipated to fully use the PPTRA relief funds provided to the city by the state. The Commissioner of the Revenue has completed the annual assessment of motor vehicles that have a Martinsville tax situs for tax year 2011. By ordinance, qualifying vehicles assessed at \$1,000, or less, receive 100% relief. Qualifying vehicles with assessed values between \$1,001 and the first \$20,000 receive a calculated annual percentage of relief based on the number of qualifying vehicles and their associated assessments. The Commissioner of the Revenue estimates that a percentage rate of 60.17% will fully use all state PPTRA funds allocated to the city for Tax Year 2011. On a motion by Gene Teague, seconded by Kimble Reynolds, with a 5-0 vote, Council approved the following resolution:

**RESOLUTION SETTING THE ALLOCATION PERCENTAGE FOR PERSONAL PROPERTY TAX RELIEF
IN THE CITY OF MARTINSVILLE FOR TAX YEAR 2011**

WHEREAS, on December 13, 2005 by Ordinance 2005-8 the Martinsville City Council established a local program of tax relief that serves the best interests of its citizens regarding personal property tax on qualifying use vehicles, pursuant to modifications made by the General Assembly of Virginia to the Personal Property Tax Relief Act of 1998 (PPTRA); and

WHEREAS, the city's relief program requires the city council to adopt an annual percentage of local tax relief for personal use vehicles valued between \$1,001 and the first \$20,000 that will fully exhaust the PPTRA relief funds provided to the city by the Commonwealth of Virginia; and

WHEREAS, the commissioner of the revenue has completed the annual assessment of motor vehicles with Martinsville tax situs for Tax Year 2011; and

WHEREAS, the commissioner of the revenue estimates that a percentage of relief of 60.17% applied to the first \$20,000 of assessed values for qualifying vehicles valued over \$1,000 will fully use all available state PPTRA relief allocated for tax year 2011.

NOW, THEREFORE BE IT RESOLVED by the Martinsville City Council that 60.17% shall be the percentage of relief to be applied to the first \$20,000 in value of each qualifying vehicle with an assessed value more than \$1,000 pursuant to and in accordance with provisions of Sec. 21-10 of the Martinsville City Code. Adopted this 27th day of September 2011.

Proclamations were presented by the Mayor to Melissa Gravely and Deborah Menefee of Citizens Against Family Violence in recognition of Domestic Violence Awareness Month and to Tyler Millner in recognition of Citizen Awareness Week.

Mayor Adkins reported that after hearing public input during the September 13, 2011 Council meeting, the Council adopted a Preliminary Ordinance, on first reading, that is before the Council now for second reading. The council also approved a Resolution, setting a Public Hearing for October 11, 2011. Also before the Council is another related Ordinance for

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consideration on first reading. This particular Ordinance authorizes issuance of up to \$9,300,000 as a General Obligation School Bond. This Ordinance will not be effective until after adoption on second reading which will occur after the Public Hearing.

Mayor Adkins then asked for any public comments at this meeting. Monty Ridenhour, 1231 Mulberry Rd., comments on the danger of continued use of fund balance, that higher taxes will be inevitable, need to consider city's \$15 million capital needs list and Commonwealth Crossing issues, should limit school renovation debt to \$6 million with adjustments of eliminating elevator and Global Access Center 2-story addition and should use vinyl instead of terrazzo tile, should consider wants vs. needs. School Superintendent Pam Heath spoke regarding the planned public input session and tour at MHS scheduled for Oct. 4 and stated the school board was open to all ideas. Vice Mayor Reynolds clarified that the vote on this preliminary ordinance is procedural and it serves as a placeholder in the process. On a motion by Kimble Reynolds, seconded by Danny Turner, with the following 4-1 recorded vote: Adkins, aye; Teague, nay; Reynolds, aye; Stroud, aye; and Turner, aye, Council approved the preliminary ordinance on second reading:

**CITY OF MARTINSVILLE, VIRGINIA
AN ORDINANCE RECITING THE EXPEDIENCY OF THE ISSUANCE OF UP TO \$9,300,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF THE CITY OF MARTINSVILLE, VIRGINIA, AND SETTING FORTH THE PURPOSE, IN GENERAL TERMS, FOR WHICH THE BONDS ARE TO BE ISSUED, THE MAXIMUM AMOUNT OF THE BONDS TO BE ISSUED AND THE MAXIMUM LENGTH OF TIME SUCH BONDS WILL BE OUTSTANDING**

Adopted on September 27, 2011 (second reading)

Be it Ordained by the Council of the City of Martinsville, Virginia:

Section 1 - Findings and Determinations

The City Council (the "City Council") of the City of Martinsville, Virginia (the "City") proposes to issue bonds for the purpose of assisting in the construction, expansion, renovation and equipping of Martinsville High School in the City for school purposes (the "Project") and hereby finds and determines that: (i) the City is in need of funds to be used by the City for such construction and equipment needs for the Project and for costs of issuance of the Bonds (defined below); (ii) the obtaining of such funds will be for municipal purposes of the City, for the welfare of citizens of the City for purposes which will serve the City and its citizens pursuant to the authority of the City to provide funds for and otherwise support the City's public schools; (iii) the most effective, efficient and expedient manner in which to provide such funds to the City is through the issuance of general obligation bonds in an original principal amount not to exceed \$9,300,000 to be issued by the City as further described herein (the "Bonds") to be used for the construction and equipping of the Project and for certain costs of issuance of the Bonds; (iv) the issuance of the Bonds is within the power of the City to contract debts, borrow money and make and issue evidence of indebtedness; and, (v) the issuance of the Bonds is in the best interests of the City and its citizens.

Section 2 - Description of the Bonds

The City Council finds that it is expedient for the City to borrow money and issue the Bonds for the Project in a maximum amount not to exceed NINE MILLION THREE HUNDRED THOUSAND DOLLARS (\$9,300,000). The maximum length of time that the Bonds will be outstanding is twenty years and one month from the date of issuance of the Bonds. The form and details of the Bonds which are proposed to be issued will be more specifically set forth in a City Ordinance to be entitled "ORDINANCE AUTHORIZING THE ISSUANCE OF A NOT TO EXCEED \$9,300,000 GENERAL OBLIGATION SCHOOL BOND, SERIES 2011, OF THE CITY OF MARTINSVILLE, VIRGINIA TO BE SOLD TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF," which will be introduced before the Council and considered for passage following a public hearing on the issuance of the Bonds, as required by law.

Section 3 - Further Actions Authorized

The City Manager, Clerk of the Council, City Treasurer, City Attorney, Sands Anderson PC as bond counsel, Davenport & Company LLC as financial advisor to the City and all other officers, employees and agents of the City are hereby authorized and directed to take any and all such further action as shall be deemed necessary or desirable to facilitate consideration of the issuance of the Bonds. All actions of the City Manager, Clerk of the Council, City Treasurer, City Attorney, bond counsel, the City's financial advisor and all other officers, employees and agents of the City in furtherance of the issuance of the Bonds and the financing of the Project are hereby approved and ratified.

Section 4 - Invalidity of Sections

If any section, paragraph, clause or provision of this Ordinance shall be held invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining portions of this Ordinance.

Section 5 - Headings of Sections

The headings of the sections of this Ordinance shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of such sections of this Ordinance.

Section 6 - Effective Date and Filing of Ordinance

Council hereby declares in the public interest that this Ordinance shall become effective immediately upon its passage. A copy of this Ordinance, certified by the Clerk of the Council, shall be filed with the Clerk of the Circuit Court of the City of Martinsville, Virginia.

The Members of the Council voted as follows on the foregoing Ordinance:

Ayes
Kim Adkins
Kimble Reynolds
Mark Stroud
Danny Turner

Nays
Gene Teague

Absent **Abstentions**

Adopted this 27th day of September, 2011 (second reading).

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Gene Teague noted that he does support the project, but did not vote for the motion set at \$9.3 million and asked if meetings are scheduled to look at options for lower amounts. Danny Turner pointed out we don't need to spend any more than we have to and schools need to look at less costly floor than tile. City Manager Clarence Monday will verify the deadline date to vote on amount. Pam Heath advised Council that actual sale of bonds is now December 15 and she said bond counsel suggests they follow the time line already set.

On a motion by Danny Turner, seconded by Kimble Reynolds, with the following 4-1 recorded vote: Adkins, aye; Teague, nay; Reynolds, aye; Stroud, aye; and Turner, aye, Council approved the following ordinance on first reading with amount not to exceed \$9.3 million. Eric Monday, City Attorney, reported Mark Stroud has signed a conflict of interest disclosure.

**ORDINANCE AUTHORIZING THE ISSUANCE OF A NOT TO EXCEED \$9,300,000 GENERAL OBLIGATION SCHOOL BOND, SERIES 2011,
OF THE CITY OF MARTINSVILLE, VIRGINIA, TO BE SOLD TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY
AND PROVIDING FOR THE FORM AND DETAILS THEREOF**

[First reading]

WHEREAS, the City Council (the "Council") of the City of Martinsville, Virginia (the "City"), has determined that it is necessary and expedient to borrow an amount not to exceed \$9,300,000 and to issue its general obligation school bond (as more specifically defined below, the "Local School Bond") for the purpose of financing the construction, expansion, renovation and equipping of Martinsville High School in the City, which constitutes a capital project for public school purposes (the "Project"); and

WHEREAS, the City will hold a public hearing, duly noticed, on October 11, 2011, on the issuance of the Local School Bond in accordance with the requirements of Section 15.2-2606, Code of Virginia 1950, as amended (the "Virginia Code"); and

WHEREAS, the School Board of the City has, by Resolution, requested the Council to authorize the issuance of the Local School Bond and consented to the issuance of the Local School Bond; and

WHEREAS, the Virginia Public School Authority ("VPSA") has offered to purchase the Local School Bond along with the local school bonds of certain other localities with a portion of the proceeds of certain bonds to be issued by VPSA in the fall of 2011 (the "VPSA Bonds"); and

WHEREAS, VPSA intends to issue the VPSA Bonds as "qualified school construction bonds" (referred to below as "QSCBs") within the meaning of Section 54F of the Internal Revenue Code of 1986, as amended (the "Tax Code"), which section was added to the Tax Code by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, 123 Stat. 355), enacted on February 17, 2009; and

WHEREAS, VPSA intends to elect to treat the VPSA Bonds as "specified tax credit bonds" under Section 6431 of the Tax Code, as amended by the Hiring Incentives to Restore Employment Act (Pub. L. No. 111-147, 123 Stat. 301), enacted on March 18, 2010, which status enables an issuer of a QSCB to receive a direct payment of a refundable credit in lieu of providing a tax credit to the purchaser or holder of the QSCB; and

WHEREAS, the refundable credit payable with respect to each interest payment date will be equal to the lesser of (i) the amount of interest payable under the QSCB on such date or (ii) the amount of interest which would have been payable under the QSCB on such date if such interest were determined at the applicable credit rate determined under Section 54A(b)(3) of the Tax Code (that is, the rate used in computing the amount of tax credit that could be claimed by the QSCB holder absent the "specified tax credit bond" refundable credit election); and

WHEREAS, subject to the terms and conditions set forth or referred to below, VPSA will transfer to the City the allocable portion of the refundable credit actually received in cash by VPSA with respect to the VPSA Bonds; and

WHEREAS, the allocation of QSCB volume cap pursuant to which VPSA will issue the VPSA Bonds will be made by Executive Order to be issued by the Governor of the Commonwealth of Virginia (the "Executive Order"), to finance the Project along with a number of other projects selected through a competitive evaluation process administered by the Virginia Department of Education; and

WHEREAS, the Bond Sale Agreement (as defined below) shall indicate that \$9,300,000 is the amount of proceeds requested (the "Proceeds Requested") by the City from the VPSA in connection with the sale of the Local School Bond; and

WHEREAS, VPSA's objective is to pay the City a purchase price for the Local School Bond which, in VPSA's judgment, reflects the Local School Bond's market value (the "VPSA Purchase Price Objective"), taking consideration of such factors as the purchase price to be received by VPSA from the sale of the VPSA Bonds, the underwriters' discount and the other issuance costs of the VPSA Bonds and other market conditions relating to the sale of the VPSA Bonds; and

WHEREAS, such factors may result in the Local School Bond having a purchase price other than par and consequently (i) the City may have to issue the Local School Bond in a principal amount that is less than the Proceeds Requested in order to receive an amount of proceeds that is substantially equal to the Proceeds Requested, or (ii) because the maximum authorized principal amount of the Local School Bond set forth in paragraph 1 of this Ordinance cannot exceed the Proceeds Requested, the purchase price to be paid to the City, given the VPSA Purchase Price Objective and market conditions, will be less than the Proceeds Requested.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARTINSVILLE, VIRGINIA:

1. **Authorization of Local School Bond and Use of Proceeds.** The Council hereby determines that it is advisable to contract a debt and issue and sell its general obligation school bond in a principal amount not to exceed \$9,300,000 (the "Local School Bond") for the purpose of financing the Project and the City's allocable share of (A) VPSA's costs of issuing the VPSA Bonds and (B) any upfront flat fees of VPSA as determined by VPSA to be necessary to compensate VPSA for the on-going costs related to administering the local school bonds purchased with the VPSA Bonds, including the City's Local School Bond (such upfront fees may be in lieu of the Annual Administrative Fee described in paragraph 4 in this Ordinance). The Council hereby authorizes the issuance and sale of the Local School Bond in the form and upon the terms established pursuant to this Ordinance and the Bond Sale Agreement.

2. **Sale of the Local School Bond.** The sale of the Local School Bond, within the parameters set forth in paragraph 4 of this Ordinance, to VPSA is authorized. Given the VPSA Purchase Price Objective and market conditions, the City acknowledges that the limitation on the maximum principal amount on the Local School Bond set forth in paragraph 1 of this Ordinance restricts VPSA's ability to generate the Proceeds Requested, however, the Local School Bond may be sold for a purchase price not lower than 90% of the Proceeds Requested. The Mayor of the City, the City Manager, or either of them and such other officer or officers of the City as either may designate are hereby authorized and directed to enter into an agreement with VPSA providing for the sale of the Local School Bond to VPSA (the "Bond Sale Agreement"). The Bond Sale Agreement shall be in substantially the form submitted to the Council at this meeting, which form is hereby approved.

3. **Details of the Local School Bond.** The Local School Bond shall be dated the date of its issuance and delivery; shall be designated "General Obligation School Bond, Series 2011;" shall bear interest from the date of delivery thereof payable semi-annually on dates specified by VPSA (each, an "Interest Payment Date") at the rates established in accordance with paragraph 4 of this Ordinance; and shall mature annually in the years (each a "Principal Payment Date," and together with any Interest Payment Date, a "Payment Date") and in the amounts (the "Principal Installments") determined by the City Manager, subject to the provisions of paragraph 4 of this Ordinance.

4. **Interest Rate and Principal Installments.** The City Manager is hereby authorized and directed to accept the interest rate on the Local School Bond established by VPSA, provided that each interest rate may be up to five one-hundredths of one percent (0.05%) over the interest rate to be paid by VPSA for the corresponding principal payment date of the VPSA Bonds, a portion of the proceeds of which will be used to purchase the Bonds, to the extent required by VPSA (the "Annual Administrative Fee"), and provided further that the true interest cost of the Local School Bond does not exceed seven and a half percent (7.50%) per annum. The Payment Dates and the Principal Installments shall be specified by VPSA. The City Manager is hereby authorized and directed to accept the final Payment Dates and the Principal Installments at the request of VPSA based on the final term to maturity of the

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VPSA Bonds, requirements imposed on VPSA by the nationally-recognized rating agencies and the final principal amount of the Local School Bond; provided, however, that the principal amount of the Local School Bond shall not exceed the amount authorized by this Ordinance and the final maturity of the Local School Bond shall be no later than the earlier of December 31, 2031 and the latest maturity date permitted under Section 54A of the Tax Code. The execution and delivery of the Local School Bond as described in paragraph 10 hereof shall conclusively evidence the approval and acceptance all of the details of the Local School Bond by the City Manager as authorized by this Ordinance.

5. **Certain Acknowledgements.** The City acknowledges that the interest rate on the Local School Bond will be set at the level necessary to pay the interest on the allocable portion of the VPSA Bonds plus the Annual Administrative Fee, if any, and that the City will be obligated to pay interest on the Local School Bond at the stated taxable rate thereon regardless of the elimination or reduction of the refundable credit to be received by VPSA due to (i) any amendments by Congress to Sections 54A, 54F or 6431 or any other applicable sections of the Tax Code, (ii) any failure or determination by Congress not to appropriate funds necessary to pay the refundable credit, (iii) any guidance or changes to guidance provided by the U.S. Department of Treasury or the Internal Revenue Service, or (iv) any action or omission by VPSA, the City or any other locality selling local school bonds to VPSA in connection with the VPSA Bonds that causes the VPSA Bonds to lose their status as QSCBs and/or specified tax credit bonds in whole or in part. It is also acknowledged that the City has the right to effect an extraordinary optional redemption of the Local School Bond in whole or in part upon the occurrence of any of these events as provided in the form of Local School Bond.

6. **Certain Investment Earnings.** The Council hereby acknowledges that VPSA will (i) issue the VPSA Bonds with multiple maturities or with a single "bullet" maturity, in either case, with a final maturity date on or shortly before the latest maturity date permitted for the VPSA Bonds under Section 54A of the Tax Code, (ii) invest the Principal Installments for the benefit of the City until they are applied to pay the principal of the VPSA Bonds and (iii) either remit the investment earnings periodically to the City or credit the investment earnings against the City's obligation to make Principal Installments, at the option of VPSA. The Council further acknowledges that VPSA may cause a portion of such earnings to be deposited into a reserve fund or account to be applied by VPSA for use to pay the costs, fees and expenses described in paragraph 15 below. Any balance in such reserve fund or account attributable to investment earnings on the City's Principal Installments as reasonably determined by VPSA will be remitted or credited to the City on the final maturity date of the VPSA Bonds.

7. **Form of the Local School Bond.** The Local School Bond shall be initially in the form of a single, temporary typewritten bond substantially in the form attached hereto as Exhibit A.

8. **Payment; Paying Agent and Bond Registrar.** The following provisions shall apply to the Local School Bond:

(a) For as long as VPSA is the registered owner of the Local School Bond, all payments of principal of and interest and premium, if any, on the Local School Bond shall be made in immediately available funds to, or at the direction of, VPSA at, or before 11:00 a.m. on the applicable Payment Date or date fixed for prepayment or redemption, or if such date is not a business day for Virginia banks or for the Commonwealth of Virginia, then at or before 11:00 a.m. on the business day next succeeding such Payment Date or date fixed for payment, prepayment or redemption.

(b) The Bond Registrar and Paying Agent for the Local School Bond shall be the banking institution selected by VPSA for such purposes.

9. **Prepayment or Redemption.** The Principal Installments of the Local School Bond may be subject to optional prepayment or redemption prior to their stated maturities as determined by VPSA. The Principal Installments of the Local School Bond will be subject to extraordinary mandatory redemption (i) if certain proceeds of the Local School Bond have not been spent within three years after the date of its issuance and delivery (which three year period may be extended by the U.S. Secretary of the Treasury or his delegate), (ii) due to a loss of "qualified tax credit bond" and "qualified school construction bond" status of the VPSA Bonds corresponding to the Local School Bond under Sections 54A and 54F of the Tax Code, and (iii) if due to (a) any amendments by Congress to Sections 54A, 54F or 6431 or any other applicable sections of the Tax Code or (b) any guidance or changes to guidance provided by the U.S. Department of Treasury or the Internal Revenue Service, there is a reduction or elimination of the direct payment of the refundable credit to be received by VPSA with respect to the VPSA Bonds. The Principal Installments of the Local School Bond shall be redeemed at the redemption prices and upon the other terms set forth in the Local School Bond.

10. **Execution of the Local School Bond.** The Mayor or Vice Mayor of the City and the Clerk or any Deputy Clerk of the Council are authorized and directed to execute and deliver the Local School Bond and to affix the seal of the City thereto.

11. **Pledge of Full Faith and Credit.** For the prompt payment of the principal of and interest and premium, if any, on the Local School Bond as the same shall become due, the full faith and credit of the City are hereby irrevocably pledged, and in each year while any of the Local School Bond shall be outstanding there shall be levied and collected in accordance with law an annual ad valorem tax upon all taxable property in the City subject to local taxation **sufficient in amount to provide for** the payment of the principal of and interest and premium, if any, on the Local School Bond as such principal and interest and premium, if any, shall become due, which tax shall be without limitation as to rate or amount and in addition to all other taxes authorized to be levied in the City to the extent other funds of the City are not lawfully available and appropriated for such purpose.

12. **Use of Proceeds Certificate and Tax Compliance Agreement.** The Mayor or Vice Mayor of the City, the City Manager and such other officer or officers of the City as either may designate are hereby authorized and directed to execute and deliver on behalf of the City a Use of Proceeds Certificate and Tax Compliance Agreement (**the "Tax Compliance Agreement"**) setting forth the expected use and investment of the proceeds of the Local School Bond and containing such covenants as may be necessary for the VPSA Bonds to qualify as and to remain as "qualified tax credit bonds," "qualified school construction bonds" and "specified tax credit bonds" under Sections 54A, 54F and 6431 of the Tax Code and the applicable regulations. The Council covenants on behalf of the City that (i) the proceeds from the issuance and sale of the Local School Bond will be invested and expended as set forth in the Tax Compliance Agreement and that the City shall comply with the other covenants and representations contained therein and (ii) the City shall comply with the provisions of the Tax Code so that the VPSA Bonds will not lose their status as "qualified tax credit bonds," "qualified school construction bonds" and "specified tax credit bonds" under Sections 54A, 54F and 6431 of the Tax Code.

13. **State Non-Arbitrage Program; Proceeds Agreement.** The Council hereby determines that it is in the best interests of the City to authorize and direct the City Treasurer and Director of Finance to participate in the State Non-Arbitrage Program in connection with the Local School Bond. The Mayor or Vice Mayor of the City, the City Manager and such officer or officers of the City as either may designate are hereby authorized and directed to execute and deliver a Proceeds Agreement with respect to the deposit and investment of proceeds of the Local School Bond by and among the City, the other participants in the sale of the VPSA Bonds, VPSA, the investment manager and the depository, substantially in the form submitted to the Council at this meeting, which form is hereby approved.

14. **Continuing Disclosure Agreement.** The Mayor or Vice Mayor of the City, the City Manager and such other officer or officers of the City as either may designate are hereby authorized and directed to execute a Continuing Disclosure Agreement, as set forth in Appendix D to the Bond Sale Agreement, setting forth the reports and notices to be filed by the City and containing such covenants as may be necessary in order to show compliance with the provisions of the Securities and Exchange Commission Rule 15c2-12, under the Securities Exchange Act of 1934, as amended, and directed to make all filings required by Section 3 of the Bond Sale Agreement should the City be determined by the VPSA to be a MOP (as defined in the Continuing Disclosure Agreement).

15. **Fees, Costs and Expenses.** The City agrees to pay the following fees, costs and expenses incurred by VPSA in connection with its purchase and carrying of the Local School Bond within thirty days after receipt by the City Manager of a written bill therefor:

(A) The City's allocable share of (i) the fees, costs and expenses of the trustee, paying agent and bond registrar under the indenture pursuant to which VPSA will issue the VPSA Bonds and (ii) any fees, costs and expenses payable to third parties in connection with such indenture or VPSA's School Tax Credit Bond Program, as determined by VPSA; and

(B) To the extent permitted by law, the reasonable fees, costs and expenses, including reasonable attorneys' fees, if any, incurred by VPSA in connection with any false representation or certification or covenant default by the City or any City or School Board official, employee, agent or contractor under the Local School Bond, the Continuing Disclosure Agreement, the Tax Compliance Agreement, the Proceeds Agreement and/or any document, certificate or instrument associated therewith (**collectively, the "City Documents"**), or in connection with any extraordinary mandatory redemption of the Local School Bond as described in paragraph 9 above and the corresponding VPSA Bonds, any amendment to or discretionary action that VPSA makes or undertakes at the request of the City under any of the City Documents or any other document related to the VPSA Bonds.

16. **Filing of Ordinance.** The appropriate officers or agents of the City are hereby authorized and directed to cause a certified copy of this Ordinance to be filed with the Circuit Court of the City.

17. **Election to Proceed under Public Finance Act.** In accordance with Section 15.2-2601 of the Virginia Code, the Council elects to issue the Local School Bond pursuant to the provisions of the Public Finance Act of 1991, Chapter 26 of Title 15.2 of the Virginia Code (**the "Act"**).

18. **Further Actions.** The members of the Council and all officers, employees and agents of the City are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Local School Bond and any such action previously taken is hereby ratified and confirmed. **Effective Date.** This Ordinance shall take effect immediately as provided for in the Act and pursuant to Section 3 of Chapter 3 of the City Charter.

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Leon Towarnicki reported on the Building Energy Efficiency Project noting that since February, 2011, City staff has been working with Trane and the Virginia Department of Mines, Minerals, and Energy (DMME) staff on the completion of a detailed energy audit for various City buildings and facilities. The energy audit has been completed, identifying a variety of projects that, if implemented, will result in substantial energy savings over time while addressing needed building infrastructure improvements. The City has received a grant in the amount of \$400,000 from DMME to apply toward this project.

<p align="center">City of Martinsville Building Energy Efficiency Project</p> <p align="center">Tuesday, Sept. 27, 2011</p>	<p>Background</p> <ul style="list-style-type: none"> In November, 2009, the City applied for a \$400,000 ARRA grant through the Virginia Department of Mines, Minerals & Energy for the purpose of implementing various projects to make City buildings and facilities more energy efficient. The City was awarded the grant in early 2010. Funds under this grant are available through April, 2012. 	<p>Project Process</p> <ul style="list-style-type: none"> The City contracted with Trane to perform a detailed building energy audit of the following buildings and facilities: <ul style="list-style-type: none"> Municipal Building (1968) Sheriff's Office Building (1977) Church St. and Southside Fire Stations (1968) Senior Services Building (<1950) Warehouse & Garage (1954) Water Treatment Plant (1948) Wastewater Treatment Plant (1962)
<p>Project Process</p> <ul style="list-style-type: none"> Building energy and water consumption records were reviewed Building lighting survey was conducted Building operations were reviewed HVAC systems/controls were reviewed Meetings with City & DMME staff to discuss findings, resulting in identification of a number of building upgrades to improve lighting, heating, and air conditioning while saving energy usage costs. 	<p>Project Options - "Option A"</p> <ul style="list-style-type: none"> Use grant funds only - (\$400,000) – no other funding needed. Project would consist of lighting upgrades only. Lighting upgrades in Municipal Building, Church St. & Southside Fire Station, Sheriff's office, Senior Center, Warehouse & Garage, Water Treatment Plant, and Wastewater Treatment Plant. 	<p>Project Options - "Option B"</p> <ul style="list-style-type: none"> The "Base" option Addresses lighting in all buildings, controls issues in some buildings, and a significant number of control/HVAC issues in the Municipal Building. Lighting upgrades Municipal Building, Church St. and Southside Fire Stations, Sheriff's Office, Senior Center, Warehouse & Garage, Water Treatment Plant, Wastewater Treatment Plant.
<p>"Option B", continued</p> <ul style="list-style-type: none"> Controls upgrade at Senior Center, Sheriff's Office, Water Plant and Wastewater Plant Municipal Building – replacement of 2 electric boilers with gas units; AC-3 (police dept.) air handler replacement; computer server room AC installation; AC-5 (Council Chambers) duct modifications; replacement of all fan coil units, controls upgrades on remaining AHUs. Estimated project cost - \$1,460,307 and guaranteed energy savings of \$92,467/yr. 	<p>"Option B" continued</p> <ul style="list-style-type: none"> Using the \$400,000 DMME grant to pay down project costs results in a simple project payback period of approx. 11.5 yrs Under performance contract concept, the financed construction cost (\$1,060,307) is paid by utilizing project energy savings. Option B takes care of many needs, but not all – roof replacement, chiller replacement, electric service, etc. are still needed. 	<p>Project Options - "Option C"</p> <ul style="list-style-type: none"> The "Expanded" option Includes all work under option B/Base option Also includes replacement of 4 major air handlers (original to the building) in the remainder of the Municipal Building Estimated project cost - \$2,162,499 and guaranteed energy savings of \$108,519/yr. Using the \$400,000 DMME grant to pay down project costs results in a simple project pay back period of 16.2 yrs.
<p>"Option C" continued</p> <ul style="list-style-type: none"> As with option B, many needs are addressed but not all – future needs includes roof replacement, chiller replacement, electric service upgrades, etc. 	<p>Recommendation</p> <ul style="list-style-type: none"> Staff recommends pursuing option B at this time at an estimated cost of \$1,460,307, utilizing the \$400,000 DMME grant to pay down the construction cost, realizing the balance of \$1,060,307 will be financed. Staff will explore financing options with Trane as well as conventional sources, and will bring a project financing proposal back to Council at a later date. 	<p>Conclusion</p> <ul style="list-style-type: none"> Utilizing the \$400,000 grant with option B under a performance contract concept allows many needed building improvements to occur while having no net effect on the City's budget. The combined energy saving costs in the buildings/facilities included in this project will be used to finance project construction costs.

After lengthy discussion, Council agreed to have staff proceed with financing options for Option B and bring back to Council for further Council discussion on how the debt service will be funded and the impact to future City budget.

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On a motion by Gene Teague, seconded by Mark Stroud, with a 5-0 vote, Council agreed to amend the Drought Response and Contingency Plan ordinance as noted in the following strikethrough text:

(d) Drought Emergency – Stage 2: As drought conditions continue to worsen, a drought emergency – stage 2 may be declared by the City Manager or their designee in accordance with the Drought Response and Contingency Plan. When a drought emergency – stage 2 exists, in addition to the restrictions imposed under the drought emergency – stage 1, the following will be prohibited:

Watering lawns, grass, shrubbery, trees, or flowers, except persons regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock ~~and golf courses may water greens~~

On a motion by Gene Teague, seconded by Kimble Reynolds, with the following 5-0 recorded vote: Adkins, aye; Teague, aye; Reynolds, aye; Stroud, aye; and Turner, aye, Council approved the Drought Response and Contingency Plan ordinance on second reading:

CITY OF MARTINSVILLE, VIRGINIA ORDINANCE NO. 2011-___

Sec. 23-4 Currently reserved, is hereby enacted as follows:

Sec. 23-4 Water Emergencies

A. Authority to declare water emergencies.

During the continued existence of climatic, hydrological and other extraordinary conditions the protection of the health, safety and welfare of the residents of the City of Martinsville may require that certain uses of water, not essential to public health, safety and welfare, be reduced, restricted or curtailed. As the shortage of raw or potable water becomes increasingly more critical, conservation measures to reduce consumption or curtail nonessential water use may be necessary. The definitions, water emergency criteria, and water use restrictions referenced in this ordinance are presented in greater detail in the City of Martinsville Drought Response and Contingency Plan, which is incorporated herein by reference.

The City Manager or their designee is authorized to declare a water emergency in the City restricting the use of water in any area of the City. All water stages are built upon and require compliance with previous water stages. For example when a Drought Emergency – Stage 1 is declared all provisions of a Drought Warning are in effect. Also the City Manager or their designee may declare any of the four stages; they do not have to be declared sequentially.

B. Publication of declaration.

Upon the declaration of a water emergency, the City Manager or their designee shall immediately post a written notice of the emergency at the front door of City Hall and shall place a notice in a newspaper of general circulation in the area in which such emergency has been declared.

C. Water use considerations.

Upon the declaration of a water shortage or emergency, the City Manager or their designee is authorized and directed to implement conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain nonessential purposes for the duration of the water shortage or emergency in the manner hereinafter set out. In exercising this discretionary authority, and making the determinations set forth hereof, the City Manager or their designee shall give due consideration to water levels, streamflow conditions, available/usable storage on hand, draw down rates and the projected supply capability in the City; system purification and pumping capacity; daily water consumption and consumption projections of the system's customers; prevailing and forecast weather conditions; fire service requirements; pipeline conditions including breakages, stoppages and leaks; supplementary source data; estimates of minimum essential supplies to preserve public health and safety and such other data pertinent to the past, current and projected water demands.

D. Limitation of restrictions.

The provisions of this article shall not apply to any governmental activity, institution, business or industry which shall be declared by the City Manager or their designee, upon a proper showing, to be necessary for the public health, safety and welfare or the prevention of severe economic hardship or the substantial loss of employment. Any activity, institution, business or industry aggrieved by the finding of the City Manager or their designee may appeal that decision to the City Council.

E. Water conservation measures.

Upon a determination by the City Manager or their designee of the existence of the following conditions, the City Manager or their designee shall take the following actions that shall apply to all water users in the City:

(a) Drought Watch: When moderate but limited supplies of water are available and a drought watch is declared in accordance with the Drought Response and Contingency Plan, the City Manager or their designee shall, through appropriate means, call upon the general population to employ prudent restraint in water usage. Public outreach activities shall be identified to inform the general population of the potential for drought conditions to intensify and potential water conservation activities that may be utilized.

(b) Drought Warning: The drought warning stage includes voluntary water conservation actions due to imminent onset of a significant drought event. When a drought warning exists, the following voluntary water restrictions are requested:

- ◆ Voluntary, commercial, manufacturing, institutional and residential conservation measures will be strongly encouraged and recommended including the following:
 - Inspect and repair all faulty and defective parts of faucets and toilets.
 - Use shower for bathing rather than bathtub and limit shower to no more than five minutes.
 - Do not leave faucets running while shaving, rinsing dishes, or brushing teeth.
 - Limit use of clothes washers and dishwashers and when used, operate fully loaded.
 - Limit lawn watering to that necessary for plant survival.
 - Water shrubbery the minimum required, reusing household water when possible.
 - Limit vehicle washing.
 - Do not wash down outside areas such as sidewalks, patios, driveways, etc.
 - Install water flow restrictions in showerheads and other water saving devices.
 - Use disposable and biodegradable dishes where possible.
 - Install water saving devices in toilets, such as early closing flapper valves.
 - Do not fill swimming pools.
- ◆ An extensive publicity campaign will be initiated using public media and specialized methods to inform the public of an impending water shortage.

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- ◆ Water supply line pressure should be reduced where feasible to reduce water consumption if it will not affect operation of fixtures, equipment or public safety devices.
- ◆ Conservation in public buildings, institutions, dormitories, and similar facilities is encouraged by reducing pressure at plumbing fixtures and by installation of restricting devices.
- ◆ All residents, business, and institutions are requested to delay new landscape work until the water shortage has ended.
- ◆ Water conservation should be followed during all phases of construction related activities. Where appropriate, water needed should be obtained from supplemental sources and construction related activities, which require water, should be delayed until such time as the water emergency has ended.

All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction of 10%.

(c) Drought Emergency – Stage 1: As drought conditions continue to worsen, a drought emergency – stage 1 may be declared by the City Manager or their designee in accordance with the Drought Response and Contingency Plan. When a drought emergency – stage 1 exists, the following will be prohibited:

- ◆ Watering lawns, grass, shrubbery, trees, flower, and vegetable gardens except by hand held hose, container, or drip irrigation system, except persons regularly engaged in the sale of plants will be permitted to use water for irrigation of their commercial stock and golf courses may water greens;
- ◆ Filling of newly constructed swimming pools and/or wading pools or refill swimming and/or wading pools, which have been drained;
- ◆ Operating water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and safety are adversely affected;
- ◆ Washing automobiles, trucks, trailers, boats, airplanes, or any other type of mobile equipment, except persons regularly engaged in the business of washing motor vehicles and any commercial car wash facility will be permitted to use water for such purposes;
- ◆ Washing down outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors or existing or newly constructed homes or apartments, sidewalks, or patios or to use water for similar purposes;
- ◆ Operation of ornamental fountain, pool, or pond or other structure making similar use of water;
- ◆ Serving drinking water in restaurants, cafeterias, or other food establishments, except as requested by the customer;
- ◆ Using public or private fire hydrants for any purpose other than fire suppression or other public emergency or Utility Department need ;
- ◆ Using water for dust control or compaction; and
- ◆ Using water for any unnecessary purpose or intentionally waste water.

All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction 10-15%.

(d) Drought Emergency – Stage 2: As drought conditions continue to worsen, a drought emergency – stage 2 may be declared by the City Manager or their designee in accordance with the Drought Response and Contingency Plan. When a drought emergency – stage 2 exists, in addition to the restrictions imposed under the drought emergency – stage 1, the following will be prohibited:

- ◆ Watering lawns, grass, shrubbery, trees, or flowers, except persons regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock ~~and golf courses may water greens;~~
- ◆ Watering any vegetable garden, except by hand held hose, container, or drip irrigation system;
- ◆ All nonessential use of water for commercial or public use;
- ◆ Using water outside a structure for any use other than an emergency use involving fire or as needed by the water utility to maintain the water system;
- ◆ Operating an evaporative air conditioning unit which recycles water, except as may be required for health and safety; and
- ◆ Other restrictions as may be deemed appropriate and adopted by the City Council.

All industrial, manufacturing, and commercial enterprises shall reduce consumption to any degree feasible with a goal of a reduction of at least 15-25%.

F. Penalty and enforcement.

(a) Any person who violates any provision of this article shall be subject to the following civil penalties:

- (1) For the first offense, violators shall receive a written warning delivered in person or posted by a representative of the City.
- (2) For the second offense, violators shall be fined fifty dollars (\$50.00), the fine to be imposed on the violator’s next water bill, or in the case of violators not on the public water system, in a written notice.
- (3) For the third and each subsequent offense, violators shall be fined one hundred dollars (\$100.00) for each offense, the fine to be imposed on the violator’s next water bill, or in the case of violators not on the public water system, in a written notice.
- (4) Each violation by a person shall be counted as a separate violation by that person, irrespective of the location at which the violation occurs.

(b) Persons who have been assessed a penalty shall have the right to challenge the assessment by providing a written notice to the City Manager or their designee within ten (10) days of the date of the assessment of the penalty. The City Manager or their designee shall determine that the penalty was properly assessed and notify the complaining person in writing of his determination.

(c) The City Manager or their designee may waive the penalty if he determines that the violation occurred due to no fault of the person.

G. Notification of end of water emergency.

The City Manager or their designee, following discussions with the Authority, shall notify the City Council when, in his opinion, the water emergency situation no longer exists. Upon concurrence of the City Council, the water emergency shall be declared to have ended. When this declaration is made, the information shall be conveyed to the general public through the news media.

On a motion by Gene Teague, seconded by Kimble Reynolds, with a 5-0 vote, Council approved the following consent agenda including approval of minutes of Council meetings of August 23, Sept. 9, Sept. 12 tour, and Sept. 12, 2011:

BUDGET ADDITIONS FOR 9/27/11				
ORG	OBJECT	DESCRIPTION	DEBIT	CREDIT
FY11				
GENERAL FUND				
01101917	442810	Categorical Other State - Highway Projects		2,808
01413151	503140	Thorofare Construction - Prof. Service Engineering state reimbursements-Liberty St.	2,808	
01100909	490132	Recovered Costs - Project Lifesaver		980
01217078	506047	Sheriff - Courts - Project Lifesaver additional recovered costs	980	

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01101917	490110	Categorical Other State - Nat'l Guard Armory		4,077
01715213	506007	Armory - Repairs & Maintenance Additional Reimb	4,077	

Total General Fund:			7,865	7,865
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BUDGET ADDITIONS FOR 09/27/11				
ORG	OBJECT	DESCRIPTION	DEBIT	CREDIT
FY12				
GENERAL FUND				
1100909	490134	Recovered Costs - Parks & Recreation		106
1711210	506091	Parks & Recreation - Special Events/Cruise In Costs recovered from various sponsors	106	
1101917	442810	Categorical Other State - Highway Projects		4,584
1413151	503140	Thorofare Construction - Prof. Service Engineering state reimbursements-Liberty St.	4,584	
Total General Fund:			4,690	4,690

Council asked that in the future that the minutes be listed as a separate agenda item rather than with the consent agenda.

Business from floor: Ural Harris, 217 Stuart St., comments regarding school funding and AMP.

Council comments: Reynolds-encouraged attendance at Oktoberfest; Stroud-commended Farmers Market for weekend event and encouraged citizens to tour the high school; Turner-condolences to family of Lorene Martin.

In accordance with Section 2.1-344 (A) of the Code of Virginia (1950, and as amended) and upon a motion by Gene Teague, seconded by Danny Turner, with the following 5-0 recorded vote: Adkins, aye; Teague, aye; Reynolds, aye; Stroud, aye; and Turner, aye, Council convened in Closed Session, for the purpose of discussing the following matters:

- A. Discussion of the award of a public contract involving the expenditure of public funds, including interviews or bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body as authorized by Subsection 29.
- B. Discussion or consideration of the acquisition of real property for a public purpose, or the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body as authorized by Subsection 3.
- C. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community as authorized by Subsection 5.
- D. Discussion or consideration of the investment of public funds where competition or bargaining is involved where, if made public initially, the financial interest of the governmental unit would be adversely affected as authorized by Subsection 6.

At the conclusion of Closed Session, each returning member of Council certified that (1) only public business matters exempt from open meeting requirements were discussed in said Closed Session; and (2) only those business matters identified in the motion convening the Closed Session were heard, discussed, or considered during Session. On a motion by Gene Teague, seconded by Danny Turner, with the following recorded 5-0 vote: Adkins, aye; Reynolds, aye; Teague, aye; Stroud, aye; and Turner, aye, Council returned to Open Session.

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The following action was taken: On a motion by Gene Teague, seconded by Mark Stroud, with a 5-0 vote, Council authorized the execution of the following revised Facilities Cost Agreement for Social Services, City of Martinsville, and Henry County:

FACILITY COSTS AGREEMENT

THIS FACILITY COSTS AGREEMENT (FCA) is made this _____ day of _____, 2011, by and between The County of Henry, Virginia, (hereinafter referred to as the "County") whose address is P. O. Box 7, 3300 Kings Mountain Road, Collinsville, Virginia, and the City of Martinsville, Virginia, (hereinafter referred to as the "City") whose address is P. O. Box 1112, 55 East Church Street, Martinsville, Virginia, 24112, hereinafter referred to as (the "Owners"), and The Henry-Martinsville Department of Social Services, (hereinafter referred to as the "Agency") whose address is P. O. Drawer 832, Martinsville, Virginia, 24114, 20 Progress Drive, Martinsville, 24112.

The Owners hereby designate the County of Henry to act on behalf of the Owners for all matters related to this FCA.

In consideration of the mutual promises and covenants set forth below, as well as other good and valuable consideration, the receipt of which is acknowledged, the parties hereto agree as follows:

1. **REAL PROPERTY, TERM OF OCCUPANCY, AND RENEWALS.** Owners hereby assign right of occupancy to the Agency for the property and improvements at the "Premises" (as shown on the attached exhibit) for the term of five (5) years, beginning October 1, 2011 and expiring on October 1, 2016. This FCA shall automatically renew for additional one year terms, each year unless a party hereto provides the other parties written notice of intent not to renew ninety (90) days prior to the expiration of the term.

2. **ADA ACCESSIBILITY.** Prior to delivery of facility to the Agency, the County shall certify to the Agency that the premises comply with the minimum requirement of the American's with Disabilities Act of 1990 (ADA).

3. **USE OF PREMISES.** The Premises will be used by the Agency as the offices of the Henry-Martinsville Department of Social Services and for no other purpose.

4. **ACCEPTANCE OF PREMISES AND ANNUAL INSPECTION.** The County and the Agency agree that prior to occupancy of premises, a representative of the Owners and Agency shall inspect the Premises to determine if there are any repairs necessary before occupancy. Prior to March 1 of each year the Owners and Agency shall inspect the facility to determine if any items are in need of repairs or replacement that would be the responsibility of the Owners to be considered in the annual budget process. The Agency is responsible for submitting the annual inspection report.

5. **FACILITY COSTS.** The Agency agrees to pay as facility costs the total sum of (\$69,192.71) annually. Beginning upon occupancy said facility costs will be paid in arrears in equal monthly payments due and payable on the last day of business each month, without notice, demand, or offset, in monthly payments of (\$5,766.05). Due to the joint ownership of the occupied premises the Agency will remit 66% of the facility costs (\$3,805.59) to the County of Henry and 34% of the facility costs (\$1,960.46) to the City of Martinsville, as designated in this FCA. Facility costs shall not be duplicated in the CSAP.

FACILITY COST DATA.

A) The County purchased the building for \$1,650,000 and the Department of Social Services is allocated 55.412% (37,320 sq. ft.) of the total square footage of the building. The remaining 44.588% (30,030 sq. ft.) of the building is unfinished space.

B) The maximum amount of office space per employee is 198.

C) The useful life assigned to the building is 30 years.

D) The amount of depreciation expense reported to date is \$121,087.26 through September 30, 2011.

E) The outstanding useful life is 28 years and 3 months at a monthly depreciation cost of \$5,766.05 or \$69,192.71 annually.

6. **PARKING.** The County agrees to provide 199 parking spaces for the non-exclusive use of the Agency. Eight parking spaces shall be designated for handicapped parking. If the Owners upfit additional unfinished space in the building and lease to one or more additional tenants, the Owners agree to provide additional parking spaces to accommodate the additional tenants.

7. **SIGNAGE.** The County will cooperate with the Agency to allow installation of building and monument signage of an agreed upon size and style.

8. **UTILITIES.** The Agency shall pay, as and when the same become due and payable, all charges for water and sewer, and all charges for electricity, gas, heat, telephone service and other utilities supplied the Premises. These charges are not included in the facility costs and will be incurred and billed by means of separate service contracts between the Agency and the service providers.

9. **ALTERATIONS AND IMPROVEMENTS.** Agency agrees that no alterations, installations, and major repairs shall be done to the Premises without the County's written consent. Such consent will not be unreasonably withheld.

10. **MAINTENANCE AND REPAIRS OF PREMISES.**

(A) During the term of this FCA, the Agency shall keep the interior of the Premises in good order and repair. Damage by fire, the elements or other casualty, and repairs or replacements as outlined herein shall be the obligation of the County. Agency shall also keep the premises free from refuse and other debris during the term hereof. Agency will also be responsible for procuring janitorial services for the Premises; said janitorial services are not included in the facility costs.

(B) Agency shall enter into preventative maintenance contracts and be responsible for all repairs to heating, ventilating and cooling equipment, elevator and fire alarm/security systems installed on the premises; provided, however, that the County shall be responsible for the replacement thereof when necessitated by age and ordinary wear and tear, fire, the elements or other casualty.

(C) Agency also accepts the responsibility for payment of the first one thousand dollars (\$1,000) of any repairs to the premises. Those amounts incurred over \$1,000 shall be pre-approved by the Owners and billed to and paid by the County of Henry (66%) and the City of Martinsville (34%).

11. **SNOW REMOVAL AND LAWN MAINTENANCE.** Agency is responsible for maintenance of all exterior common areas including the collection and removal of litter and trash, mowing of grass, maintenance of landscaping and removal of snow and ice from sidewalks. The City agrees to remove snow from the parking lot area. Agency acknowledges that said snow removal from parking lot by Owners shall occur at the same time as snow is removed from Progress Drive by the City of Martinsville.

12. **INSPECTIONS AND ACCESS.** The County and its representatives may enter the premises to make inspections, repairs, decorations, alterations or improvements. Except in case of emergency or when it is impractical to give notice, the County will give Agency reasonable notice of the County's intent to enter and may enter the Premises only at reasonable times.

13. **COVENANTS BY OWNERS.** The County shall keep the Premises insured against loss or damage. The City shall pay 34% of said costs. Agency is responsible for insuring the contents of the occupied area and shall pay for same and provide proof of insurance to the County.

14. **COVENANTS BY AGENCY.**

(A) Agency shall (1) use, maintain and occupy the Premises in a careful, safe, proper and lawful manner, keep the appurtenances, including adjoining areas and sidewalks in a clean and safe condition; (2) maintain the Premises at its own expense in a clean, orderly and sanitary condition, free of insects, rodents, vermin and other pests; (3) not permit undue accumulations of garbage, trash, rubbish and other refuse; (4) remove such refuse at its own expense.

(B) Agency shall, at its expense, keep the Premises, signs and sidewalks and the parking areas, as designated, adjacent to the premises, in a clean, safe and sanitary condition; conform to applicable laws, ordinances, regulations, and codes; and store all trash and garbage within the premises, or in

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such places as the County may designate. Agency shall not mark, drill, deface, injure or damage the premises; conduct business so as to constitute a nuisance to other property owners or tenants or occupants in the building and area; burn trash on the property; permit rubbish, refuse or garbage to accumulate or a fire hazard to exist about the Premises; overload any floor facility; or throw foreign substances in plumbing facilities or use the same for any purpose other than that for which constructed.

Agency agrees not to change or add locks without giving the County immediate notice and a duplicate of all keys, except in those areas where checks, marketable securities, food stamps and any confidential documents are stored.

Agency agrees to pay all costs resulting from the intentional or negligent destruction, damage or removal of any part of the Premises by Agency or by any of Agency's guests or other persons on the Premises with Agency's consent.

15. **ASSIGNMENT OR SUBLET.** Agency will not assign this FCA or sublet the Premises without the County's prior written consent. No assignment or sublet will release Agency from continuing liability for the full performance of this FCA unless the County signs a written statement clearly releasing Agency from such liability.

16. **NOTICES.** All notices in writing required or permitted by this FCA may be delivered in person, or sent by certified mail, return receipt requested (postage prepaid) to the County of Henry, Agency, or Agent at such parties' addresses, as set forth herein or at such other address as a party may designate from time to time by notice given in accordance with the terms of this section; however, Agency shall be deemed to have received notice if such notice is delivered or served at the address of the Premises. The County's recipient for notice shall be the County Administrator whose address is P. O. Box 7, 3300 Kings Mountain Road, Collinsville, Virginia 24078. The City's recipient for notice shall be the City Manager whose address is P. O. Box 1112, 55 East Church Street, Martinsville, Virginia, 24112. The Social Services recipient for notice shall be the Director whose address is P. O. Drawer 832, 20 Progress Drive, Martinsville, Virginia 24112.

17. **HEADINGS.** The headings of the sections of this FCA are inserted for convenience only and do not alter or amend the provisions that follow such headings.

18. **GOVERNING LAW.** This FCA is entered into and shall be construed under the laws of the Commonwealth of Virginia.

19. **SEVERABILITY.** Any provision of this FCA which is prohibited by, or unlawful or unenforceable under, Virginia law shall be ineffective only to the extent of such prohibition without invalidating the remaining provisions of this FCA.

20. **AMENDMENTS.** This FCA may be amended only by a writing signed by the parties, or by a change in the County's rules and regulations, provided that at least 90 days notice of such change is given to Agency and provided that such changes do not substantially modify Agency's arrangement with the County.

21. **ENTIRE AGREEMENT.** This FCA and any rules and regulations of the County constitute the entire agreement between the County and the Agency. No oral statements made by either party shall be binding.

The City of Martinsville joins in this agreement to acknowledge the FCA was prepared by the County of Henry and to signify their agreement to all the terms herein.

WITNESS the following signatures:

COUNTY OF HENRY
By _____
Debra Buchanan, Chairman
Henry County Board of Supervisors

ATTEST:

Benny Summerlin, Clerk to the Board

State of Virginia,
County of Henry, to-wit: The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Debra Buchanan, Chairman of the Henry County Board of Supervisors and Benny Summerlin, Clerk to the Henry County Board of Supervisors, respectively, on behalf of the County of Henry.

Notary Public

Commission Expiration & ID No.

(Notary Seal)

Witness the following signatures:

CITY OF MARTINSVILLE
By _____
Kim Adkins, Mayor

ATTEST:

Clarence Monday, Clerk of Council

State of Virginia,
City of Martinsville, to-wit: The foregoing instrument was acknowledged before me this _____ day of _____, _____, by Kim Adkins, Mayor of the City of Martinsville and Clarence Monday, Clerk of City Council, respectively, on behalf of the City of Martinsville.

Notary Public

Commission Expiration & ID No.

(Notary Seal)

Witness the following signatures:

**HENRY-MARTINSVILLE DEPARTMENT
OF SOCIAL SERVICES**
By _____
Ron Ferrill, Chairman
Henry-Martinsville Board of Social Services

ATTEST:

September 27, 2011

Amy Tuttle, Director
Henry-Martinsville Department of Social Services

State of Virginia,

City of Martinsville, to-wit: The foregoing instrument was acknowledged before me this _____ day of _____, _____, by
Ron Ferrill, Chairman of the Henry-Martinsville Board of Social Services and Amy Tuttle, Director of Social Services, respectively, on behalf of the Henry-
Martinsville Department of Social Services.

Notary Public

Commission Expiration, & ID No.

(Notary Seal)

Description of Occupied Premises

The occupied premises shall include non-exclusive use and access to all outside common areas to include parking as well as 36,000-square feet of interior office space and fixtures as shown in the attached exhibit.

There being no further business, the meeting adjourned at 10:37 PM.

Clarence Monday
Clerk of Council

Kim Adkins
Mayor