



NEW KENT COUNTY BOARD OF SUPERVISORS

September 29, 2021, 9:00 AM

Boardroom, County Administration Building, 12007 Courthouse Circle, New Kent, VA
23124 - WORK SESSION

AGENDA

CALL TO ORDER AND ROLL CALL

Times are approximate

- 9:00 a.m. ITEM 1 **Presentation and Discussion on the Recently Completed Lower Chickahominy Watershed Collaborative Memorandum of Understanding**
Sarah Stewart with PlanRVA and Assistant County Administrator Justin Stauder
- 9:20 a.m. ITEM 2 **Review New Pre-Treatment Ordinance for Consideration**
Public Utilities Director Larry Dame
- 9:40 a.m. ITEM 3 **Change Section 38-15 of the County Code (Delinquent Utility Bills) to Reflect Changes in the State Code**
Public Utilities Director Larry Dame
- 9:50 a.m. ITEM 4 **Discussion on Resumption of Water and Sewer Disconnects**
Public Utilities Director Larry Dame
- 10:10 a.m. ITEM 5 **Contract for Employee Compensation and Classification Study**
County Administrator Rodney Hathaway
- 10:20 a.m. ITEM 6 **Request to Solicit Proposals for an Internet Service Provider**
County Administrator Rodney Hathaway
- 10:40 a.m. ITEM 7 **Other Business**
- 10:50 a.m. ITEM 8 **Adjournment**

MEETING SCHEDULE: The next regularly scheduled meeting of the Board of Supervisors will be held at 6:00 p.m. on Tuesday, October 12, 2021 and the next work session at 9:00 a.m. on Wednesday, October 27, 2021, both in the Boardroom of the County Administration Building. The Board will also meet for a Budget Retreat on Friday, October 29, 2021 from 9:00 a.m. to noon - Location TBA.

If a meeting cannot be held because of the closing of State and/or County offices, the meeting will be held on the next business day that the County offices are open.

AGENDA ITEM REQUEST
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO
THE MEETING)

Meeting Date: 9/29/2021

Agenda Item

Motion: "Mr.
Chairman, I move to
(not required for Consent
Agenda items)

n/a

Subject

**Presentation and Discussion on the Recently Completed
Lower Chickahominy Watershed Collaborative
Memorandum of Understanding**

Issue

The Lower Chickahominy Watershed Project was initiated in 2016 by PlanRVA Regional Commission as a five-year collaborative planning process to study and capture the value of the Lower Chickahominy Watershed (LCW), recognized as the home of some of the most biologically diverse and ecologically significant areas in the Coastal Zone of Virginia.

Through this planning process, the stakeholders worked toward identifying and establishing an overarching vision for land use, land conservation, and economic priorities for the watershed. The effort supported improving coordination between the three local governments located within the LCW (James City County, New Kent County, and Charles City County), the two Planning District Commissions (Plan RVA and the Hampton Roads Planning District Commission), the three sovereign tribes of the LCW (the Chickahominy, Chickahominy Indians Eastern Division, and the Pamunkey), and natural resource agencies.

Recommendation

Fiscal Implications

n/a

Policy Implications

The purpose of the Memorandum of Understanding (MOU) is to facilitate enhanced cooperative and collaborative efforts to increase sustainable ecological and economic activity in the Lower Chickahominy Watershed. It seeks to establish, via formal agreement, a solid foundation among the signatories and the cooperative partners

Legislative History

n/a

Discussion

n/a

Time Needed:

9:00 a.m.

Person Appearing:

Sarah Stewart with
PlanRVA and
Assistant County
Administrator Justin

Request prepared by: Copy provided to:			Stauder
	Justin Stauder	Telephone:	

ATTACHMENTS:

Description	Type
Staff Memo to Board (PDF)	Cover Memo
Powerpoint (PDF)	Cover Memo
MOU (PDF)	Cover Memo
Proposed Ordinance (PDF)	Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
Clerk	Watkins, Wanda	Approved	9/21/2021 - 9:36 PM
Administration	Hathaway, Rodney	Approved	9/22/2021 - 8:04 AM
Attorney	Hefty, Brendan	Approved	9/22/2021 - 1:05 PM

MEMORANDUM

DATE: September 29, 2021

TO: The Board of Supervisors

FROM: Justin Stauder, Assistant County Administrator

SUBJECT: Ordinance to Authorize the Lower Chickahominy Watershed Collaborative Memorandum of Understanding, a Joint Exercise of Powers Agreement

The Lower Chickahominy Watershed Project was initiated in 2016 by PlanRVA Regional Commission as a five-year collaborative planning process to study and capture the value of the Lower Chickahominy Watershed (LCW), recognized as the home of some of the most biologically diverse and ecologically significant areas in the Coastal Zone of Virginia. The intention was to study the natural resources present in the LCW and work with stakeholders to develop policy and action steps to accomplish a dual goal of natural resource conservation and economic development. The first four years of the project yielded valuable information on the high value of the watershed and the potential for both conservation and sustainable business opportunities through a conservation inventory, an economic study, a stakeholder engagement process, a joint local government/tribal workshop, a LCW summit, and an eco-tourism infrastructure inventory.

Through this planning process, the stakeholders worked toward identifying and establishing an overarching vision for land use, land conservation, and economic priorities for the watershed. The effort supported improving coordination between the three local governments located within the LCW (New Kent County, James City County, and Charles City County), the two Planning District Commissions (Plan RVA and the Hampton Roads Planning District Commission), the three sovereign tribes of the LCW (the Chickahominy, Chickahominy Indians Eastern Division, and the Pamunkey), and natural resource agencies. At the end of the project study period, a need existed for continued collaboration, increased communication, and the pursuit of common solutions for the LCW.

The purpose of the Memorandum of Understanding (MOU) is to facilitate enhanced cooperative and collaborative efforts to increase sustainable ecological and economic activity in the LCW. It seeks to establish, via formal agreement, a solid foundation among the signatories and the cooperative partners. Following establishment of the MOU, representatives from each signatory and state and federal partners will meet to develop priorities and goals for the collaborative, including the following priorities previously identified through the project's work:

- Improving physical recreational infrastructure;
- Supporting sustainable economic development;
- Enhancing river advocacy, education, and marketing;
- Promoting land conservation and landowner education;
- Ensuring protection of sites and traditions that are sacred and historic to the tribes; and
- Increasing ecological restoration and stewardship.

- To allow for seasonal access where appropriate, including policies that promote low-impact activities

Virginia Code § 15.2-1300 provides that any two or more political subdivisions may enter into agreements with one another for joint exercise of any power, privilege or authority.

Staff recommends the Board of Supervisors adopt the attached ordinance to authorizing the Lower Chickahominy Watershed Collaborative Memorandum of Understanding, a joint exercise of powers agreement, and authorizing the County Administrator to sign the agreement.

Attachments:

1. Lower Chickahominy Watershed Collaborative Memorandum of Understanding
2. Presentation
3. Draft Ordinance Approving LCWC MOU

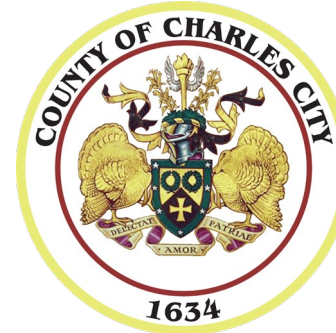
Lower Chickahominy Watershed Collaborative

New Kent County
Board of Supervisors
September 29, 2021



This project, Task # 93.01 was funded by the Virginia Coastal Zone Management Program led by the Virginia Department of Environmental Quality through Grant FY19 #NA19NOS4190163 of the US Department of Commerce, National Oceanic, and Atmospheric Administration, under the Coastal Zone Management Act of 1972, as amended. The views expressed herein are those of the authors and do not necessarily reflect the views of the US Department of Commerce, NOAA, or any of its subagencies.

Partners and Stakeholders



Lower Chickahominy Project

- 5-year project
- natural resource conservation
- economic development



Lower Chickahominy Project

Year 1

- Data gathering and updates

Year 2

- Economic Study

Year 3

- Thought Leader Interviews
- Focus Groups
- Survey

Year 4

- Local Government – Tribe Workshop
- Regional Summit
- Ecotourism Infrastructure Inventory

Year 5

- Lower Chickahominy Watershed Collaborative
- Ecotourism infrastructure Plan



DCR-NH Biological Resources Inventory

- 39 occurrences of specific species or natural communities
- 5 sites in the watershed designated as Outstanding ecological significance
- “[E]cologists and botanists conducting field work noted that the tidal freshwater wetland communities were among the highest quality remaining along Virginia’s tidal rivers.”



Economic Findings

- Conservation easements - revenues exceed expenditures
- Organizations directly related to land conservation in 3 county study area in 2018 ...
 - supported about 100 direct jobs in 2018
 - This direct employment generated almost \$8.4 million in regional economic output
 - Supported 118 jobs paying \$2.5 million in salaries, wages, and benefits
- Value Chain Analysis: eco-tourism related opportunities



Outreach Efforts – Phase 1

- Thought Leader Interviews
 - County Staff
 - Chickahominy Tribe
 - Capital Region Land Conservancy
 - State Agencies (Forestry, Tourism, VIMS)
- Focus Groups
 - Natural Resources & History
 - Government
 - Business
- Public Survey



INSTITUTE *for*
ENGAGEMENT & NEGOTIATION
Shaping Our World Together



Outreach Efforts – Phase 2

- Local Government – Tribe Workshop

- About Federally Recognized Tribes
- Orientation to Tribes
- Orientation to Local Governments
- Collaboration Strategies for Tribes and Local Governments



INSTITUTE *for*
ENGAGEMENT & NEGOTIATION
Shaping Our World Together

- Regional Summit

- Topical Small Group Discussion
- Identify actions to advance Priority Strategies



Outreach and Policy Development Themes

- Improving physical recreational infrastructure;
- Supporting sustainable economic development;
- Enhancing river advocacy, education, and marketing;
- Promoting land conservation and landowner education;
- Ensuring protection of sites and traditions that are sacred and historic to the tribes; and
- Increasing ecological restoration and stewardship.



Lower Chickahominy Watershed Collaborative

- MOU Signatories and Supporting Cooperative Partners
- Agreement:
 1. Only by **working together** can we achieve goals of enhanced natural resources conservation, environmental and cultural protection, and economic opportunities;
 2. The LCW is an area of **critical and important natural and cultural resources**;
 3. Agree to **support the conservation and protection priorities** of the LCW and to build on the community engagement ideas and concepts;
 4. The Local Government and Planning District Commission Signatories will seek to **build equitable relationships with the Tribes** of the LCW;
 5. **work together to leverage funding** from various sources to advance the LCW goals;



Thank you

Sarah Stewart, AICP

Planning Manager – Environmental Program

PlanRVA

sstewart@planrva.org

www.planrva.org



Lower Chickahominy Watershed Collaborative

Memorandum of Understanding

Between

The Counties of New Kent, Charles City and James City

and the

Chickahominy Indian Tribe

Chickahominy Indian Tribe – Eastern Division

Pamunkey Indian Tribe

and the

Richmond Regional Planning District Commission (Plan RVA) and Hampton Roads Planning District Commission

To

Coordinate and Collaborate on Efforts to Increase Sustainable Ecological and Economic Activity in the Lower Chickahominy Watershed

I. Signatories

The Signatories to this Memorandum of Understanding (MOU) are as follows:

- New Kent, Charles City and James City counties
- The Chickahominy Indian Tribe, the Chickahominy Indian Tribe-Eastern Division, and the Pamunkey Indian Tribe
- Richmond Regional Planning District Commission (PlanRVA) and the Hampton Roads Planning District Commission

All of the above organizations and agencies are referred to herein as “Signatories.” The Signatories have a common interest in conservation, protection, and the sustainable economic growth of the Lower Chickahominy Watershed (LCW).

II. Authority to Enter into the Memorandum of Understanding

The enabling authority for the County and Planning District Commission Signatories to enter into the Memorandum of Understanding is contained in the following Virginia State Code citations:

Counties of Charles City, James City, and New Kent

Section 15.2-1300 of the Code of Virginia enables local governments to enter into cooperative agreements to exercise those powers that each may be enabled to exercise.

Hampton Roads Planning District Commission and Richmond Regional Planning District Commission (PlanRVA)

Section 15.2-4205 of the Code of Virginia enables Planning District Commissions to enter into contracts or agreements, as they may determine, which are necessary or incidental to the performance of their duties and to the execution of those powers that each may be enabled to exercise.

The Tribes of the Lower Chickahominy Watershed have inherent sovereign powers and the right to self-government. The Tribes of the Lower Chickahominy Watershed are:

Chickahominy Indian Tribe

Chickahominy Indian Tribe – Eastern Division

Pamunkey Indian Tribe

Note: The obligations of all Signatories herein are subject to the availability of funding, and nothing contained herein shall be construed as binding any signatory to expend in any one fiscal year any sum in excess of available private dollars, state or congressional appropriations, or to involve any signatory in any contract or other obligation for further expenditure of money in excess of such appropriations or private allocations.

III. Lower Chickahominy Supporting Cooperative Partners

State agencies, Federal agencies, non-profit organizations, and businesses that wish to support the Signatories and purpose of this MOU may sign a Supporting Cooperative Partner page. These Supporting Cooperative Partners agree to advise, participate as invited, and contribute to the work of the Signatories in carrying out this MOU. A sample Supporting Cooperative Partner statement page is included as an attachment to this MOU.

IV. Purpose

The purpose of this MOU is to facilitate enhanced cooperative and collaborative efforts to increase sustainable ecological and economic activity in the LCW. The Lower Chickahominy watershed (10-digit HUC – 0208020606) is recognized for harboring some of the most biologically diverse and ecologically significant areas in the Coastal Zone of Virginia.

V. Background

This project was initiated in 2016 and established a collaborative planning process across three counties in the LCW, east of Richmond in the counties of New Kent, Charles City, and James City, Virginia to identify and establish an overarching vision for land use, land conservation, and sustainable economic priorities. The effort, funded by the Virginia Coastal Zone Management Program (CZM), supports improved coordination among natural resource agencies, local governments, Tribal governments, and not for profit regional organizations with interests in programs and enforceable policies for coastal areas. This approach also aims to build and strengthen relationships and partnerships among multiple stakeholders across the watershed. Through the first four years of the project, several critical project products have yielded valuable information on the high value of this watershed and the potential for both conservation and sustainable business opportunity. These products, funded by the Virginia CZM Program, are as follows:

- A conservation inventory conducted by the Department of Conservation and Recreation, Natural Heritage Division;
- An economic report on the socio-economic impacts of conserved land in the LCW;

- A stakeholder engagement process including thought leader interviews, focus groups, and stakeholder survey report, individual consultations with three Tribes, and a joint consultation with the three counties;
- A joint Local Government/Tribal Workshop, with a summary report;
- A LCW Summit, with a summary report of the draft LCW Action Plan.

VI. The Natural Resources of the LCW

The three counties of the Lower Chickahominy watershed boast some of the most valuable and unique natural resources in Virginia. Healthy streams run through forested lands and open spaces that are home to the native flora and fauna of the tidal fresh zone of coastal Virginia.

The LCW is characteristic of a rural area experiencing suburban development pressure in Virginia's coastal plain. Figure One below shows the LCW. New Kent County is the third fastest growing county in the Commonwealth of Virginia with Interstate 64 running down the spine of the watershed. Historic Route 5 runs along the southern boundary of the LCW. These three counties run the spectrum from rural to urban, with Charles City County being the most rural to James City County being the most urban. The counties in the LCW represent three different densities of population, ranging from Charles City as the least populated (pop: 6,963) to James City as the most populated (pop: 76,523). The James River borders the southern boundary of the LCW, with the LC emptying into it at the Charles City and James City County border.

The majority of land in the LCW is covered by small and large blocks of privately-owned forests, with some state-owned preserves. Figure Two shows the natural resources of the watershed. The presence of active agriculture across the landscape is reflected in land areas classified as pasture or cropland. Residential and business development is reflected in impervious, turf/grass, and disturbed land areas. The entire three-county study area covers approximately 608 square miles of land and water. Water in rivers and streams comprises 12.6% of the study area. The largest component of land cover is forest (blocks of tree cover greater than 1 acre) or trees (blocks of tree cover less than 1 acre); a total of 52.9% of the entire study area, or 60.4% of the land area, is covered by trees or forest. Impervious cover is approximately 4.0% of the study area.

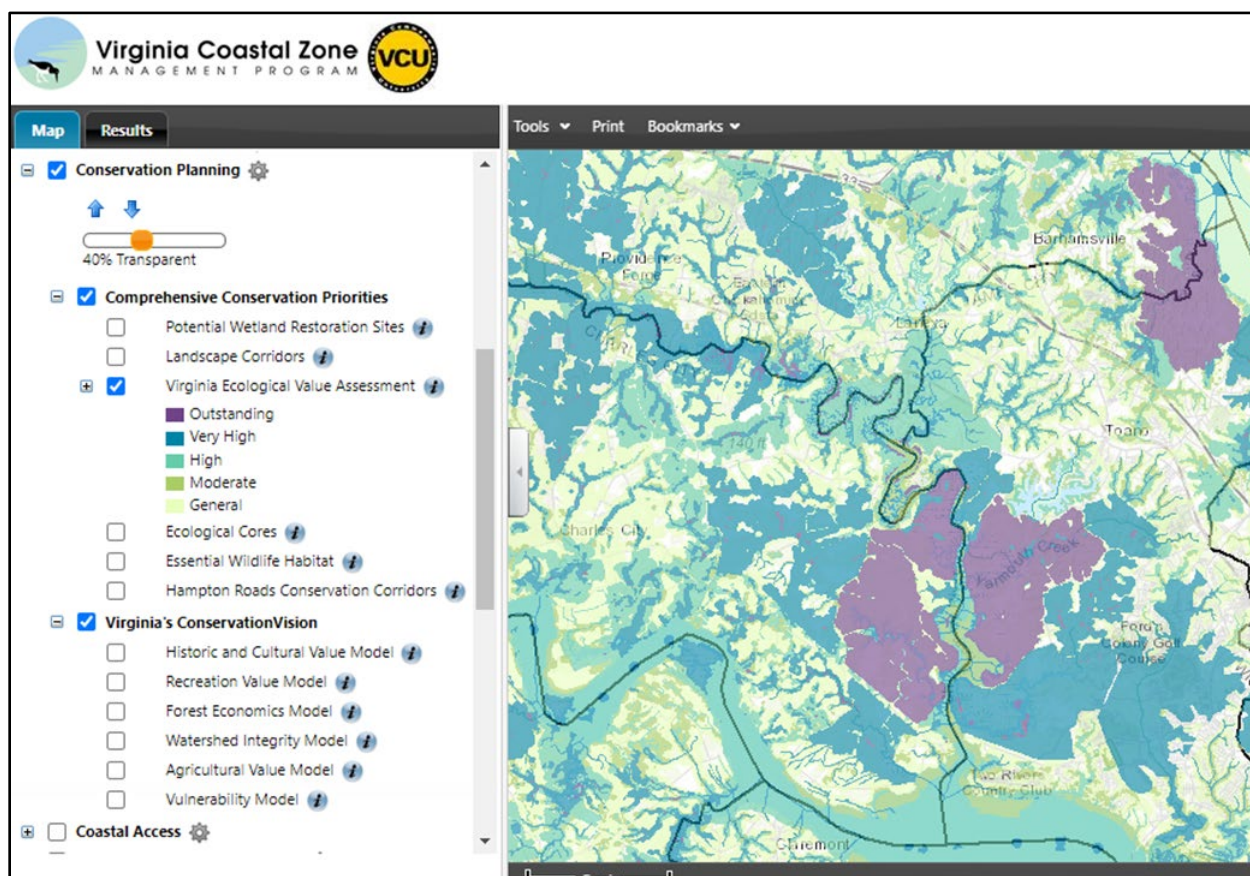
The Lower Chickahominy study area is home to 10 streams and creeks that have been identified as "healthy waters" by the Healthy Waters program of the Virginia Department of Conservation and Recreation. One of these is recognized as "outstanding" water, meaning it is estimated to be in the top 20% of waters with high ecological health included in the program. Seventeen bodies of water are in

the middle 20% of streams analyzed in the program and have been identified as restoration candidates. While these bodies of water have suffered some ecological degradation, they maintain aspects of ecological health and present as strong candidates for restoration efforts. The Lower Chickahominy study area has a higher percentage of land and water area recognized in the Virginia Ecological Value Assessment (VEVA) as having either Outstanding or Very High ecological value compared to the entire Coastal Zone of Virginia; 39% compared to 34%. Therefore, the three counties of the Lower Chickahominy represent a concentration of ecologically valuable land and water habitat.

Figure One. The Lower Chickahominy Watershed



Figure Two. Natural Resources of the Lower Chickahominy Watershed



VII. The Cultural Resources of the LCW

The LCW is as rich in cultural resources as it is in natural resources. One of the major cultural resources in the LCW is the presence of three Virginia Tribes, the Chickahominy, Chickahominy Indians Eastern Division, and the Pamunkey. The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017 recognized the Chickahominy, Chickahominy Indians Eastern Division, Upper Mattaponi, Rappahannock, Monacan, and Nansemond Tribes as sovereign nations, bringing the number to 573 federally recognized Tribes in the U.S. While the Pamunkey Indian Tribe was recognized via treaty by the Commonwealth since colonial times, they became the first Virginia tribe to be granted federal recognition by the Federal Bureau of Indian Affairs in 2015, a process finalized in 2016.

Furthermore, this recent recognition of the Virginia Tribes in the LCW also means that the relationships with all levels of government will change. Relationships, particularly at the local level, are critical to the protection of both cultural heritage

and sacred lands for which this Lower Chickahominy Watershed Project (LCWP) has a vested interest in enhancing.

One clear outcome of the Tribes' participation in this MOU is to ensure that Tribal interests are respected and appropriately consulted by local governments in their decision-making through the future of the watershed. A second outcome is to develop a longer-term healthy relationship between local agencies and the Tribal nations, ensuring that Tribal interests are considered and reflected in policy proposals and any other emerging strategy elements that are developed during the LCWP work.

Regarding this work with the Tribes, our primary emphasis was placed on preserving and protecting the cultural heritage and sacred lands. The recent recognition provides inherent powers to the Tribes, and particularly notable is the state's inability to interfere in Tribal affairs. Second, the Tribes desire open and frequent communication processes that are mindful of the uniqueness of each of the tribe's communication methods. Third, the "taught" history is not accurate, and corrections, both historical and current, are paramount if Tribes are to be active, independent sovereign nations as federal recognition dictates. Local government officials in the LCW, particularly those from Charles City County, described a strong relationship with the LCW Tribes. Fourth, the recent recognition has also brought an increased administrative and collaborative workload for Tribal leaders. Hence, longer response times to requests from other governments should be accounted for as relationships grow. Tribal staff is limited and consulting Tribes early in the decision-making process is critical; specifically, consultation is necessary when actions and/or development have known or potential impacts on Tribal lands and interests. To ensure effective communication, Tribes requested frequent contact with county staff and leadership.

The relationship between local governments and Tribes does have, as a core component, the need to work closely with the Department of Historic Resources to further protect Tribal cultural resources. The Commonwealth of Virginia has established an Archeological Discovery Protocol that is referenced in the Virginia Antiquities Act (Va. Code §§ 10.1-1188, 10.1-1197.6 and 15.2-2306). The National Historic Preservation Act of 1966 requires review and consultation with localities and tribes on projects; these Section 106 reviews are limited to projects including Federal actions. While a robust mapping program that identifies and protects sensitive sites safeguards the removal of cultural artifacts, Tribal workshop participants asserted that promoting clarity of regulation(s) and a strong consultation process would fit into the LCWP effort to improve enforceable policies and programs. Discussions between Tribes and local governments about

existing regulations and local policies would be an appropriate first step to improve local government consultation with the tribes to protect tribal cultural heritage from impacts due to development.

Jamestown was established in what is now southeastern James City County; the city of Williamsburg abuts the county. The Lower Chickahominy area is about as close as you can get to the first steps of English colonization of the mid-Atlantic. As Europeans moved westward and Virginia's economy grew, Plantations were established across the Lower Chickahominy area and beyond. Today, a discussion of history, culture or tourism in the Lower Chickahominy would not be complete without mention of the plantations. Shirley Plantation, Virginia's first plantation, was founded in 1613 by a royal land grant. Through the 1600s the European population increased in the area now known as Virginia and across the mid-Atlantic. The 1700s saw the construction of great plantation houses, including Shirley, built with the proceeds from selling tobacco.

Both the production of tobacco and the construction of plantation houses across Virginia relied on the economic realities of slave labor. The first African slaves arrived in Virginia in 1619. In 1623, the rolls at Flowerdew Hundred in the then borough of Charles City counted 11 of these first African slaves in Virginia. Charles City County has produced a series of exhibits and a self-guided driving/biking tour all about the African American experience in the county called Freedom's Jubilee: An African American Journey.

VIII. The Need for the MOU

Situated between the City of Richmond to the west and the City of Williamsburg to the east, the LCW is rich in both environmental and cultural resources. The resources of the LCW are wedged between these cities and bounded by the James River to the south and are in conflict with this growing population. To attain a stable conservation and protection base while working to find sustainable economic opportunities, an enhanced effort and expectation of ongoing, consistent collaboration among the multiplicity of LCW stakeholders is necessary.

Sitting across three counties, two planning district commissions, and a myriad group of state, federal, and not for profit organizations, a formal agreement will provide a solid foundation for collaboration, increased communication, and regional solutions for the LCW.

IX. Statement of Mutual Agreement

It is mutually understood and agreed by the Signatories that:

1. Only by working together can the signatories achieve enhanced natural resources conservation, environmental and cultural protection, and economic opportunities;
2. The LCW is an area of critical and important natural and cultural resources to all Signatories;
3. The Signatories agree to support the conservation and protection priorities of the LCW and to build on the community engagement ideas and concepts identified through the existing project years;
4. The Local Government and Planning District Commission Signatories will seek to build equitable relationships with the Tribes of the LCW;
5. Additional funding will be needed to achieve the goals set forth in this MOU. The Signatories shall work together to seek and leverage funding from private, local, State, and Federal sources such that it can be maximized to advance the LCW goals;

X. Scope of Work

The Signatories shall communicate and coordinate with regard to land conservation, land protection and economic opportunity issues important to each signatory.

Within ninety days of the effective date of this Memorandum of Understanding, as soon thereafter as convenient to the Signatories, the Signatories shall meet to develop priorities and goals for the Collaborative, including the following priorities previously identified through the project's work but not limited to:

- **Improving physical recreational infrastructure;**
- **Supporting sustainable economic development;**
- **Enhancing river advocacy, education, and marketing;**
- **Promoting land conservation and landowner education;**
- **Ensuring protection of sites and traditions that are sacred and historic to the tribes; and**
- **Increasing ecological restoration and stewardship.**

Thereafter, at least annually, the Signatories shall update and refine the above information.

XI. Modifications

Material modifications to this Memorandum of Understanding must be submitted in writing and approved by all Signatories to the Memorandum of Understanding. Approval may be via electronic assent via email.

XII. Effective Date

The effective date of the Memorandum of Understanding shall be the date of the last signature of the Memorandum of Understanding by the Counties of Charles City, James City, and New Kent, the Chickahominy Indian Tribe, the Chickahominy Indian Tribe - Eastern Division, the Hampton Roads Planning District Commission, and the Richmond Regional Planning District Commission (PlanRVA).

XIII. Duration and Termination of the Agreement

The duration of this Memorandum of Understanding will be until such time as it is terminated upon agreement of all Signatories; however, any party to the Memorandum of Understanding may terminate its participation by 30 days' written notice to all other Signatories. Termination of participation does not require approval by other Signatories.

XIV. Manner of Financing

This Memorandum of Understanding will not require financing or budgeting from or by the Signatories; however, this clause will not preclude, under a separate document or agreement, grant funding or other financial assistance from one signatory to another for the purpose of carrying out the intent of the Memorandum of Understanding.

XV. Ownership of Property

It is not the intent of the Signatories that this Memorandum of Understanding will result in the purchase, ownership, holding, or conveying of any real or personal property.

XVI. Project Officers

The following project officers, for the purpose of administering this MOU, including receiving and reviewing reports, meeting attendance, project proposals, and the handling of termination notices are:

- James City County: Tammy Rosario, Assistant Director Community Development
- Charles City County: Rhonda Russell, Assistant County Administrator/ Director of Community Development
- New Kent County: Justin Stauder, Assistant County Administrator
- Chickahominy Indian Tribe: Dana Adkins, Tribal Environmental Director
- Chickahominy Indians Tribe - Eastern Division: Jessica Phillips, Environmental Director
- Pamunkey Indian Tribe: Chief Robert Gray
- PlanRVA: Sarah Stewart, Planning Manager - Environmental Program
- Hampton Roads Planning District Commission: Ben McFarlane, Senior Regional Planner

XVII. EXECUTION AND COUNTERPARTS.

This MOU may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

XVIII. APPROVALS

List of Signatories to the MOU:

- Charles City County
- James City County
- New Kent County
- Chickahominy Indian Tribe
- Chickahominy Indians Tribe - Eastern Division
- Pamunkey Indian Tribe
- Richmond Regional Planning District Commission (PlanRVA)
- Hampton Roads Planning District Commission

SIGNATURE PAGE FOR CHARLES CITY COUNTY

IN WITNESS WHEREOF, the following individuals execute this agreement.

Chief Administrative Officer, Charles City County

Chief Administrative Officer, James City County

Chief Administrative Officer, New Kent County

Chief, Chickahominy Indian Tribe

Chief, Chickahominy Indian Tribe – Eastern Division

Chief, Pamunkey Indian Tribe

Executive Director, Richmond Regional Planning District Commission (PlanRVA)

Executive Director, Hampton Roads Planning District Commission

CHARLES CITY COUNTY

Signature: _____

Printed Name: _____

Date: _____

SIGNATURE PAGE FOR JAMES CITY COUNTY

IN WITNESS WHEREOF, the following individuals execute this agreement.

Chief Administrative Officer, Charles City County

Chief Administrative Officer, James City County

Chief Administrative Officer, New Kent County

Chief, Chickahominy Indian Tribe

Chief, Chickahominy Indian Tribe – Eastern Division

Chief, Pamunkey Indian Tribe

Executive Director, Richmond Regional Planning District Commission (PlanRVA)

Executive Director, Hampton Roads Planning District Commission

JAMES CITY COUNTY

Signature: _____

Printed Name: _____

Date: _____

SIGNATURE PAGE FOR NEW KENT COUNTY

IN WITNESS WHEREOF, the following individuals execute this agreement.

Chief Administrative Officer, Charles City County

Chief Administrative Officer, James City County

Chief Administrative Officer, New Kent County

Chief, Chickahominy Indian Tribe

Chief, Chickahominy Indian Tribe – Eastern Division

Chief, Pamunkey Indian Tribe

Executive Director, Richmond Regional Planning District Commission (PlanRVA)

Executive Director, Hampton Roads Planning District Commission

NEW KENT COUNTY

Signature: _____

Printed Name: _____

Date: _____

SIGNATURE PAGE FOR CHICKAHOMINY INDIAN TRIBE

IN WITNESS WHEREOF, the following individuals execute this agreement.

Chief Administrative Officer, Charles City County

Chief Administrative Officer, James City County

Chief Administrative Officer, New Kent County

Chief, Chickahominy Indian Tribe

Chief, Chickahominy Indian Tribe – Eastern Division

Chief, Pamunkey Indian Tribe

Executive Director, Richmond Regional Planning District Commission (PlanRVA)

Executive Director, Hampton Roads Planning District Commission

CHICKAHOMINY INDIAN TRIBE

Signature: _____

Printed Name: _____

Date: _____

SIGNATURE PAGE FOR CHICKAHOMINY INDIAN TRIBE – EASTERN
DIVISION

IN WITNESS WHEREOF, the following individuals execute this agreement.

Chief Administrative Officer, Charles City County

Chief Administrative Officer, James City County

Chief Administrative Officer, New Kent County

Chief, Chickahominy Indian Tribe

Chief, Chickahominy Indian Tribe – Eastern Division

Chief, Pamunkey Indian Tribe

Executive Director, Richmond Regional Planning District Commission (PlanRVA)

Executive Director, Hampton Roads Planning District Commission

CHICKAHOMINY INDIAN TRIBE – EASTERN DIVISION

Signature: _____

Printed Name: _____

Date: _____

SIGNATURE PAGE FOR PAMUNKEY INDIAN TRIBE

IN WITNESS WHEREOF, the following individuals execute this agreement.

Chief Administrative Officer, Charles City County

Chief Administrative Officer, James City County

Chief Administrative Officer, New Kent County

Chief, Chickahominy Indian Tribe

Chief, Chickahominy Indian Tribe – Eastern Division

Chief, Pamunkey Indian Tribe

Executive Director, Richmond Regional Planning District Commission (PlanRVA)

Executive Director, Hampton Roads Planning District Commission

PAMUNKEY INDIAN TRIBE

Signature: _____

Printed Name: _____

Date: _____

SIGNATURE PAGE FOR RICHMOND REGIONAL PLANNING DISTRICT
COMMISSION (PLANRVA)

IN WITNESS WHEREOF, the following individuals execute this agreement.

Chief Administrative Officer, Charles City County

Chief Administrative Officer, James City County

Chief Administrative Officer, New Kent County

Chief, Chickahominy Indian Tribe

Chief, Chickahominy Indian Tribe – Eastern Division

Chief, Pamunkey Indian Tribe

Executive Director, Richmond Regional Planning District Commission (PlanRVA)

Executive Director, Hampton Roads Planning District Commission

RICHMOND REGIONAL PLANNING DISTRICT COMMISSION (PLANRVA)

Signature: _____

Printed Name: _____

Date: _____

SIGNATURE PAGE FOR HAMPTON ROADS PLANNING DISTRICT
COMMMSSION

IN WITNESS WHEREOF, the following individuals execute this agreement.

Chief Administrative Officer, Charles City County

Chief Administrative Officer, James City County

Chief Administrative Officer, New Kent County

Chief, Chickahominy Indian Tribe

Chief, Chickahominy Indian Tribe – Eastern Division

Chief, Pamunkey Indian Tribe

Executive Director, Richmond Regional Planning District Commission (PlanRVA)

Executive Director, Hampton Roads Planning District Commission

HAMPTON ROADS PLANNING DISTRICT COMMISSION

Signature: _____

Printed Name: _____

Date: _____

SAMPLE SUPPORTING COOPERATIVE PARTNER STATEMENT

As a Supporting Cooperative Partner of the Lower Chickahominy Watershed Collaborative (LCWC), __[organization]__ supports the Signatories of the LCWC in building respectful and cooperative relationships among each other.

__[Organization]__ supports the LCWC goals of

- Enhanced natural resource conservation,
- Environmental and cultural protection, and
- Sustainable economic opportunities.

__ [Organization]__ recognizes that the Lower Chickahominy Watershed is an area of critical and important natural and cultural resources.

__[Organization]__ supports the conservation and protection priorities of the LCWC as identified in earlier years of the Lower Chickahominy Watershed Project and agreed upon annually by the LCWC Signatories.

__[Organization]__ commits to the following activities that will advance common understanding and action on the goals and priorities of the LCWC:

- e.g., Meeting attendance (attend meetings of the LCWC, committees, or workgroups)
- e.g., Information sharing and education (update about relevant work or studies)
- e.g., Technical assistance (water quality monitoring, data or mapping assistance, document creation, etc.)
- e.g., Funding assistance (support through direct funding or leveraging of partnerships for funding assistance)
- [other]

Name
Title
Organization

Date

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O-0X-21

At the regular meeting of the Board of Supervisors of the County of New Kent, in the Boardroom of the Historic Courthouse Building in New Kent, Virginia, on the 8th day of March, 2021:

Present:

Vote:

Thomas W. Evelyn
C. Thomas Tiller, Jr.
Patricia Paige
Ron Stiers
John N. Lockwood

Motion was made by ____, which carried __:__, to adopt the following ordinance:

**AN ORDINANCE AUTHORIZING THE LOWER CHICKAHOMINY WATERSHED
COLLABORATIVE MEMORANDUM OF UNDERSTANDING, A JOINT EXERCISE OF
POWERS AGREEMENT**

WHEREAS, Section 15.2-1300 of the Code of Virginia, 1950, as amended (the “Virginia Code”) permits any two or more political subdivisions to enter into agreements with one another for the joint exercise of any power, privilege or authority exercised or capable of exercise by any political subdivision; and

WHEREAS, the Counties of New Kent, Charles City, and James City, the Chickahominy Indian Tribe, the Chickahominy Indian Tribe–Eastern Division, the Pamunkey Indian Tribe, the Richmond Regional Planning District Commission, and the Hampton Roads Regional Planning District Commission (the “Signatories”) have a common interest in conservation, protection, and the sustainable economic growth of the Lower Chickahominy Watershed (“LCW”); and

WHEREAS, the Signatories desire to enter into a memorandum of understanding (“MOU”) to enhance cooperative and collaborative efforts to increase sustainable ecological and economic activity in the LCW; and

WHEREAS, in accordance with Virginia Code §§ 15.2-1300 and 15.2-1427, the New Kent County Board of Supervisors has conducted a duly advertised public hearing on this joint exercise of powers; and

WHEREAS, the New Kent County Board of Supervisors has carefully considered the public comments and staff recommendation with respect to the execution of an MOU between the Signatories.

NOW THEREFORE, BE IT ORDAINED by the Board of Supervisors for the County of New Kent, Virginia, that the joint exercise of powers with the Counties of James City and Charles City, the Chickahominy Indian Tribe, the Chickahominy Indian Tribe–Eastern Division, the Pamunkey Indian Tribe, the Richmond Regional Planning District Commission, and the Hampton Roads Regional Planning District Commission is approved and the County Administrator is authorized to execute the Lower Chickahominy Watershed Memorandum of Understanding.

Attest:

Rodney A. Hathaway
County Administrator

Thomas W. Evelyn
Chairman

AGENDA ITEM REQUEST
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO
THE MEETING)

Meeting Date: 9/29/2021

Agenda Item

Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)	To place this ordinance on the Board's November Meeting for Public Hearing.
Subject	Review New Pre-Treatment Ordinance for Consideration
Issue	New Kent County operates a 2 Million Gallon per Day wastewater treatment plant. While the plant primarily handles domestic waste (households) we do receive some commercial waste. And while the state code does have prohibitions on what types of wastes can be discharged to sewer systems, each plant in the Commonwealth has their own treatment standards and abilities. This ordinance will allow the plant to accept industrial waste which our plant was designed to handle, while complying with State and Federal regulations.
Recommendation	Put this ordinance on the November meeting for public hearing and adoption.
Fiscal Implications	Public Utilities has received over \$500,000.00 from the Nutrient Exchange over the past 10 years due to the nature of our treatment and what is received at the plant. If we don't control what is coming into the plant, we could lose that money.
Policy Implications	Future industrial clients may not wish to look to New Kent for relocation.
Legislative History	None
Discussion	Review the proposed ordinance and discuss the impacts

Time Needed:	9:20 a.m.	Person Appearing:	Public Utilities Director Larry Dame
Request prepared by:	Larry Dame	Telephone:	804-966-9685
Copy provided to:			

ATTACHMENTS:

Description	Type
Proposed New Kent County Pre-Treatment Ordinance (PDF)	Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
Public Utilities	Dame, Larry	Approved	9/16/2021 - 8:55 AM
Administration	Hathaway, Rodney	Approved	9/21/2021 - 7:03 PM
Attorney	Hefty, Brendan	Approved	9/22/2021 - 1:03 PM

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O- XX-21

At the regular meeting of the Board of Supervisors of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the ____ day of ____ 20____.

Present:

Vote:

Thomas W. Evelyn
C. Thomas Tiller, Jr.
Patricia Paige
Ron Stiers
John N. Lockwood

Motion was made by _____, which carried ____ : ____, to adopt the following ordinance:

**AN ORDINANCE TO AMEND
DIVISION 3, ARTICLE VI of CHAPTER 38 (HEALTH AND SANITATION)
OF THE NEW KENT COUNTY CODE
TO AMEND AND RE-ADOPT PRETREATMENT STANDARDS FOR WASTEWATER**

WHEREAS, the County desires to adopt uniform pretreatment requirements (Code Amendments) for Users of the wastewater system for the County of New Kent, Virginia (the County) and enable the County to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403); and

WHEREAS, the Code Amendments have been advertised for public hearing before the Board of Supervisors in full accord with applicable provisions of the Code of Virginia;

NOW THEREFORE, BE IT ORDAINED, effective this ____ day of ____, 2021, by the New Kent County Board of Supervisors, that the Division 3, Division 4, and Section 38-95 of Article VI of Chapter 38 of the New Kent County Code be amended as follows:

DIVISION 3. - ~~PRETREATMENT STANDARDS~~

~~Sec. 38-95. Purpose and policy.~~

~~Pursuant to this chapter, the county has adopted pretreatment standards regulations for the county wastewater system. These regulations sets forth uniform requirements for direct and indirect users of the wastewater collection and treatment systems of the publicly owned treatment works (POTW) within the county and enables the POTW to comply with all applicable state and federal laws required by the Clean Water Act of 1977, the General Pretreatment Regulations (40 CFR, Part 403), and the Virginia General Pretreatment Regulations for Existing and New Sources of Pollution (9 VAC 25-31-730, et al.). The objectives of these regulations are:~~

- ~~(a) To prevent the introduction of pollutants into wastewater systems which will interfere with the operation of the system or contaminate the resulting sludge;~~
- ~~(b) To prevent the introduction of pollutants into wastewater systems which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;~~
- ~~(c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system.~~

~~(Ord. No. O-05-11(R1), 4-11-2011)~~

DIVISION 4.—RECLAIMED WATER REGULATIONS (RESERVED)

Secs. 38-956—38-99. - Reserved.

BE IT FURTHER ORDAINED, effective this ____ day of ____ 2021, by the New Kent County Board of Supervisors, that the Article VIII, Division 1 through 16, including Section 38-131 through Section 38-202 of Chapter 38 of the New Kent County Code be adopted as follows:

ARTICLE VIII. PRETREATMENT STANDARDS

DIVISION 1—GENERAL PROVISIONS

Section 38-131 Purpose and Policy

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the County of New Kent, Virginia (the County) and enables the County to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* [CFR] Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;

- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works; and
- E. To enable the County to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires User reporting.

Section 38-132 Administration

Except as otherwise provided herein, the Director of Public Utilities shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Director of Public Utilities may be delegated by the Director to a duly authorized New Kent County, Virginia employee.

Section 38-133 Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice(s)
BMR – Baseline Monitoring Report
CFR – *Code of Federal Regulations*
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency
gpd – gallons per day
IU – Industrial User
mg/l – milligrams per liter
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User

SNC – Significant Noncompliance

TSS – Total Suspended Solids

U.S.C. – United States Code

VAC – Virginia Administrative Code

Section 38-134 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

A. Act or “the Act.” The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

B. Approval Authority. The Director of the Virginia Department of Environmental Quality.

C. Authorized or Duly Authorized Representative of the User.

(1) If the User is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall

responsibility for environmental matters for the company, and the written authorization is submitted to the County.

D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

E. Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 38-135 (A) and (B) [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

F. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

G. Categorical Industrial User (CIU). An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

H. County/State. New Kent/Virginia.

I. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

J. Control Authority. The County.

K. Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

L. Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

M. Director of Public Utilities. The person designated by the County to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance. The term may also mean a Duly Authorized Representative of the Director.

N. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

O. Existing Source. Any source of discharge that is not a “New Source.”

P. Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Q. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source.

R. Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the County’s NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

S. Local Limit. Specific discharge limits developed and enforced by the County upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

T. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

U. Monthly Average. The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

V. Monthly Average Limit. The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

W. New Source.

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

- (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
- (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
- (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

- (a) Begun, or caused to begin, as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

X. Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Y. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the County's NPDES permit, including an increase in the magnitude or duration of a violation.

- Z. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- AA. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- BB. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- CC. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.
- DD. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.
- EE. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.
- FF. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 38-135 of this ordinance.
- GG. Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the County. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.
- HH. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- II. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- JJ. Significant Industrial User (SIU).

Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:

- (1) An Industrial User subject to categorical Pretreatment Standards; or
- (2) An Industrial User that:
 - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the County on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
- (3) The County may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (a) The Industrial User, prior to County's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (b) The Industrial User annually submits the certification statement required in Section 38-169 B [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
 - (c) The Industrial User never discharges any untreated concentrated wastewater.
- (4) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the County may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

KK. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 38-135 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

- LL. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- MM. Total Suspended Solids or Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.
- NN. User or Industrial User. A source of indirect discharge.
- OO. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- PP. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

DIVISION 2—GENERAL SEWER USE REQUIREMENTS

Section 38-135 Prohibited Discharge Standards

- A. General Prohibitions. No User shall introduce or cause to be introduced into the POTW (including the collection system) any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.
- B. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW (including the collection system) the following pollutants, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 5.5 or more than 11, or otherwise causing corrosive structural damage to the POTW or equipment;
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in Interference but in no case solids greater than one half inch (1/2") in any dimension;
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;

- (5) Wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants, except at discharge points designated by the Director of Public Utilities in accordance with Section 38-144 of this ordinance;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the County's NPDES permit;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (12) Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized by the Director of Public Utilities;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical Wastes, except as specifically authorized by the Director in an individual wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
- (16) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW;

(17) Fats, oils, or greases of animal or vegetable origin shall not exceed concentrations specified in Section 38-138.

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

Section 38-136 National Categorical Pretreatment Standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471, as well as the Virginia regulations found at 9VAC25-31-780.

A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director of Public Utilities may impose equivalent concentration or mass limits in accordance with Section 38-136(E) and 38-136(F). Wherever possible, where concentration limits are specified in standards, equivalent mass limits will be provided so that local, state or federal authorities responsible for enforcement may use either concentration or mass limits. Limits in categorical pretreatment standards shall apply to the effluent of the process regulated by the standard, or as otherwise specified by the standard. Limitations shall be calculated in accordance with 9VAC25-41-780.C.

B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Director of Public Utilities may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users. Limitations shall be calculated in accordance with 9VAC25-41-780.C.

C. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Director of Public Utilities shall impose an alternate limit in accordance with 40 CFR 403.6(e) and 9VAC25-31-780E.

D. A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this Section.

(1) Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the County. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.

(2) Criteria.

- a. Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would,

- if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.
- b. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
 - c. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.

Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The County may waive this requirement if it finds that no environmental degradation will result.

E. When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the County convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Director of Public Utilities. The County may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections 38-136(E)(1)(a) through 38-136(E)(1)(e) below.

- (1) To be eligible for equivalent mass limits, the Industrial User must:
 - a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;
 - b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
 - c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
 - d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
 - e. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

- (2) An Industrial User subject to equivalent mass limits must:

- a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - c. Continue to record the facility's production rates and notify the Director of Public Utilities whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph 38-136(F)(1)(c) of this Section. Upon notification of a revised production rate, the Director of Public Utilities will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
 - d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs 38-136(E)(1)(a) of this Section so long as it discharges under an equivalent mass limit.
 - e. Comply with 9VAC25-31-780(C.5.b)
- (3) When developing equivalent mass limits, the Director of Public Utilities:
- a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
 - b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
 - c. May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 38-140. The Industrial User must also be in compliance with Section 38-189 regarding the prohibition of bypass.
 - e. Comply with 9VAC25-31-780(C.5.c)

F. The Director of Public Utilities may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Director of Public Utilities.

G. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section 38-136 in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.

H. Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

I. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Director of Public Utilities within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Director of Public Utilities of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

Section 38-137 State Pretreatment Standards

Users must comply with Virginia State Pretreatment Standards codified at 9VAC25-31.

Section 38-138 Local Limits

A. The Director of Public Utilities is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).

B. The Local Limits are established to protect against Pass Through and Interference at the POTW. No person shall discharge wastewater containing in excess of the local limits. Local Limits are available by contacting the Director of Public Utilities.

The Local Limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Director of Public Utilities may impose mass limitations in addition to the concentration-based limitations.

C. The Director may develop Best Management Practices (BMPs) in individual wastewater discharge permits to implement Local Limits and the requirements of Section 38-135.

Section 38-139 County's Right of Revision

The County reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

Section 38-140 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge

limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Director of Public Utilities may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

DIVISION 3—PRETREATMENT OF WASTEWATER

Section 38-141 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 38-135 of this ordinance within the time limitations specified by EPA, the State, or the Director of Public Utilities, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director of Public Utilities for review, and shall be acceptable to the Director of Public Utilities before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the County under the provisions of this ordinance.

Section 38-142 Additional Pretreatment Measures

- A. Whenever deemed necessary, the Director of Public Utilities may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.
- B. The Director of Public Utilities may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director of Public Utilities, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the Director of Public Utilities, shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the User at their expense.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

Section 38-143 Accidental Discharge/Slug Discharge Control Plans

The Director of Public Utilities shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Director of Public Utilities may require any User to develop, submit for approval, and implement such a plan

or take such other action that may be necessary to control Slug Discharges. Alternatively, the Director of Public Utilities may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Director of Public Utilities of any accidental or Slug Discharge, as required by Section 38-162 of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

Section 38-144 Hauled Wastewater

- A. Septic tank waste may be introduced into the POTW only at locations designated by the Director of Public Utilities, and at such times as are established by the Director of Public Utilities. Such waste shall not violate Division 2 of this ordinance or any other requirements established by the County. The Director of Public Utilities may require septic tank waste haulers to obtain individual wastewater discharge permits.
- B. The Director of Public Utilities may require haulers of industrial waste to obtain individual wastewater discharge permits. The Director of Public Utilities may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The Director of Public Utilities also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
- C. Industrial waste haulers may discharge loads only at locations designated by the Director of Public Utilities. No load may be discharged without prior consent of the Director of Public Utilities. The Director of Public Utilities may collect samples of each hauled load to ensure compliance with applicable Standards. The Director of Public Utilities may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

DIVISION 4—INDIVIDUAL WASTEWATER DISCHARGE PERMITS

Section 38-145 Wastewater Analysis

When requested by the Director of Public Utilities, a User must submit information on the nature and characteristics of its wastewater within fourteen (14) days of the request. The Director of Public Utilities is authorized to prepare a form for this purpose and may periodically require Users to update this information.

Section 38-146 Individual Wastewater Discharge Permit Requirement

A. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the Director of Public Utilities.

B. The Director of Public Utilities may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance.

C. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Divisions 10 through 12 of this Ordinance.

Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

Section 38-147 Individual Wastewater Discharge Permitting: New Connections

Any User required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with Section 38-148 of this ordinance, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

Section 38-148 Individual Wastewater Discharge Permit Application Contents

A. All Users required to obtain an individual wastewater discharge permit must submit a permit application. The Director of Public Utilities may require Users to submit all or some of the following information as part of a permit application:

(1) Identifying Information.

- a. The name and address of the facility, including the name of the operator and owner.
- b. Contact information, description of activities, facilities, and plant production processes on the premises;

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations.

- a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
- b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- d. Type and amount of raw materials processed (average and maximum per day);
- e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 38-136(C) (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

- a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
- b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Director of Public Utilities, of regulated pollutants in the discharge from each regulated process.
- c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
- d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 38-165 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Director of Public Utilities or the applicable Standards to determine compliance with the Standard.
- e. Sampling must be performed in accordance with procedures set out in Section 38-166 of this ordinance.

(8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 38-100(B) [40 CFR 403.12(e)(2)].

(9) Any other information as may be deemed necessary by the Director of Public Utilities to evaluate the permit application.

B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

Section 38-149 Application Signatories and Certifications

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 38-169(A).

B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Director of Public Utilities prior to or together with any reports to be signed by an Authorized Representative.

C. A facility determined to be a Non-Significant Categorical Industrial User by the Director of Public Utilities pursuant to Section 38-134(JJ)(3) must annually submit the signed certification statement in Section 38-169(B).

Section 38-150 Individual Wastewater Discharge Permit Decisions

The Director of Public Utilities will evaluate the data furnished by the User and may require additional information. Within thirty (30) days of receipt of a complete permit application, the Director of Public Utilities will determine whether to issue an individual wastewater discharge permit. The Director of Public Utilities may deny any application for an individual wastewater discharge permit.

DIVISION 5—INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE

Section 38-151 Individual Wastewater Discharge Permit Duration

An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director of Public Utilities. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

Section 38-152 Individual Wastewater Discharge Permit Contents

An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director of Public Utilities to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Individual wastewater discharge permits must contain:

- (1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the County in accordance with Section 38-155 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;
- (4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
- (5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 38-160(B).
- (6) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(7) Requirements to control Slug Discharge, if determined by the Director of Public Utilities to be necessary.

(8) Any grant of the monitoring waiver by the Director of Public Utilities (Section 38-160(B)) must be included as a condition in the User's permit.

B. Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(7) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit; and

(8) Other conditions as deemed appropriate by the Director of Public Utilities to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

Section 38-153 Permit Modification

A. The Director of Public Utilities may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;

- (2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the County's POTW, County personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the individual wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the individual wastewater discharge permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 38-154.

Section 38-154 Individual Wastewater Discharge Permit Transfer

Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least ninety (90) days advance notice to the Director of Public Utilities and the Director of Public Utilities approves the individual wastewater discharge permit transfer. The notice to the Director of Public Utilities must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of facility transfer.

Section 38-155 Individual Wastewater Discharge Permit Revocation

The Director of Public Utilities may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Director of Public Utilities of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Director of Public Utilities of changed conditions pursuant to Section 38-161 of this ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports and certification statements;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the Director of Public Utilities timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this ordinance.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a User are void upon the issuance of a new individual wastewater discharge permit to that User.

Section 38-156 Individual Wastewater Discharge Permit Reissuance

A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in

accordance with Section 38-148 of this ordinance, a minimum of sixty (60) days prior to the expiration of the User's existing individual wastewater discharge permit.

DIVISION 6—REPORTING REQUIREMENTS

Section 38-157 Baseline Monitoring Reports

A. Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Director of Public Utilities a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the Director of Public Utilities a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Users described above shall submit the information set forth below.

(1) All information required in Section 38-148(A) (1) (a), Section 38-148(A) (2), Section 38-148(A) (3) (a), and Section 38-148(A) (6).

(2) Measurement of pollutants.

- a. The User shall provide the information required in Section 38-148(A) (7) (a) through (d).
- b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
- d. Sampling and analysis shall be performed in accordance with Section 38-165;
- e. The Director of Public Utilities may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
- f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 38-134(C) and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 38-158 of this ordinance.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 38-169(A) of this ordinance and signed by an Authorized Representative as defined in Section 38-134(C).

Section 38-158 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 38-157(B)(4) of this ordinance:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

B. No increment referred to above shall exceed nine (9) months;

C. The User shall submit a progress report to the Director of Public Utilities no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

D. In no event shall more than nine (9) months elapse between such progress reports to the Director of Public Utilities.

Section 38-159 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the

introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the Director of Public Utilities a report containing the information described in Section 38-148(A)(6) and (7) and 38-157(B)(2) of this ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 38-136, this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 38-169(A) of this ordinance. All sampling will be done in conformance with Section 38-166.

Section 38-160 Periodic Compliance Reports

A. Except as specified in Section 38-100(C), all Significant Industrial Users must, at a frequency determined by the Director of Public Utilities submit no less than twice per year (June and December) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Director of Public Utilities or the Pretreatment Standard necessary to determine the compliance status of the User.

B. The County may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. [see 40 CFR 403.12(e)(2)] This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 38-148(A)(8).

(3) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater

from all processes.

(4) The request for a monitoring waiver must be signed in accordance with Section 38-134(C), and include the certification statement in 38-169(A) (40 CFR 403.6(a)(2)(ii)).

(5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the Director of Public Utilities must be included as a condition in the User's control mechanism. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Director of Public Utilities for 3 years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the User's permit by the Director of Public Utilities, the Industrial User must certify on each report with the statement in Section 38-169(C) below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 38-160(A), or other more frequent monitoring requirements imposed by the Director of Public Utilities, and notify the Director of Public Utilities.

(9) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

C. The County may reduce the requirement for periodic compliance reports [see Section 38-160(A) (40 CFR 403.12(e)(1))] to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the approval authority, where the Industrial User's total categorical wastewater flow does not exceed any of the following:

(1) 0.01% of the design dry weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the industrial user discharges in batches;

(2) 0.01% of the design dry weather organic treatment capacity of the POTW insert POTW's value for 0.01 percent of the design dry-weather *organic treatment capacity* of the POTW; and

(3) 0.01% of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standard for which approved local limits were developed by a POTW in accordance with 9VAC25-31-770 C and D.

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 9 of this ordinance. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Director of Public Utilities, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

D. All periodic compliance reports must be signed and certified in accordance with Section 38-169(A) of this ordinance.

E. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

F. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director of Public Utilities, using the procedures prescribed in Section 38-166 of this ordinance, the results of this monitoring shall be included in the report.

Section 38-161 Reports of Changed Conditions

Each User must notify the Director of Public Utilities of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

- A. The Director of Public Utilities may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 38-148 of this ordinance.
- B. The Director of Public Utilities may issue an individual wastewater discharge permit under this ordinance or modify an existing wastewater discharge permit under Section 38-153 of this ordinance in response to changed conditions or anticipated changed conditions.

Section 38-162 Reports of Potential Problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Director of Public Utilities of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
- B. Within five (5) days following such discharge, the User shall, unless waived by the Director of Public Utilities, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- D. Significant Industrial Users are required to notify the Director of Public Utilities immediately of any changes at its facility affecting the potential for a Slug Discharge.

Section 38-163 Reports from Unpermitted Users

All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Director of Public Utilities as the Director of Public Utilities may require.

Section 38-164 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Director of Public Utilities within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director of Public Utilities within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the County performs sampling at the User's facility at least once a month, or if the County performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the County receives the results of this sampling, or if the County has performed the sampling and analysis in lieu of the Industrial User.

Section 38-165 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director of Public Utilities or other parties approved by EPA.

Section 38-166 Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

A. Except as indicated in Section B and C below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director of Public Utilities. Where time-proportional composite sampling or grab sampling is authorized by the County, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the County, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 38-157 and 38-159 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director of Public Utilities may authorize a lower minimum. For the reports required by paragraphs Section 38-160 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

Section 38-167 Date of Receipt of Reports

Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

Section 38-168 Recordkeeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 38-138(C).

Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the County, or where the User has been specifically notified of a longer retention period by the Director of Public Utilities.

Section 38-169 Certification Statements

A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 38-149; Users submitting baseline monitoring reports under Section 38-157(B) (5); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 38-159; Users submitting periodic compliance reports required by Section 38-160(A)–(D), and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 38-160(B)(4). The following certification statement must be signed by an Authorized Representative as defined in Section 38-134(C):

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

B. Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the Director of Public Utilities pursuant to Sections 38-134(JJ)(3) and 38-149(C) must annually submit the following certification statement signed in accordance with the signatory requirements in

38-134(C) . This certification must accompany an alternative report required by the Director of Public Utilities:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 38-134(JJ)(3);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

C. Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 38-160(B) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 38-160(A).

DIVISION 7—COMPLIANCE MONITORING

Section 38-170 Right of Entry: Inspection and Sampling

The Director of Public Utilities shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Director of Public Utilities ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director of Public Utilities shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Director of Public Utilities shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.

C. The Director of Public Utilities may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Director of Public Utilities and shall not be replaced. The costs of clearing such access shall be born by the User.

E. Unreasonable delays in allowing the Director of Public Utilities access to the User's premises shall be a violation of this ordinance.

Section 38-171 Search Warrants

If the Director of Public Utilities has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the County designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Director of Public Utilities may seek issuance of a search warrant from the New Kent County Circuit Court.

DIVISION 8—CONFIDENTIAL INFORMATION

Section 38-172

Confidential Information

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the Director of Public Utilities' inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Director of Public Utilities, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

DIVISION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

Section 38-173

The Director of Public Utilities shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Division 2;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Division 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by Division 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Director of Public Utilities determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Director of Public Utilities' exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or

H. Any other violation(s), which may include a violation of Best Management Practices, which the Director of Public Utilities determines will adversely affect the operation or implementation of the local pretreatment program.

DIVISION 10—ADMINISTRATIVE ENFORCEMENT REMEDIES

Section 38-174 Generally

Compliance monitoring and reporting shall be performed in accordance with 9VAC25-31-840. Enforcement shall be executed in accordance with Code of Virginia 9VAC25-31-910 and 9VAC25-31-915.

Section 38-175 Notification of Violation

If sampling performed by an industrial user indicates a violation, the user shall notify the Control Authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the County within 30 days after becoming aware of the violation.

When the Director of Public Utilities finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director of Public Utilities may serve upon that User a written Notice of Violation. Within five (5) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Director of Public Utilities. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Director of Public Utilities to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Section 38-176 Consent Orders

The Director of Public Utilities may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 38-178 and 38-179 of this Ordinance and shall be judicially enforceable.

Section 38-177 Show Cause Hearing

The Director of Public Utilities may order a User which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Director of Public Utilities and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed

enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 38-134(C) and required by Section 38-149(A). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

Section 38-178 Compliance Orders

When the Director of Public Utilities finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director of Public Utilities may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

Section 38-179 Cease and Desist Orders

When the Director of Public Utilities finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Director of Public Utilities may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

Section 38-180 Administrative Fines

- A. When the Director of Public Utilities finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director of Public Utilities may fine such User at least \$1,000 in accordance with Section 62.1-44.32 of the Code of Virginia but not to exceed \$32,500. Such fines shall be assessed on

a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

B. Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the Director of Public Utilities to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Director of Public Utilities may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Director of Public Utilities may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

Section 38-181 Termination of Discharge

In addition to the provisions in Section 38-180 of this ordinance, any User who violates the following conditions is subject to discharge termination:

- A. Violation of individual wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in Division 2 of this ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 38-177 of this ordinance why the proposed action should not be taken. Exercise of this option by the Director of Public Utilities shall not be a bar to, or a prerequisite for, taking any other action against the User.

DIVISION 11—JUDICIAL ENFORCEMENT REMEDIES

Section 38-182 Injunctive Relief

When the Director of Public Utilities finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director of Public Utilities may petition the New Kent County Circuit Court through the County's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The Director of Public Utilities may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

Section 38-183 Civil Penalties

- A. A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the County for a maximum civil penalty of \$32,500 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The Director of Public Utilities may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the County.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

Section 38-184 Criminal Prosecution

- A. A User who willfully or negligently violates any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a Class 1 misdemeanor and punishable by the maximum fine or imprisonment, or both fine and imprisonment, as provided by law. Each day for which a violation is proven shall constitute a separate violation.

Section 38-185 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Director of Public Utilities may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the County's enforcement response plan. However, the Director of Public Utilities may take other action against any User when the circumstances warrant. Further, the Director of Public Utilities is empowered to take more than one enforcement action against any noncompliant User.

DIVISION 12—SUPPLEMENTAL ENFORCEMENT ACTION

Section 38-186 RESERVED

DIVISION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

Section 38-187 Upset

A. For the purposes of this Section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (C), below, are met.

C. A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the User can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The User has submitted the following information to the Director of Public Utilities within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

D. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

E. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Section 38-188 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 38-135(A) of this ordinance or the specific prohibitions in Sections 38-135(B)(3) through (17) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

- A. A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- B. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the County was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

Section 38-189 Bypass

A. For the purposes of this Section,

- (1) Bypass means the intentional diversion of waste streams from any portion of a User's treatment facility.
- (2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.

C. Bypass Notifications

- (1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Director of Public Utilities, at least ten (10) days before the date of the bypass, if possible.

(2) A User shall submit oral notice to the Director of Public Utilities of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director of Public Utilities may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

- (1) Bypass is prohibited, and the Director of Public Utilities may take an enforcement action against a User for a bypass, unless
- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The User submitted notices as required under paragraph (C) of this section.
- (2) The Director of Public Utilities may approve an anticipated bypass, after considering its adverse effects, if the Director of Public Utilities determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

DIVISION 14—WASTEWATER TREATMENT RATES - [RESERVED]

Section 38-190-199 reserved.

DIVISION 15—MISCELLANEOUS PROVISIONS

Section 38-200 Pretreatment Charges and Fees

The County may adopt reasonable fees for reimbursement of costs of setting up and operating the County's Pretreatment Program, which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals;
- E. Fees to recover administrative and legal costs (not included in Section 38-200(B)) associated with the enforcement activity taken by the Director of Public Utilities to address IU noncompliance; and
- F. Other fees as the County may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the County.

Section 38-201 Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

DIVISION 16—EFFECTIVE DATE

Section 38-202 Effective Date

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

AGENDA ITEM REQUEST
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO
THE MEETING)

Meeting Date: 9/29/2021

Agenda Item

Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)	To Place this code change on the November Meeting for public hearing and adoption.
Subject	Change Section 38-15 of the County Code (Delinquent Utility Bills) to Reflect Changes in the State Code
Issue	Current county code conflicts with the state code for disconnections of water and sewer service. This update will bring the county code in line with the state code.
Recommendation	Put this code change on the November Meeting for a Public Hearing and adoption.
Fiscal Implications	None
Policy Implications	This brings our current code in line with the state code.
Legislative History	This was discussed prior to COVID-19 last year, but was halted with the State stopping utility disconnections due to the Coronavirus pandemic.
Discussion	Review the code and answer any questions which may arise.

Time Needed:	9:40 a.m.	Person Appearing:	Public Utilities Director Larry Dame
Request prepared by:	Larry Dame	Telephone:	804-966-9685
Copy provided to:			

ATTACHMENTS:

Description	Type
Delinquent Utility Bills Code Amendment (PDF)	Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
Public Utilities	Dame, Larry	Approved	9/16/2021 - 9:05 AM
Administration	Hathaway, Rodney	Approved	9/21/2021 - 7:01 PM
Attorney	Hefty, Brendan	Approved	9/22/2021 - 1:03 PM

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O- XX-21

At the regular meeting of the Board of Supervisors of the County of New Kent, in the Boardroom of the Administration Building in New Kent, Virginia, on the _____ day of _____ 20____.

Present:

Vote:

Thomas W. Evelyn
C. Thomas Tiller, Jr.
Patricia Paige
Ron Stiers
John N. Lockwood

Motion was made by _____, which carried _____ : _____, to adopt the following ordinance:

**AN ORDINANCE TO AMEND
CHAPTER 38 (HEALTH AND SANITATION)
OF THE NEW KENT COUNTY CODE
TO COMPLY WITH THE VIRGINIA CODE
REGARDING DELINQUENT UTILITY BILLS**

WHEREAS, Virginia Code § 15.2-2119 enables localities to charge a penalty and interest if the fees and charges charged for water service or the use and services of the sewage disposal system are not paid when due, to notify such owner if the full amount of charges, penalty, and interest are not paid within thirty (30) days thereafter, and to cease supplying water and sewage disposal services if such owner does not pay the full amount of charges, penalty, and interest within sixty (60) days after the delinquent fees and charges for water or sewage disposal services are due;

WHEREAS, the New Kent County Board of Supervisors desires to mirror the language of the Virginia Code regarding delinquent utility bills for water and sewer services;

WHEREAS, the Code Amendments have been advertised for public hearing before the Board of Supervisors in full accord with applicable provisions of the Code of Virginia;

NOW THEREFORE, BE IT ORDAINED, effective the _____ day of _____ 21, by the New Kent County Board of Supervisors, that the following section of the New Kent County Code be readopted as follows:

Chapter 38 – HEALTH AND SANITATION

ARTICLE II. – WATER AND WASTEWATER RATES/FEEES; ETC.

Sec. 38-15. – Time of payment; overdue accounts; returned checks.

- (a) *Monthly payment* . All charges for water and wastewater service levied by this department shall be due and payable bi-monthly at the county treasurer's office upon receipt of the bill. Failure of the customer to receive either a public utilities bill or disconnect notice mailed to the address on file shall neither be considered cause for nonpayment, nor justification for an extension of the payment date.
- (b) ~~*Delinquent utility bills*. Any utility bill that is not paid by the last day of the month following water and/or wastewater service shall be delinquent. A disconnect notice shall be mailed when a bill is delinquent, and in the event the bill is delinquent for 15 days, the director shall discontinue the water and/or wastewater supply without notice.~~ *Delinquent utility bills* . The due date for all utility bills for water and sewer service shall be thirty (30) days from the issuance of the bill. If the total amount due for water or sewer service is not remitted by the due date, the account is deemed delinquent and a late charge will be assessed as provided below. The late charge shall be applied once per account per delinquency regardless of the type of service provided (water, sewer, or both). A notice of delinquency will be issued if the delinquent amount and late charge are not paid within thirty (30) days of the due date.
- If the delinquent charges, fees, and interest are not paid within sixty (60) days after the due date, the supply of water to the premises shall be discontinued. A written notice that water service will be discontinued shall be issued at least ten (10) business days prior to cessation of service. If the delinquent charges, fees, and interest are not paid within those ten (10) business days, water service will be discontinued.
- (c) *Late payment fee* . A late payment fee of ten percent of the delinquent amount due or \$5.00, whichever is greater, shall be added to a bill the first day the bill becomes delinquent.
- (d) *Payment extension fee* . For those property owners who are delinquent and cannot pay their bill by the disconnect date, an extension may be granted, provided the customer has not been terminated for nonpayment during the past two years, has contacted the department to work out an extension and agrees to pay an extension fee as provided in Appendix A to this Code. Extension of payments shall not exceed 15 days from the date the extension was granted.
- (e) When a check, which has been received in payment of a utility bill or in payment of a utility deposit or installation fee, is returned by the bank for insufficient funds, or any other reason, the consumer shall pay a service charge for each returned check as provided in Appendix A. This charge is to defray the administrative cost to the county for handling and processing such returned checks.

(Ord. No. O-05-11(R1), 4-11-2011; Ord. No. O-06-12, 7-9-2012)

State Law reference— Authority for above section, Code of Virginia, § 15.2-2119.

Attest:

Rodney A. Hathaway
County Administrator

Thomas W. Evelyn
Board Chairman

AGENDA ITEM REQUEST
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO
THE MEETING)

Meeting Date: 9/29/2021

Agenda Item

Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)	Resume disconnections in keeping with County and State Code the week of November 8, 2021.		
Subject	Discussion on Resumption of Water and Sewer Disconnects		
Issue	Review with the Board the implications of resumption of Water and Sewer disconnections. The Governor issued an executive order banning disconnection of utility service during the pandemic in April of 2020. This also required utilities from charging late fees. This restriction was lifted on August 30, 2021. Many other utilities have begun disconnections and New Kent needs to resume them also.		
Recommendation	Resume disconnections and late fee collection		
Fiscal Implications	Increase in revenue with the resumption of applying late fees for delinquent bills.		
Policy Implications			
Legislative History	Governor's executive order on utility disconnections began in April of 2020 with several extensions until August 30, 2021.		
Discussion	Resumption of Utility Disconnections and how to handle them. Including mailings and social media to alert customers to the change in policy.		
Time Needed:	9:50 a.m.	Person Appearing:	Public Utilities Director Larry Dame
Request prepared by:	Larry Dame	Telephone:	804-966-9685
Copy provided to:			

REVIEWERS:

Department	Reviewer	Action	Date
Public Utilities	Dame, Larry	Approved	9/16/2021 - 9:50 AM
Administration	Hathaway, Rodney	Approved	9/21/2021 - 7:02 PM
Attorney	Hefty, Brendan	Approved	9/22/2021 - 1:04 PM

AGENDA ITEM REQUEST
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO
THE MEETING)

Meeting Date: 9/29/2021

Agenda Item

Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)	Mr. Chairman, I move to authorize the County Administrator to execute the proposed with McGrath Human Resources Group for an Employee Compensation and Classification Study.
Subject	Contract for Employee Compensation and Classification Study
Issue	The County is seeking the services of a consultant to perform an employee compensation and classification study.
Recommendation	Staff recommends adoption of the proposed motion.
Fiscal Implications	The proposed contract price is \$69,750.00. Funds in the amount of \$100,000 was adopted in the FY22 budget for the proposed service.
Policy Implications	Staff has complied with the Virginia Procurement Act and the County's local purchasing policy in procuring the services of the proposed firm.
Legislative History	The County advertised a Request for Proposals (RFP # 21-2109AO) on June 14, 2021 for consultant services to perform an employee compensation and classification study. The County received 10 proposals on July 15, 2021. The proposals were reviewed by the procurement team which consisted of the County Administrator, Assistant County Administrator, Human Resources Director, Payroll Specialist, and Deputy Fire Chief. The procurement team selected four firms to interview and after the interviews were conducted the team selected McGrath Human Resources Group as the most responsive proposal.
Discussion	Please see the attached contract, request for proposals, and proposal from McGrath Human Resources Group.

Time Needed:	10:10 a.m.	Person Appearing:	County Administrator Rodney Hathaway
Request prepared by:	Rodney Hathaway, County Administrator	Telephone:	(804) 966-9683
Copy provided to:			

ATTACHMENTS:

Description
Contract

Type
Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
Administration	Hathaway, Rodney	Approved	9/21/2021 - 7:02 PM
Administration	Hathaway, Rodney	Approved	9/21/2021 - 7:02 PM
Attorney	Hefty, Brendan	Approved	9/22/2021 - 1:05 PM

COUNTY OF NEW KENT
CONTRACT FOR EMPLOYEE COMPENSATION AND CLASSIFICATION

This contract ("Contract") entered into this _____ day of October 2021, by **MCGRATH HUMAN RESOURCES GROUP** ("Contractor") and the **COUNTY OF NEW KENT, VIRGINIA** ("County").

WHEREAS, the County issued a request for proposals number RFP 21-2109AO on June 14, 2021 soliciting offerors to provide consulting services for an employee compensation and classification study for New Kent county ("RFP") which is attached and incorporated herein as Exhibit A; and

WHEREAS, Contractor submitted a proposal dated July 15, 2021 ("Proposal") in response to the RFP, attached and incorporated herein as Exhibit B.; and

WHEREAS, the County determined to award this contract to Contractor and the parties wish to enter into this agreement to define their respective rights and obligations.

NOW, THEREFORE, the Contractor and the County, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

1. **SCOPE OF SERVICES:** The Contractor shall provide the goods/services to the County as set forth in the Contract Documents.
2. **CONTRACT AMOUNT:** Contractor will provide the services to complete the employee compensation and classification study in an amount not to exceed \$69,750.00 in accordance with the Proposal.
3. **PERIOD OF PERFORMANCE:** All deliverables shall be complete within seven months from the execution of this Contract.
4. **CONTRACT DOCUMENTS:** The contract documents ("Contract Documents") shall consist of the following in order of precedence:
 - A. This signed Contract;
 - B. The RFP
 - C. The Contractor's Proposal
5. **GOVERNING LAW.** This Contract shall be governed by the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

MCGRATH HUMAN RESOURCES GROUP:

By: _____

Title: _____

COUNTY OF NEW KENT, VIRGINIA:

By: _____
Rodney A. Hathaway
County Administrator

Approved as to Form:

County Attorney

EXHIBIT A



Request for Proposal

RFP# 21-2109AO

Employee Compensation & Classification Study

Issue Date: June 14, 2021

Due Date: July 15, 2021, 2:00 p.m.

New Kent County
12007 Courthouse Circle
P.O. Box 150
New Kent County, Virginia 23124
804-966-9683
rahathaway@newkent-va.us

REQUEST FOR PROPOSALS (RFP)
RFP# 21-2109AO

Title: **Employee Compensation & Classification Study**

RFP#: 21-2109AO

Issue Date: June 14, 2021

Due Date: July 15, 2021

Issuing Department: New Kent County Administration
12007 Courthouse Circle / P.O. Box 150
New Kent, VA 23124

Your firm is invited to submit a proposal to provide consulting services for an employee compensation and classification study for New Kent County. The submittal, consisting of the original proposal, six (6) additional written copies, and one electronic version, all marked “Employee Compensation and Salary Study” will be received no later than **2:00 p.m., Thursday, July 15, 2021**, by:

IN PERSON OR SPECIAL COURIER		U.S. POSTAL SERVICE	
New Kent County Administration Office	OR	New Kent County Administration Office	
12007 Courthouse Circle		P O Box 150	
New Kent, VA 23124		New Kent, VA 23124	

Time is of the essence and any proposal received after **2:00 p.m., July 15, 2021**, whether by mail or otherwise, will be returned unopened. The time of receipt shall be determined by the time clock stamp in the Administration Office. Proposals shall be placed in a sealed, opaque envelope, marked in the lower left-hand corner with the RFP number, title, and date and hour proposals are scheduled to be received. Offerors are responsible for ensuring that their proposal is stamped by the Administration office personnel by the deadline indicated.

Nothing herein is intended to exclude any responsible firm or in any way restrain or restrict competition. On the contrary, all responsible firms are encouraged to submit proposals. New Kent County reserves the right to accept or reject any or all proposals submitted.

The awarding authority for this contract is the County Administrator.

Technical questions concerning this RFP should be submitted to Rodney A. Hathaway, County Administrator at rahathaway@newkent-va.us no later than Tuesday, July 6, 2021.

REQUEST FOR PROPOSAL
RFP: 21-2109AO
Employee Compensation & Classification Study
NEW KENT COUNTY, VIRGINIA

I. BACKGROUND

Founded in 1654, New Kent County has a rich, deep history which includes a number of historic sites and people. The county is a traditionally rural county that sits between Richmond and Williamsburg, both of which are easily accessible via Interstate 64. New Kent has a population of 23,560 residents (NK Planning Department June 2021 Population Estimate) and is recognized as the second fastest growing locality in Virginia with a population increase of 24.6% from 2010 to 2020 (U.S. Census Bureau). Surrounding New Kent County are the counties of Hanover, King William, King and Queen, James City Charles City and Henrico. The FY 2022 budget for the County government is approximately \$80 million. The County of New Kent has approximately 324 employees which includes 221 full-time, and 103 part-time and seasonal employees. This number also includes 90 full-time sworn Public Safety employees. Pay rates offered upon hire are dependent on qualifications and experience for many positions. This study does not include the New Kent County Public Schools. New Kent County is located in the Richmond Metropolitan Statistical Area (MSA), but also borders the Hampton Roads MSA and the Middle Peninsula MSA. New Kent County draws the majority of it's work force from the three MSA's. More background information is available on the New Kent County website at <http://www.co.new-kent.va.us/>.

II. PURPOSE AND OBJECTIVES

The objective is to have a credible Compensation & Classification Plan that ensures positions performing similar work with essentially the same level of complexity, responsibility, and knowledge, skills and abilities are classified together; provides salaries commensurate with assigned duties; clearly outlines promotional opportunities and provides recognizable compensation growth; provides justifiable pay differential between individual classes; and maintains currency with relevant labor markets.

III. SCOPE OF WORK

The project shall include, but is not limited to the following activities:

- A. Maximizing the use of existing position descriptions and classifications
- B. Whether to continue to use, modify, or eliminate the current classification plan and paygrade system.
- C. Achieving internal equity among the classifications
- D. Market competitiveness of existing classifications including Constitutional Officers and their employees, the departments of Elections and Social Services
- E. Relieving compression by addressing longevity placement, including minimum wage increases for Virginia employers.

- F. Consultant to identify management, supervisory, professional, technical, and general employees, including FLSA status (exempt/non-exempt).
- G. Consultant to provide a process to follow so that the compensation plan will remain competitive in future years, in order to recruit, retain and reward employees.
- H. Consultant will recommend, if appropriate, classification series and levels within the series (i.e. I/II, Senior/Lead, etc.) or separate classification structure such as a step plan.
- I. Consultant to conduct salary survey of comparable localities to include but not limited to the following: James City County, King William County, Powhatan County, Goochland County, Charles City County, York County, Gloucester County, King and Queen County, Henrico County, Hanover County, Richmond City, and Chesterfield County.
- J. Consultant to recommend appropriate salary range for each existing or proposed position based on the Classification Plan and on the compensation survey results, and internal relationships and equity.
- K. Consultant to prepare written report of recommendations, including discussion of methods, techniques and data used to develop the Compensation & Classification Plan.
- L. Consultant will provide cost estimates to implement any and all revisions over both a two and three year phase in.
- M. Consultant to attend meetings, if requested, throughout the process with employees, Human Resources, the County Administrator, and/or the County's Board of Supervisors to explain methodology, survey results and recommendations.
- N. Consultant should budget for two Board of Supervisors' meetings and up to four meetings with County Administration, Finance, and Human Resources staff.

IV. PROPOSAL FORMAT

Each proposal should be organized to clearly address the following requirements, as a minimum:

- A. List the address, telephone, email address, and FAX numbers of the office from which the services are to be provided, and designate the person to serve as project manager. Resumes summarizing the qualifications and experience of the individuals who will be conducting the study must be provided.
- B. Provide a statement describing the Scope of Work as you understand it, and describe the approach, means, methods and procedures to be employed to gather the data, analyze findings and develop recommendations as requested.
- C. Proposals shall be prepared simply and economically, providing a complete and concise description of capabilities to satisfy the requirements of this RFP. Emphasis should be placed on completeness and clarity of content.
- D. Describe the way in which the work product will be structured and presented upon completion.
- E. Provide a timeline indicating tasks required and the start/completion dates for each.
- F. Provide cost estimates for the services requested in the scope of work. Cost estimates will be broken down into the following priorities: (i) Market pay and compression adjustments including minimum wage up to \$15 per hour; (ii) Recommendations on levels within current paygrades/classification series; and (iii) Recommendations on separate classification structures, i.e. step plan. The County may decide to select one or all 3 levels of service depending on the cost estimates.

- G. All proposals should include names, addresses, telephone numbers, and email addresses of contact persons at five (5) other public jurisdictions, with at least three (3) references being county local governments, preferably in Virginia, for which comparable services have recently been rendered.

V. SUBMITTAL

The submittal, consisting of the original proposal, six (6) additional written copies, and one electronic version, all marked “Employee Compensation and Salary Study” will be received no later than **2:00 p.m., Thursday, July 15, 2021**, by:

In Person or Courier Service

New Kent County Administration Office
12007 Courthouse Circle
New Kent, VA 23124

or

U.S. Postal Service

New Kent County Administration Office
PO Box 150
New Kent, VA 23124

VI. COMPENSATION & CLASSIFICATION PROPOSAL

Proposals will be received by the County by 2 P.M. on July 15, 2021. Award will not necessarily be based on the lowest maximum fee proposed. The County reserves the right to reject any or all proposals and waive any informality as may occur in the proposal process.

VII. AWARD CRITERIA

Proposals will be evaluated on various criteria including but not limited to:

- A. Method and plan for providing services. - 30%
- B. Expertise, qualifications, and experience of the firm and of staff to be assigned to the study. - 35%
- C. Overall cost and fees to be charged. – 25%
- D. References. – 10%

VIII. EXCEPTIONS TO THE RFP

All exceptions shall be clearly identified and the written explanation shall include the scope of the exceptions, ramification of the exception for the County and a description of the advantages to be gained by the County as result of these exceptions. The County reserves the right to accept or reject any exceptions.

IX. CORRESPONDENCE REGARDING THE RFP

All questions or requests for information should be submitted in writing no later than Tuesday, July 6, 2021 at 4:00 p.m. (Eastern Standard Time) to:

Rodney A. Hathaway, County Administrator
New Kent County Administration Office
12007 Courthouse Circle
PO Box 150
New Kent, VA 23124
rahathaway@newkent-va.us

Telephone communication with County staff is not encouraged. It is an explicit provision of this RFP that any oral communication is not binding on the County's proposal process or award of the contract.

Attachment A

GENERAL CONTRACT TERMS AND CONDITIONS

A. Annual Appropriations

It is understood and agreed that the contract resulting from this procurement ("Contract") shall be subject to annual appropriations by the New Kent County Board of Supervisors. Should the Board fail to appropriate funds for this Contract, the Contract shall be terminated when existing funds are exhausted. The Successful Offeror ("Successful Offeror" or "contractor") shall not be entitled to seek redress from the County or its elected officials, officers, agents, employees, or volunteers should the Board of Supervisors fail to make annual appropriations for the Contract.

B. Award of the Contract

1. The County reserves the right to reject any or all proposals and to waive any informalities.
2. The Successful Offeror shall, within fifteen (15) calendar days after Contract documents are presented for signature, execute and deliver to the Administration office the Contract documents and any other forms or bonds required by the RFP.
3. The Contract resulting from this RFP is not assignable.
4. Notice of award or intent to award shall be posted on the County's website.

C. Collusion

By submitting a proposal in response to this RFP, the Offeror represents that in the preparation and submission of this proposal, said Offeror did not, either directly or indirectly, enter into any combination or arrangement with any person, Offeror or corporation or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free, competitive bidding in violation of the Sherman Act (15 U.S.C. § 1 et seq.) or Section 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia.

D. Compensation

The Successful Offeror shall submit a complete itemized invoice on each delivery or service that is performed under the Contract. Payment shall be rendered to the Successful Offeror for satisfactory compliance with the Contract within forty-five (45) days after receipt of a proper invoice.

E. Controlling Law and Venue

The Contract will be made, entered into, and shall be performed in New Kent County, Virginia, and shall be governed by the applicable laws of the Commonwealth of Virginia without regard to its conflicts of law principles. Any dispute arising out of the Contract, its interpretations, or its performance

shall be litigated only in the New Kent County General District Court or the Circuit Court of New Kent County, Virginia.

F. Default

1. If the Successful Offeror is wholly responsible for a failure to perform the Contract (including, but not limited to, failure to make delivery of goods, failure to complete implementation and installation, and/or if the goods and/or services fail in any way to perform as specified herein), the County may consider the Successful Offeror to be in default. In the event of default, the County will provide the Successful Offeror with written notice of default, and the Successful Offeror shall provide a plan to correct said default within 20 calendar days of the County's notice of default.
1. If the Successful Offeror fails to cure said default within 20 days, the County, among other actions, may complete the Contract work through a third party, and the Successful Offeror shall be responsible for any amount in excess of the Contract price incurred by the County in completing the work to a capability equal to that specified in the Contract.

G. Discussion of Exceptions to the RFP

This RFP, including but not limited to its venue, termination, and payment schedule provisions, shall be incorporated by reference into the Contract documents as if its provisions were stated verbatim therein. **Therefore, Offerors shall explicitly identify any exception to any provisions of the RFP in a separate "Exceptions to RFP" section of the proposal so that such exceptions may be resolved before execution of the Contract.** In case of any conflict between the RFP and any other Contract documents, the RFP shall control unless the Contract documents explicitly provide otherwise.

H. Drug-Free Workplace to be Maintained by the Contractor (Va. Code § 2.2-4312)

1. During the performance of this Contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
2. For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with the Virginia Public Procurement Act, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

I. Employment Discrimination by Contractor Prohibited

1. During the performance of this Contract, the contractor agrees as follows (Va. Code § 2.2-4311):
 - (a) The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - (b) The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - (c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. The contractor will include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

J. Employment of Unauthorized Aliens Prohibited

Any contract that results from this RFP shall include the following language: "As required by Virginia Code §2.2-4311.1, the contractor does not, and shall not during the performance of this agreement, in the Commonwealth of Virginia knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986."

K. Indemnification

The Successful Offeror agrees to indemnify, defend and hold harmless New Kent County, the County's officers, agents and employees, from any claims, damages, suits, actions, liabilities and costs of any kind or nature, including attorneys' fees, arising from or caused by the provision of any services, the failure to provide any services or the use of any services or materials furnished (or made available) by the Successful Offeror, provided that such liability is not attributable to the County's sole negligence.

L. Insurance Requirements

The Successful Offeror shall maintain insurance to protect itself and New Kent and New Kent's elected officials, officers, agents, volunteers and employees from claims under the Workers' Compensation Act, and from any other claim for damages for personal injury, including death, and for damages to property which may arise from the provision of goods and/or services under the Contract, whether such goods and/or services are provided by the Successful Offeror or by any subcontractor or anyone directly employed by either of them. Such insurance shall conform to the Insurance Specifications. **(Attachment B)**

M. No Discrimination against Faith-Based Organizations

The County does not discriminate against faith-based organizations as that term is defined in Va. Code § 2.2-4343.1.

N. Offeror's Performance

1. The Successful Offeror agrees and covenants that its agents and employees shall comply with all County, State and Federal laws, rules and regulations applicable to the business to be conducted under the Contract.
2. The Successful Offeror shall ensure that its employees shall observe and exercise all necessary caution and discretion so as to avoid injury to person or damage to property of any and all kinds.
3. The Successful Offeror shall cooperate with New Kent officials in performing the Contract work so that interference with normal operations will be held to a minimum.
4. The Successful Offeror shall be an independent contractor and shall not be an employee of the County.

O. Ownership of Deliverable and Related Products

1. The County shall have all rights, title, and interest in or to all specified or unspecified interim and final products, work plans, project reports and/or presentations, data, documentation, computer programs and/or applications, and documentation developed or generated during the completion of this project, including, without limitation, unlimited rights to use, duplicate, modify, or disclose any part thereof, in any manner and for any purpose, and the right to permit or prohibit any other person, including the Successful Offeror, from doing so.

To the extent that the Successful Offeror may be deemed at any time to have any of the foregoing rights, the Successful Offeror agrees to irrevocably assign and does hereby irrevocably assign such rights to the County.

2. The Successful Offeror is expressly prohibited from receiving additional payments or profit from the items referred to in this paragraph, other than that which is provided for in the general terms and conditions of the Contract.
3. This shall not preclude Offerors from submitting proposals, which may include innovative ownership approaches, in the best interest of the County.

P. Record Retention and Audits

1. The Successful Offeror shall retain, during the performance of the Contract and for a period of five years from the completion of the Contract, all records pertaining to the Successful Offeror's proposal and any Contract awarded pursuant to this RFP. Such records shall include but not be limited to all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices, including the Successful Offeror's copies of periodic estimates for partial payment; ledgers, cancelled checks; deposit slips; bank statements; journals; Contract amendments and change orders; insurance documents; payroll documents; timesheets;

memoranda; and correspondence. Such records shall be available to the County on demand and without advance notice during the Successful Offeror's normal working hours.

2. County personnel may perform in-progress and post-audits of the Successful Offeror's records as a result of a Contract awarded pursuant to this RFP. Files would be available on demand and without notice during normal working hours.

Q. Severability

Each paragraph and provision of the Contract is severable from the entire agreement and if any provision is declared invalid the remaining provisions shall nevertheless remain in effect.

R. Small, Women-Owned and Minority-Owned (SWAM) Businesses

The County welcomes and encourages the participation of small businesses and businesses owned by women and minorities in procurement transactions made by the County. The County actively solicits both small business, women-owned and minority (SWAM) businesses to respond to all Invitations for Bids and RFPs.

All solicitations are posted on the County's Internet site:

<http://va-newkentcounty.civicplus.com/bids.aspx>

S. Subcontracts

No portion of the work shall be subcontracted without prior written consent of the County. In the event that the Successful Offeror desires to subcontract some part of the work specified in the Contract, the Successful Offeror shall furnish the County the names, qualifications, and experience of the proposed subcontractors. The Successful Offeror shall, however, remain fully liable and responsible for the work to be done by his/her subcontractor(s) and shall assure compliance with all the requirements of the Contract.

T. Taxes

1. The Successful Offeror shall pay all county, city, state and federal taxes required by law and resulting from the work or traceable thereto, under whatever name levied. Said taxes shall not be in addition to the Contract price between New Kent and the Successful Offeror, as the taxes shall be solely an obligation of the Successful Offeror and not of New Kent, and New Kent shall be held harmless for same by the Successful Offeror.
2. New Kent is exempt from the payment of federal excise taxes and the payment of State Sales and Use Tax on all tangible, personal property for its use or consumption. Tax exemption certificates will be furnished upon request.

U. Termination of Contract

1. The County reserves the right to terminate the Contract immediately in the event that the Successful Offeror discontinues or abandons operations; is adjudged bankrupt, or is reorganized under any bankruptcy law; or fails to keep in force any required insurance policies or bonds.
2. Failure of the Successful Offeror to comply with any section or part of the Contract will be considered grounds for immediate termination of the Contract by the County.
3. Notwithstanding anything to the contrary contained in the Contract between the County and the Successful Offeror, the County may, without prejudice to any other rights it may have, terminate the Contract for convenience and without cause, by giving 30 days' written notice to the Successful Offeror.
4. If the County terminates the Contract, the Successful Offeror will be paid by the County for all scheduled work completed satisfactorily by the Successful Offeror up to the termination date.

I. Environmental Management

The Successful Offeror shall comply with all applicable federal, state, and local environmental regulations. The County emphasizes environmental compliance, pollution prevention, continual improvement, and conservation. The Successful Offeror shall be properly trained and have any necessary certifications to carry out environmental responsibilities. The Successful Offeror shall immediately communicate any environmental concerns or incidents to the appropriate County staff.

W. Safety

1. The Successful Offeror shall comply with and ensure that the Successful Offeror's personnel comply with all current applicable local, state and federal policies, regulations and standards relating to safety and health, including, by way of illustration and not limitation, the standards of the Virginia Occupational Safety and Health Administration for the industry. The provisions of all rules and regulations governing safety as adopted by the Safety and Health Codes Board of the Commonwealth of Virginia and issued by the Department of Labor and Industry under Title 40.1 of the Code of Virginia shall apply to all work under the Contract. The Successful Offeror shall provide or cause to be provided all technical expertise, qualified personnel, equipment, tools and material to safely accomplish the work specified and performed by the Successful Offeror.
2. Each job site shall have a supervisor who is competent, qualified, or authorized on the worksite, who is familiar with policies, regulations and standards applicable to the work being performed. The supervisor must be capable of identifying existing and predictable hazards in the surroundings or working conditions which are hazardous or dangerous to employees or the public, and is capable of ensuring that applicable safety regulations are complied with, and shall have the authority and responsibility to take prompt corrective measures, which may include removal of the Successful Offeror's personnel from the work site.
3. In the event the County determines any operations of the Successful Offeror to be hazardous, the Successful Offeror shall immediately discontinue such operations upon receipt of either written or oral notice by the County to discontinue such practice.

X. Authorization to Transact Business in the Commonwealth

1. A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership or other business form shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law.
2. An Offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code of Virginia must include in its proposal the identification number issued to it by the State Corporation Commission. (Attachment D) Any Offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law shall include in its proposal a statement describing why the Offeror is not required to be so authorized.
3. An Offeror described in subsection 2 that fails to provide the required information shall not receive an award unless a waiver is granted by the County Administrator.
4. Any falsification or misrepresentation contained in the statement submitted by the Offeror pursuant to Title 13.1 or Title 50 of the Code of Virginia may be cause for debarment.
5. Any business entity described in subsection 1 that enters into a contract with a public body shall not allow its existence to lapse or allow its certificate of authority or registration to transact business in the Commonwealth if so required by Title 13.1 or Title 50 of the Code of Virginia to be revoked or cancelled at any time during the term of the contract.

Y. Payment Clauses Required by Va. Code § 2.2-4354

Pursuant to Virginia Code § 2.2-4354:

1. The Successful Offeror shall take one of the two following actions within seven days after receipt of amounts paid to the Successful Offeror by the County for all or portions of the goods and/or services provided by a subcontractor: (a) pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under that contract; or (b) notify the County and subcontractor, in writing, of the Successful Offeror's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
2. Pursuant to Virginia Code § 2.2-4354, the Successful Offeror that is a proprietor, partnership, or corporation shall provide its federal employer identification number to the County. Pursuant to Virginia Code § 2.2-4354, the Successful Offeror who is an individual contractor shall provide his/her social security numbers to the County.
3. The Successful Offeror shall pay interest to its subcontractors on all amounts owed by the Successful Offeror that remain unpaid after seven days following receipt by the Successful Offeror of payment from the County for all or portions of goods and/or services performed by the subcontractors, except for amounts withheld as allowed in Subparagraph 1. above.

4. Pursuant to Virginia Code § 2.2-4354, unless otherwise provided under the terms of the Contract interest shall accrue at the rate of one percent per month.
5. The Successful Offeror shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.
6. The Successful Offeror's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in Virginia Code § 2.2-4354 shall not be construed to be an obligation of the County. A Contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

ATTACHMENT B

INSURANCE SPECIFICATIONS

The Successful Offeror shall carry Public Liability Insurance in the amount specified below, including contractual liability assumed by the Successful Vendor, and shall deliver a Certificate of Insurance from carriers licensed to do business in the Commonwealth of Virginia. The Certificate shall show the New Kent County named as an additional insured for the Commercial General Liability coverage. The coverage shall be provided by a carrier(s) rated not less than “A-“ with a financial rating of at least VII by A.M. Bests or a rating acceptable to the County. In addition, the insurer shall agree to give the County 30 days’ notice of its decision to cancel coverage.

Workers’ Compensation

Statutory Virginia Limits

Employers’ Liability Insurance - \$100,000 for each Accident by employee
 \$100,000 for each Disease by employee
 \$500,000 policy limit by Disease

Commercial General Liability - Combined Single Limit

\$1,000,000 each occurrence including contractual liability for specified agreement

\$2,000,000 General Aggregate (other than Products/Completed Operations)

\$2,000,000 General Liability-Products/Completed Operations

\$1,000,000 Personal and Advertising injury

\$ 100,000 Fire Damage Legal Liability

Coverage must include Broad Form property damage and (XCU) Explosion, Collapse and Underground Coverage, unless given the scope of the work this requirement is waived by Risk Management.

Business Automobile Liability – including owned, non-owned and hired car coverage

Combined Single Limit - \$1,000,000 each accident

NOTE 1: The commercial general liability insurance shall include contractual liability. The contract documents include an indemnification provision(s). The County makes no representation or warranty as to how the Vendor’s insurance coverage responds or does not respond. Insurance coverages that are unresponsive to the indemnification provision(s) do not limit the Vendor’s responsibilities outlined in the contract documents.

NOTE 2: The intent of this insurance specification is to provide the coverage required and the limits expected for each type of coverage. With regard to the Business Automobile Liability and Commercial General Liability, the total amount of coverage can be accomplished through any combination of primary and excess/umbrella insurance. However, the total insurance protection provided for Commercial General Liability or for Business Automobile Liability, either individually or in combination with Excess/Umbrella Liability, must total \$3,000,000 per occurrence. This insurance shall apply as primary and non-contributory with respect to any other insurance or self-insurance programs afforded New Kent County. This policy shall be endorsed to be primary with respect to the additional insured.

NOTE 3: Title 65.2 of the Code of Virginia requires every employer who regularly employs three or more full-time or part-time employees to purchase and maintain workers' compensation insurance. If you do not purchase a workers’ compensation policy, a signed statement is required documenting that you are in compliance with Title 65.2 of the Code of Virginia.

ATTACHMENT C
PROPOSAL SIGNATURE SHEET

My signature certifies that the proposal as submitted complies with all requirements specified in this Request for Proposal ("RFP").

My signature also certifies that by submitting a proposal in response to this RFP, the Offeror represents that in the preparation and submission of this proposal, the Offeror did not, either directly or indirectly, enter into any combination or arrangement with any person or business entity, or enter into any agreement, participate in any collusion, or otherwise take any action in the restraining of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section 1) or Sections 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia.

I hereby certify that I am authorized to sign as a legal representative for the business entity submitting this proposal.

LEGAL NAME OF OFFEROR (DO <u>NOT</u> USE TRADE NAME):
ADDRESS:
SIGNATURE:
NAME OF PERSON SIGNING (print):
TITLE:
TELEPHONE:
FAX:
E-MAIL ADDRESS:
DATE:

ATTACHMENT D

PROPRIETARY/CONFIDENTIAL INFORMATION IDENTIFICATION

NAME OF FIRM/OFFEROR: _____

Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protections of Va. Code § 2.2-4342.F in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected including the section of the proposal in which it is contained and the page numbers, and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. In addition, a summary of proprietary information submitted shall be submitted on this form. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable. If, after being given reasonable time, the Offeror refuses to withdraw such a classification designation, the proposal will be rejected.

SECTION/TITLE	PAGE NUMBER(S)	REASON(S) FOR WITHHOLDING FROM DISCLOSURE

ATTACHMENT E

VIRGINIA STATE CORPORATION COMMISSION (SCC)

REGISTRATION INFORMATION

The Bidder or Offeror:

- ☐ is a corporation or other business entity with the following SCC identification number:
_____ **-OR-**
- ☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**
- ☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Bidder/Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from offeror's out-of-state location) **-OR-**
- ☐ is an out-of-state business entity that is including with this bid/proposal an opinion of legal counsel which accurately and completely discloses the undersigned Bidder's/Offeror's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

Please check the following box if you have not checked any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for bids/proposals: ☐

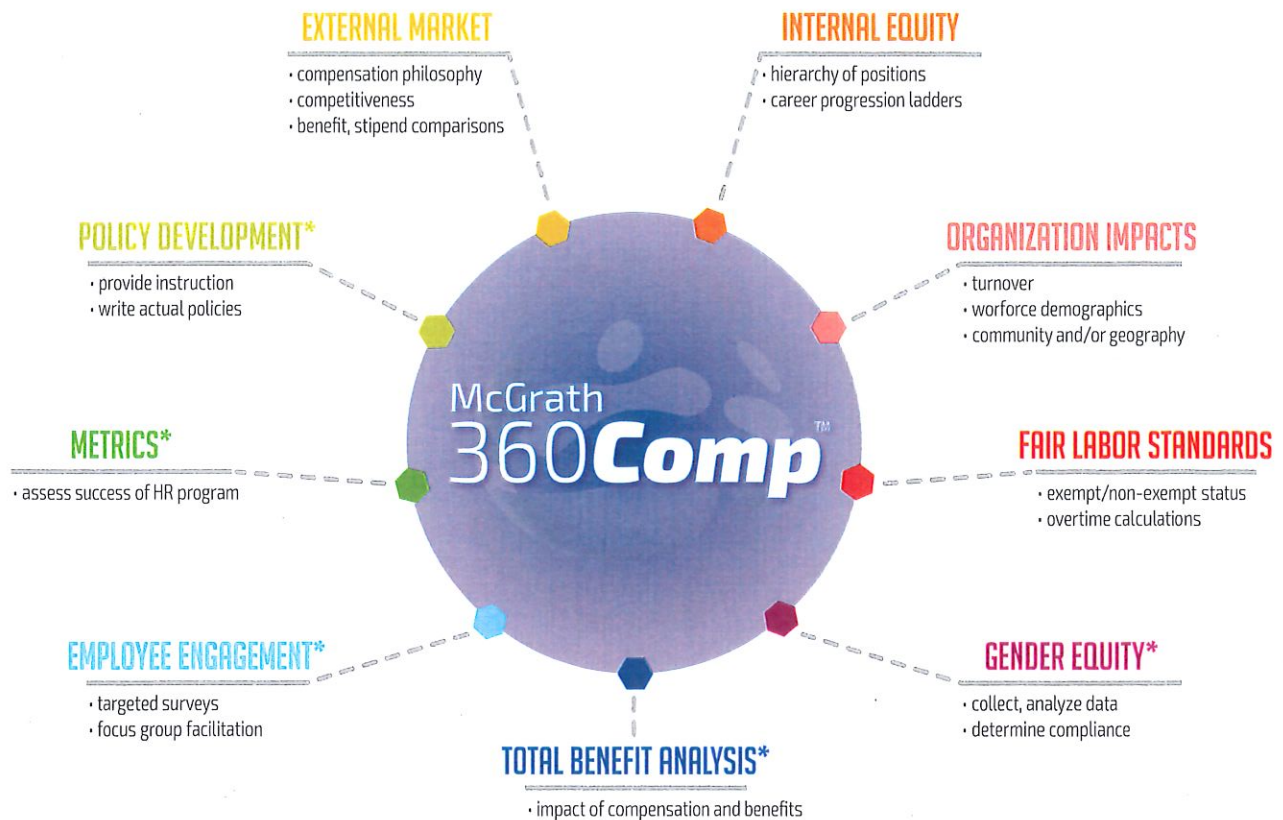
EXHIBIT B



McGrath
HUMAN RESOURCES GROUP

The McGrath Human Resources Group provides a full range of human resource services for union and nonunion organizations in both the private and government sectors. We bring you fresh ideas and best practices. We design performance management systems (salary schedule, job descriptions, performance evaluations) using traditional approaches and innovative structures. These compensation systems foster a performance-oriented work culture while using fiscally responsible, market based pay delivery systems.

Achieve a competitive advantage by realizing the full potential of a strategically focused, committed, and competent work force. Whether you are establishing basic human resource practices or need assistance on a complex project, our consultants enable your organization to meet its objectives and increase productivity and innovation while maximizing the return of your investment.



* OPTIONAL

(815) 728-9111
www.mcgrathhumanresources.com


McGrath
 HUMAN RESOURCES GROUP

Professional Proposal Prepared for



Compensation Study

Submitted By:
McGrath Human Resources Group
PO Box 190
Wonder Lake, IL 60097

Dr. Victoria McGrath, CEO
victoriaphd@mcgrathconsulting.com
815.728.9111

July 15, 2021
2:00 PM EST





July 6, 2021

Rodney A. Hathaway
County Administrator
12007 Courthouse Circle
New Kent, VA 23124

Dear Rodney A. Hathaway:

Thank you for the opportunity to submit our qualifications to become your compensation business partner and perform a Compensation and Classification Study for New Kent County, Virginia.

Developing and maintaining a competitive classification and compensation plan in today's fiscally conservative environment is extremely challenging, yet essential to attract, motivate, engage, and retain a qualified workforce. McGrath Human Resources Group understands the issues public sector entities are facing as our firm provides human resources consulting services primarily for the public sector, with emphasis on compensation. We offer a transparent, engaging, and collaborative approach to develop a compensation solution built specifically for each client, which aligns with your compensation philosophy and strategy to attract and retain competent professionals, conform to all legal requirements, is equitable, and fits within the County's fiscal reality.

Why Choose McGrath Human Resources Group?

We do not ask you to adapt to an off-the-shelf solution.

- ❖ Even in municipalities that appear to be similar, each entity has unique qualities, culture and needs.
- ❖ We work hard to understand your goals, fiscal realities, and compensation history so we can offer practical and sustainable options for a compensation solution that addresses your needs while holding to best practices to maintain validity and compliance in the system.

We specialize in and understand public employment and local municipalities.

- ❖ We specialize in public sector consulting; thus, we are in a unique position to understand and work with your stakeholders to make a sound investment that will benefit the County.
- ❖ Our consulting team is comprised of individuals with previous local government city and county work experience.
- ❖ An investment in your employee's compensation plan is an investment in your community, and we recognize the investment you are making is with taxpayer dollars.



Our long history brings a unique breadth of experience.

- ❖ We have experience with the development of innovative or traditional approaches, with the knowledge of climates where those approaches usually succeed to help us tailor the best solutions for you.
- ❖ We wish to foster a partnership with our clients by pursuing a depth of understanding of your philosophy, culture, challenges, and successes so the synergy outcome provides a compensation system that makes sense philosophically and fiscally for your organization.

We are successful.

- ❖ In our 21st year in business, with over 400 clients in 38 states, we are proud that 99% of our projects have been fully adopted and implemented.
- ❖ Our success stems from sound principles and best practices throughout our work and the relationships we build through collaboration and transparency with the project.

Detailed information regarding our firm, consulting team, scope of work, work plan, methodology and process, proposed work schedule, project fees, and other information is presented within this proposal. We accept the terms and scope of the project as listed in the Request for Proposal. To ensure timely submission, this proposal is current as of July 6, 2021. I am happy to discuss any changes or modifications needed due to addendums that were published after this date. All conditions contained in the attached proposal are valid for a minimum of 90 days from July 15, 2021. I am the authorized individual to contractually bind the Firm.

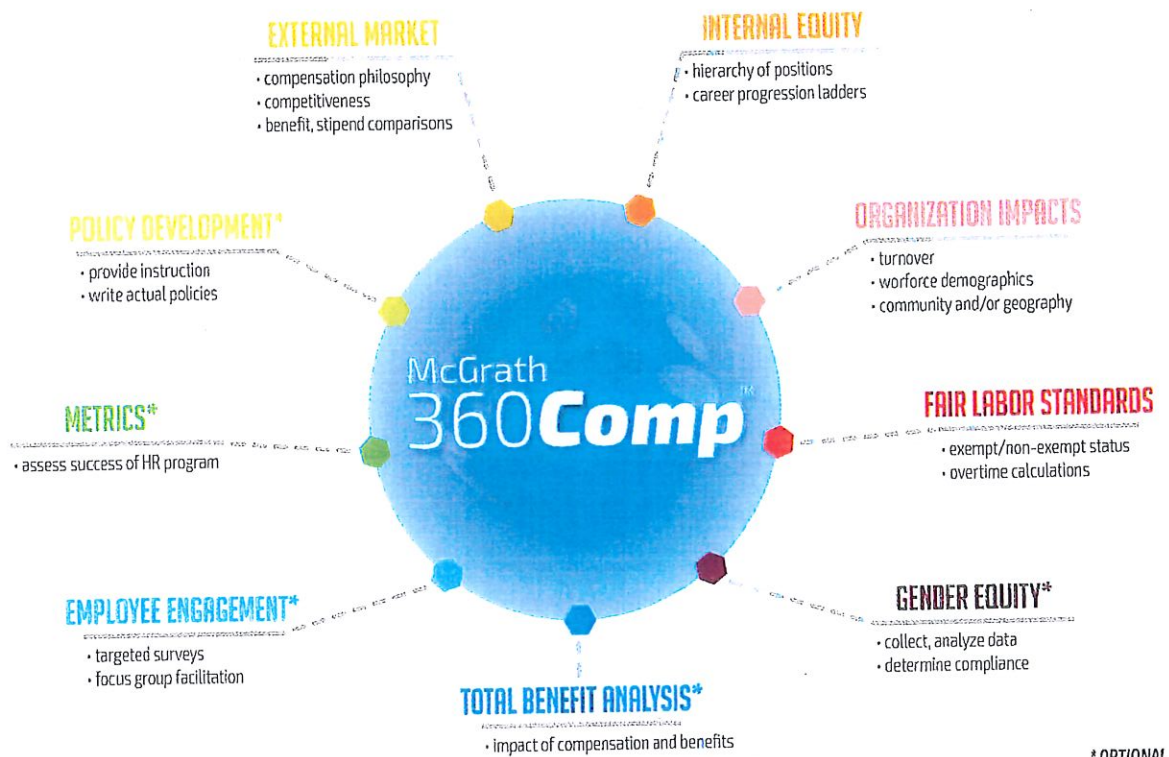
As you review the proposal, if you have any questions or require additional information, please do not hesitate to ask. We look forward to the opportunity to work with New Kent County and its employees on this important project.

Sincerely,



Victoria J. McGrath, Ph.D., CEO
815.728.9111 (office)
815.307.2781 (direct)
victoriaphd@mcgrathconsulting.com





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Firm Profile

Located in Wonder Lake, Illinois, **McGrath Consulting Group, Inc.** was started in 2000, specializing in public sector consulting in the fields of human resource management and public safety (fire, EMS, police, and communications). The principals of the Firm have over 50 years of combined professional public sector experience, in addition to consulting.

Our Firm has over 20 professional consultants who are assigned to projects based upon their professional background and skillset they bring to each client.

Company Name	McGrath Human Resources Group
Parent Organization	McGrath Consulting Group, Inc.
Established	May 1, 2000
Years of Service	21
Type of Firm	Private Corporation Illinois, USA
Company Mailing Address	P.O. Box 190 Wonder Lake, IL 60097
Company Physical Address	7614 Barnard Mill Rd Wonder Lake, IL 60097
Responsible Party and Project Administrator	CEO – Dr. Victoria McGrath, Ph.D., SPHR
Email Address	victoriaphd@mcgrathconsulting.com
Phone Number	(815) 728-9111
Fax Number	(815) 331-0215
Insurance	State Farm: Auto, General Liability, WC Accord: Professional Liability Chubb: Cyber Security Liability

McGrath Human Resources Group is the Human Resources Division overseen by Dr. Victoria McGrath. Since 2000, McGrath has conducted hundreds of comprehensive compensation and classification studies nationwide, including the State of Washington. The Human Resources consulting team is comprised of experienced human resources practitioners from both the private sector and local city and county government; and have been part of this human resources consulting team between 7-21 years.

We do not offer an off-the-shelf work product, but rather, we approach each client with the goal to understand your organization, culture, current and future needs, and fiscal reality to develop total compensation solutions that are developed uniquely for you, align with your compensation philosophy and strategy, while using a collaborative and transparent process.

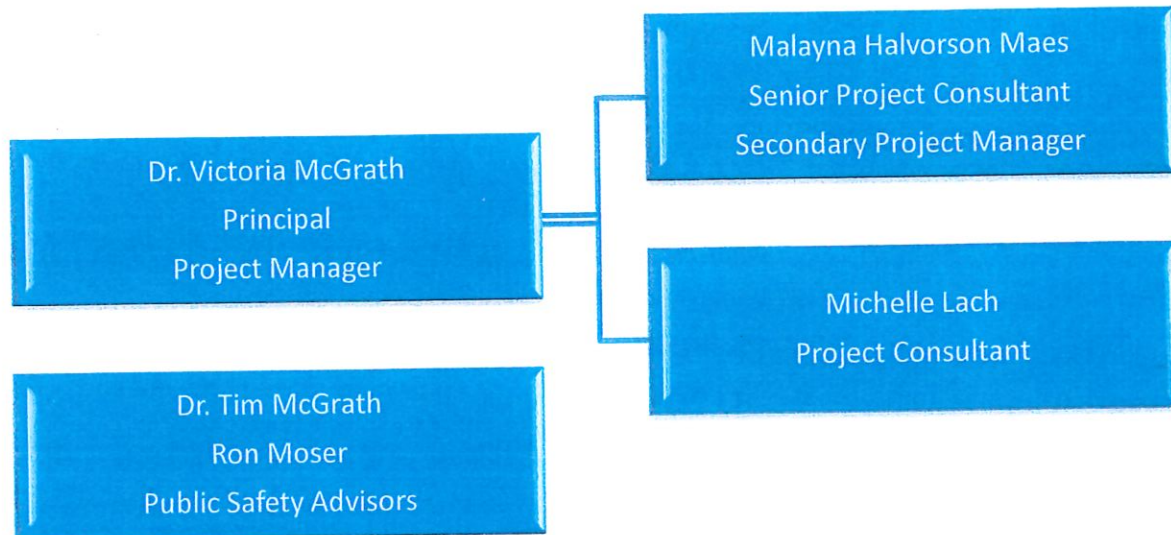
Our Firm also provides related human resources consulting which includes but is not limited to benefit analysis, job description development, HR Audits, performance management program development, training, policy development, operational studies, and staffing studies. Our Human Resources team is also involved in organizational studies related to public safety. This is important because we have found that having professional expertise in public safety is beneficial in public sector compensation studies to better address the unique laws and best practices these professions add to most public-sector compensation systems, of which, New Kent County is no exception.



Consulting Team

All consultants are McGrath All consultants are McGrath consultants, and there is no subcontracting.

The Consultants were selected for this project based upon their areas of expertise, specialties, and related project experience. We operate under the philosophy of total team involvement and each team member has experience in all facets of project work and will work together to meet the goals of your project. Further, we have the flexibility to involve other consultants with our organization to bring their unique perspective and expertise as needed. Primary members of the team for New Kent County, and an overview of their project responsibilities are provided.



Principal: A principal of the company is actively involved in every project and is accountable for the project. This position will have authority over the contract and to bind the Firm.

Project Manager: This role has project oversight, will coordinate all work with the consulting team, will have direct routine communication with the County's project designee, and will be hands on in all aspects of the project's activities. This role is also the educator/trainer of the system for the County. A *secondary project manager* is also assigned to provide backup support to the project manager, lead the consulting team on targeted project activities, and performs duties of a project consultant.

Project Consultant: This role works on various project activities, which will include communication documents/tools, interviews, position questionnaire analysis, job description review, classification system development, market data collection and analysis, pay plan review, compensation system development, costing, and drafting reports.

Advisor: This role has specific subject matter expertise that may be called upon for additional consultation for the consulting team for public safety positions.



Victoria McGrath, Ph.D., SPHR
Chief Executive Officer and Project Manager

Dr. Victoria McGrath has an extensive background in the field of human resources, predominately in the public sector; but she also has a number of years in the private sector having worked in health care, banking, and education. She brings over 19 years of practitioner experience in all phases of human resources prior to her years as a consultant.

Her professional experience includes the City of Brookfield, WI, which had over 500 employees, including five (5) labor unions; the Elmbrook School District, WI – the 2nd largest school district in Wisconsin, also with 5 labor unions; and Citicorp Banks. She has dealt with labor/employee relations; policy, procedure and labor compliance; benefits and compensation; recruitment and staff development. Dr. McGrath's local government experience touched all local services including police/sheriff, fire, public works/highway, engineering, library, health department, administration, courts, jail, and more.

Dr. McGrath has provided management assistance to more than 200 local government clients on a variety of management issues. In addition to working with government, she has been a speaker for a number of professional organizations and worked with two (2) organizations in developing courses in human resource management to current and upcoming supervisors. Further, she is an adjunct professor – teaching in areas such as human resources, organizational development, management, and research – at Northwestern University (Master's in Public Policy Administration Program).

Dr. McGrath's doctoral dissertation dealt with Government as a Learning Organization. Her research dealt with government efficiency in providing services and how governmental services can become more effective.

YEARS WITH FIRM: 21

EDUCATION

- ♦ Ph.D. – Municipal Government as a Learning Organization, University of Wisconsin – Milwaukee, WI
- ♦ Master of Science – Management, Cardinal Stritch College, WI
- ♦ Bachelor of Science – Industrial Relations & Finance, University of Wisconsin – Milwaukee, WI

PROFESSIONAL AFFILIATIONS

- ♦ Society for Human Resources Management
- ♦ Illinois Public Employer Labor Relations Association
- ♦ National Public Employer Labor Relations Association
- ♦ International City/County Manager Association

SAMPLE PROJECT EXPERIENCE

Barron County, WI
Bluffton Township Fire District, SC

Dodge County, WI
Douglas County, WI



Burnett County, WI
 CAS, Medicare Ambulance, OH
 Centre Region of Government, PA
 Centre Region Solid Waste Authority, PA
 Chippewa County, WI
 City of Alamosa, CO
 City of Alcoa, TN
 City of Arlington, WA
 City of Ashland, WI
 City of Aspen, CO
 City of Beloit, WI
 City of Bloomington, MN
 City of Burlington, WA
 City of Carthage, MO
 City of Clayton, MO
 City of Clearfield City, UT
 City of Countryside, IL
 City of Des Peres, MO
 City of Dodge City, KS
 City of Durango, CO
 City of Eau Claire, WI
 City of Edwardsville, KS
 City of Fayetteville, NC
 City of Gallatin, TN
 City of Hamilton, OH
 City of Huntington, WV
 City of Huntsville, TX
 City of Kechi, KS
 City of Kirkwood, MO
 City of Lawrence, KS
 City of Manhattan, KS
 City of Mexico, MO
 City of New Berlin, WI
 City of Northfield, MN
 City of O'Fallon, IL
 City of Oak Harbor, WA
 City of Oak Ridge, TN
 City of Paducah, KY
 City of Park Ridge, IL
 City of Platte, MP
 City of Rochester Hills, MI
 City of Salina, KS

Eau Claire County, WI
 Everett Roehl Marshfield Public Library, WI
 Ferguson Township, PA
 Fox River Water Reclamation District, IL
 Franklin School District, WI
 Geary County, KS
 Greene County EMS, TN
 Harris Township, PA
 Kansas Sentencing Commission, KS
 Kent County, MI
 Maine Township, IL
 Manhattan Library, KS
 Marion County, KS
 Older People's Commission (OPC), MI
 Patton Township, PA
 Riley County Police Department, KS
 Riley County, KS
 Rochester Avon Recreation Authority, MI
 Somerset School District, WI
 South Lyons Township Sanitary District, IL
 South Snohomish County F&R Authority, WA
 Spring Benner Walker Joint Authority, PA
 St Croix County, WI
 St Croix Indians, WI
 Sumner County, TN
 Town of Avon, IN
 Town of Berwyn Heights, MD
 Town of Greeneville, TN
 Town of Riverdale Park, MD
 Town of Syracuse, IN
 Unified City of Yorkville, IL
 Utah County, UT
 Vernon County, WI
 Village of Bedford Park, IL
 Village of Cary, IL
 Village of Glen Ellyn, IL
 Village of Lake in the Hills, IL
 Village of Mount Pleasant, WI
 Village of North Aurora, IL
 Village of Oak Park, IL
 Village of Parkridge, IL
 Village of Riverside, IL



Malayna Halvorson Maes
Senior Consultant and Secondary Project Manager

Malayna Halvorson Maes has served as a human resource professional in both the private and public sectors for over 20 years. She worked previously in health care human resources, then as the Human Resources Director and senior advisor for a large county in northwestern Wisconsin. Thus, she has direct experience with the many challenges facing municipal employers.

During her time in county government, Ms. Maes advised the organization through the significant changes at the State level (referred to as Act-10) that resulted in a reduction from five (5) collective bargaining units to one (1) unit, due to reduced legal authority of organized labor in the public sector. As a change agent, she facilitated the development of significant policy changes for the organization. This included conducting a complete evaluation of the compensation system for the county which included a rewrite of all job descriptions, and the implementation of a pay for performance evaluation system. This system was created through the work of a combined employee – manager committee and included the implementation of a performance management software system to streamline the 360-evaluation process. She brings a practical understanding to the development and implementation of complex compensation systems.

As a former Wisconsin Human Resources Director, she is knowledgeable of all facets of local government, including police, public works, engineering, health services, and more. She has been active in a number of professional organizations including SHRM, Chippewa Valley Society of Human Resource Management; WIPFLI Senior HR Forum; Wisconsin Association of County Personnel Directors, and the National Public Employer Labor Relations Association. In addition, she served on the WACPD training Committee, Chair of the Legislative Affairs Committee, a Board of Director member as well as a member of the Services Committee for WPELRA; thus, she takes an active role in defining the profession.

YEARS WITH FIRM: 7

EDUCATION

- ◆ Bachelor of Arts– Psychology, Luther College, Decorah, IA

PROFESSIONAL AFFILIATIONS

- ◆ Society for Human Resources Management
- ◆ National Public Employer Labor Relations Association
- ◆ World at Work, Total Rewards Association

CERTIFICATION

- ◆ Certified Compensation Professional (in process)

SAMPLE PROJECT EXPERIENCE

Barron County, WI

Burnett County, WI

Chippewa County, WI

City of Alamosa, CO

City of Park Ridge, IL

City of Rochester Hills, MI

City of Sherwood, OR

City of Stayton, OR



City of Alcoa, TN
 City of Arlington, WA
 City of Ashland, WI
 City of Bloomington, MN
 City of Burlington, WA
 City of Clayton, MO
 City of Crossville, TN
 City of Denison, TX
 City of Dodge City, KS
 City of Durango, CO
 City of Durant, OK
 City of Eau Claire Library, WI
 City of Eau Claire, WI
 City of Edwardsville, KS
 City of Fayetteville, NC
 City of Fulshear, TX
 City of Gallatin, TN
 City of Garden City, KS
 City of Hamilton, OH
 City of Huber Heights, OH
 City of Kirkwood, MO
 City of La Pine, OR
 City of Lawrence, KS
 City of Marshfield, WI
 City of Marysville, WA
 City of McPherson, KS
 City of Northfield, MN
 City of Oak Harbor, WA
 City of Oak Ridge, TN

City of Watertown, SD
 City of Woodstock, IL
 Codington County, SD
 County of Delaware, PA
 Cypress Creek EMS, TX
 Dodge County, WI
 Douglas County, WI
 Eau Claire County, WI
 Everett Roehl Marshfield Public Library, WI
 Kent County, MI
 Marion County, KS
 Older People's Commission (OPC), MI
 Portage County, WI
 Pueblo City-County Library District, CO
 Riley County Police Department, KS
 Riley County, KS
 Rochester Avon Recreation Authority, MI
 Somerset School District, WI
 St Croix County, WI
 St Croix Indians, WI
 Town of Berwyn Heights, MD
 Town of Greeneville, TN
 Vernon County, WI
 Village of Glen Ellyn, IL
 Village of Lake in the Hills, IL
 Village of Mount Pleasant, WI
 Village of Parkridge, IL
 Winnebago County, WI
 Wisconsin Employee Trust Funds, WI



Michelle Lach
Project Consultant - Data

Ms. Lach provides critical research and analytical skills to our compensation and benefits studies. Ms. Lach had nine (9) years of professional human resources experience prior to her time with the Firm. Her experience with the Firm includes the development of employee handbooks and job descriptions, but now works exclusively with compensation and benefit survey designs and execution, and market research. These critical responsibilities include obtaining, compiling, and analyzing complex data and other information for projects, and supporting the project manager as needed. She has been with the Firm for 15 years.

YEARS WITH FIRM: 15

EDUCATION

- ♦ Bachelor of Arts– Communication and Organizational Development
Bowling Green State University, KY

SAMPLE PROJECT EXPERIENCE

Barron County, WI

Bluffton Township Fire District, SC

Burnett County, WI

Chippewa County, WI

City of Alamosa, CO

City of Alcoa, TN

City of Arlington, WA

City of Ashland, WI

City of Aspen, CO

City of Bloomington, MN

City of Burlington, WA

City of Carthage, MO

City of Clayton, MO

City of Clearfield City, UT

City of Crossville, TN

City of Denison, TX

City of Des Peres, MO

City of Dodge City, KS

City of Durango, CO

City of Durant, OK

City of Eau Claire Library, WI

City of Eau Claire, WI

City of Edwardsville, KS

City of Fayetteville, NC

City of Fulshear, TX

City of Gallatin, TN

City of Garden City, KS

City of St Charles, MO

City of Stayton, OR

City of Watertown, SD

City of Woodstock, IL

Codington County, SD

Coffey County, KS

Cypress Creek EMS, TX

Dodge County, WI

Douglas County, WI

Eau Claire County, WI

Everett Roehl Marshfield Public Library, WI

Geary County, KS

Greene County EMS, TN

Kent County, MI

Maine Township, IL

Manhattan Library, KS

Marion County, KS

Older People's Commission (OPC), MI

Patton Township, PA

Pitkin County, CO

Portage County, WI

Pueblo City-County Library District, CO

Riley County Police Department, KS

Riley County, KS

Rochester Avon Recreation Authority, MI

Somerset School District, WI

St Croix County, WI



City of Hamilton, OH
City of Huber Heights, OH
City of Huntington, WV
City of Kechi, KS
City of Kirkwood, MO
City of La Pine, OR
City of Lawrence, KS
City of Manhattan, KS
City of Marshfield, WI
City of Marysville, WA
City of McPherson, KS
City of Northfield, MN
City of O'Fallon, IL
City of Oak Harbor, WA
City of Oak Ridge, TN
City of Paducah, KY
City of Park Ridge, IL
City of Platte, MP
City of Rochester Hills, MI
City of Salina, KS
City of Sheridan, WY
City of Sherwood, OR

St Croix Indians, WI
Sumner County, TN
Town of Avon, IN
Town of Greeneville, TN
Utah County, UT
Vernon County, WI
Village of Bedford Park, IL
Village of Cary, IL
Village of Lake in the Hills, IL
Village of Mount Pleasant, WI
Village of North Aurora, IL
Village of Oak Park, IL
Village of Parkridge, IL
Village of Riverside, IL
Village of South Elgin, IL
Village of Theresa, WI
Village of Vernon Hills, IL
Village of West Milwaukee, WI
Village of Wilmette, IL
Village of Winfield, IL
Winnebago County, WI
Wisconsin Employee Trust Funds, WI

PUBLIC SAFETY ADVISORS

McGrath Human Resources will partner with the parent company – McGrath Consulting Group in the areas of public safety, as needed.

- Dr. Tim McGrath has over 30 years of experience in fire, EMS, communications and emergency management and currently heads the Fire Division, performing operational studies throughout the United States. He served as Chief of fire departments in Gurnee, Illinois and Brookfield, Wisconsin. Dr. McGrath has been an independent consultant since 1997 and is a speaker well-known for his motivational presentations in the United States and internationally. He earned a doctorate in management, a dual master's degree in public administration and management, a bachelor's degree in industrial education, and an associate degree in fire science management.
- Ron Moser has over 30 years of experience in law enforcement serving six municipalities in three states. Serving as Chief for departments within a metropolitan area. Mr. Moser also served as Director of Emergency Management and Village Manager for Hanover Park, Illinois, a municipality of Cook County. He currently heads the law enforcement division performing operational studies throughout the United States. Mr. Moser has two master's degrees in Criminal Justice and Corrections and Law Enforcement Administration.



Public Sector Project History

McGrath primarily works with public-sector organizations including counties, cities, villages, townships, districts, and even State agencies. The following is a portion of our prior government project experience:

Barron County, WI	College Township, PA
Bluffton Township Fire District, SC	County of Delaware, PA
Burnett County, WI	Cy Fair Volunteer Fire Department, TX
Centre Region of Government, PA	Dodge County, WI
Centre Region Solid Waste Authority, PA	Douglas County, WI
Chippewa County, WI	Eau Claire County, WI
City of Alcoa, TN	Everett Roehl Marshfield Public Library, WI
City of Arlington, WA	Ferguson Township, PA
City of Aspen, CO	Fox River Water Reclamation District, IL
City of Beloit, WI	Franklin School District, WI
City of Burlington, WA	Geary County, KS
City of Carthage, MO	Greene County EMS, TN
City of Clayton, MO	Harris Township, PA
City of Crossville, TN	Kansas Sentencing Commission, KS
City of Denison, TX	Kent County, MI
City of Dodge City, KS	Manhattan Library, KS
City of Durango, CO	Marion County, KS
City of Durant, OK	Older People's Commission, MI
City of Eau Claire Library, WI	Patton Township, PA
City of Eau Claire, WI	Pitkin County, CO
City of Edwardsville, KS	Portage County, WI
City of Fayetteville, NC	Pueblo City-County Library District, CO
City of Fulshear, TX	Reno County, KS
City of Gallatin, TN	Riley County Police Department, KS
City of Garden City, KS	Riley County, KS
City of Hamilton, OH	Rochester Avon Recreation Authority, MI
City of Huber Heights, OH	Somerset School District, WI
City of Huntington, WV	South Lyons Township Sanitary District, IL
City of Huntsville, TX	South Snohomish County Fire & Rescue Authority, WA
City of Kechi, KS	Spring Benner Walker Joint Authority, PA
City of Kirkwood, MO	St. Croix County, WI
City of La Pine, OR	Sumner County, TN
City of Lawrence, KS	Town of Avon, IN
City of Marshfield, WI	Town of Delavan, IL
City of Marysville, WA	Town of Greeneville, TN
City of McPherson, KS	Town of Riverdale Park, MD
City of Mexico, MO	Town of Syracuse, IN



City of New Berlin, WI	Utah County, UT
City of Northfield, MN	Vernon County, WI
City of Oak Harbor, WA	Village of Cary, IL
City of Oak Ridge, TN	Village of Glen Ellyn, IL
City of Paducah, KY	Village of Lake in the Hills, IL
City of Park Ridge, IL	Village of Mount Pleasant, WI
City of Platte, MO	Village of North Aurora, IL
City of Rochester Hills, MI	Village of Oak Park, IL
City of Salina, KS	Village of Parkridge, IL
City of Sheridan, WY	Village of Riverside, IL
City of Sherwood, OR	Village of South Elgin, IL
City of St. Charles, MO	Village of Theresa, WI
City of Stayton, OR	Village of Vernon Hills, IL
City of Watertown, SD	Village of Wilmette, IL
City of Woodstock, IL	Village of Winfield, IL
Clearfield City, UT	Winnebago County, WI
Codington County, SD	Wisconsin Employee Trust Funds, WI

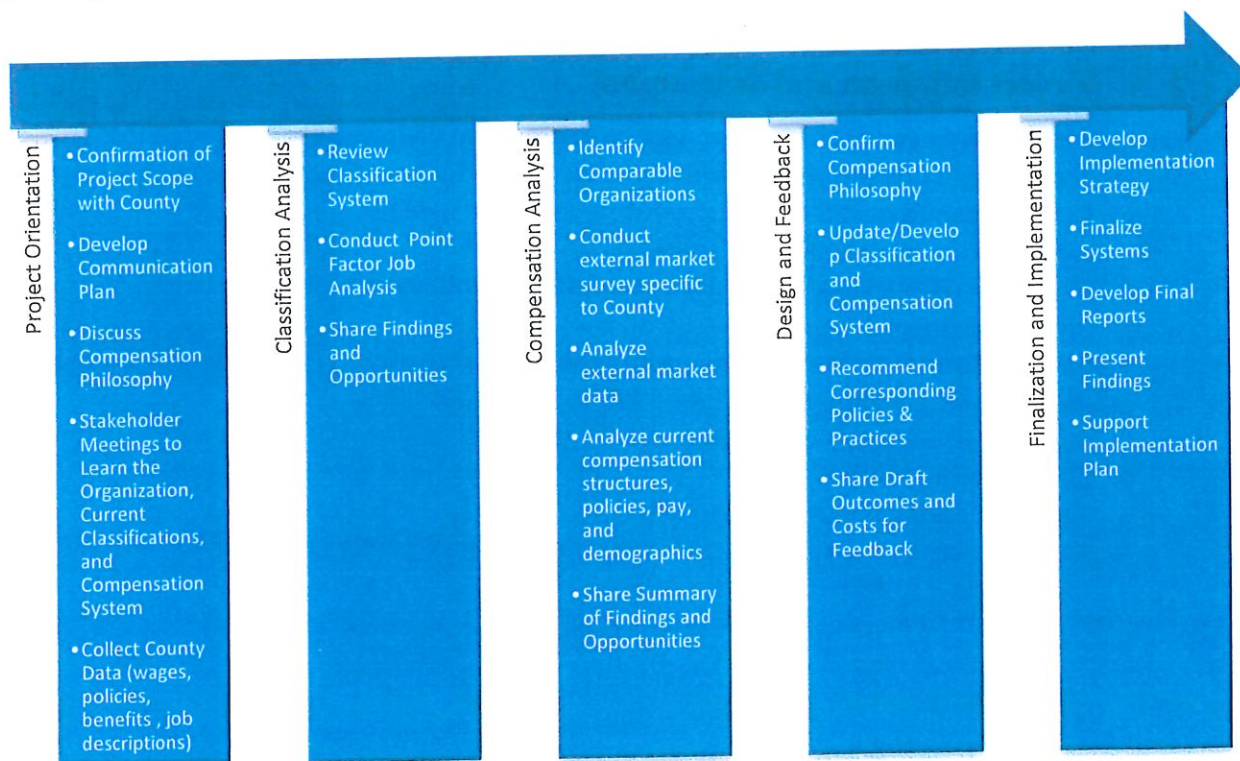


Proposed Approach

In any governmental organization, salaries and benefits are typically the largest budget item. An investment in your employee's compensation plan is an investment in your community, and we recognize the investment you are making is with tax dollars. We also understand a competitive compensation system is an important element for the County's ability to hire, cultivate, and retain employees who provide service and value to all County stakeholders, regardless of the organization's size.

Similarly, internal equity, proper classification, career opportunities and addressing of any compression issues serves to enhance the employee's feeling of value and willingness to actively engage in their work for the organization. Therefore, it is important for the County to have a system that promotes the active engagement of employees, is non-discriminatory, is legally defensible, is efficient to manage, and can accommodate organizational growth and change. Thus, we tailor our services to meet the needs and unique structure and culture of the County.

Our methodology and approach are characterized by a systematic, logical series of tasks aimed at assuring thoroughness, consistency, and objectivity. After conducting a needs assessment with the County, defining the County's compensation philosophy with County leaders, and analyzing the current Compensation and Classification System in place, our Firm utilizes Best Practices throughout the process, which includes data collection of salary data and job content data from multiple County sources and its mutually identify comparables. Data analysis is then utilized to put this information into a meaningful summary format which is shared with the County. A visual summary of the project plan is provided. A detailed methodology and work plan follows.



Methodology and Work Plan

We tailor our projects to meet the needs and unique structure and culture of your organization, with the principles of collaboration, communication and transparency in mind while developing a sound work plan with identified deliverables. The proposal steps can be discussed and adjusted to meet the projects needs for the County.

Methods and Procedures

1. Project Orientation

- ❖ Communicate with the County's project designee to:
 - Provide a list of documents and data needed to begin the project.
 - Discuss project expectations and milestones.
 - Begin developing a communication plan.
 - Schedule initial meetings.

We tailor each project to meet the needs, unique structure, and culture of your organization, with the principles of collaboration, communication and transparency in mind while developing a sound work plan with identified deliverables.

We develop a communication plan at the onset of the project so the Firm can provide routine updates on progress as well as discuss any issues that may result in a delay or a challenge within the project. Our Project Manager coordinates meetings, data sharing, and ensures the work plan is progressing according to the designed work plan so the deliverables are met within the scope and timeline of the project.

2. Project Initiation and Assessment

The consultants will conduct the first visit to meet with County leaders and all Department Directors/Managers to:

- ❖ Explore your organization's current compensation system, compensation philosophy and strategy.
- ❖ Gain an understanding of the goals, values and structure of the overall organization.
- ❖ Gather information for each individual department including any unique responsibilities associated with positions, strengths and weaknesses of the current system, or issues with recruitment/retention.
- ❖ Identify future needs.
- ❖ Review provided documents and data.
- ❖ Finalize project communication expectations and strategies, project timeline, and identifiable milestones.

We believe in having direct conversations with management and administration to identify challenges and concerns with the current system and future needs so we may develop comprehensive recommendations that best address those needs.



Other Introductory communications may also be recommended:

- ❖ Conduct introductory meetings with elected officials to discuss elements of compensation philosophy and expectations.
- ❖ Introductory employee communications and/or meetings to explain the process of a compensation study, introduce the consulting team, expected assistance, describe the general outcome of the Study, and other related topics as desired by the County. This can be done in-person or virtually.

Communication with elected officials and/or employees during the project allows engagement and offers factual information.

3. Compensation Philosophy

From first site visit, the consulting team will identify:

- ❖ The strengths of the current compensation system.
- ❖ Areas that need to be addressed or are concerns to the current programs.
- ❖ Future opportunities in structuring a total compensation package.
- ❖ Current compensation program success and challenges.
- ❖ Other characteristics about the County which may impact compensation.

Identifying and establishing a compensation philosophy allows for the development of strategic recommendations.

An analysis of this data as well as external data collection will be the basis of developing a compensation philosophy that will guide the design and complexity of the County's compensation program. A consistent philosophy will provide a strong foundation for the County. Without a philosophy, leaders often find themselves unsure what to offer as a total compensation package.

4. Classification Analysis (Job Analysis)

A **job analysis** objectively evaluates the duties, responsibilities, tasks, and authority level of each County position and identifies the hierarchy and career progression opportunities.

Job analysis is critical not only for internal equity, but also the establishment of a standardized process to establish pay equity between positions.

The classification analysis is recommended to include completion of a Position Questionnaire (PQ), which is a standardized tool used to analyze each position on identified factors. The **McGrath 360Comp™** PQ has been developed **specifically for use in public sector** organizations. This Questionnaire is recommended to be completed on all job titles for purposes of:

- ❖ Expounding upon information provided in job descriptions.
- ❖ Evaluating position responsibilities regarding necessary competencies, experience, education, finances, judgement, decision-making and other expectations which provide value to the County.
- ❖ Clarifying instances where statements in the existing job descriptions are vague or absent.
- ❖ Updating and aligning classification changes.
- ❖ Identifying career progression opportunities.
- ❖ Establishing job categories/job families.
- ❖ Determining FLSA designations.



Supervisory Review. Each incumbent's supervisor or Department Head will be given time to review the completed PQ for content and accuracy, and to comment in a designated area of the document. They will sign off on their review prior to submission to the Consultants. If needed, the consulting team may speak with Department Heads, Supervisors, and Human Resources for additional position clarification.

Employee Interviews (Optional).

Group interviews can also be conducted with employees in the County to gain a more complete understanding of the various jobs within the organization and their unique qualities for the job analysis phase, if needed. It is essential that the group interviews have representatives of each job title in order to gain a better understanding of the position. The completed PQ, existing job descriptions, and group interview information will be utilized for a job audit to begin the process of position placement for internal equity.

From this process, the current classification system will be updated, as needed.

The point factor system for job analysis is teachable, so our clients can continue to use this methodology on their own should they choose. Compensation systems are more likely to be kept up-to-date and relevant which extends the lifecycle of a plan with this tool.

The **McGrath 360Comp™** point factor process used to complete the job analysis goes beyond the typical "Knowledge, Skills and Abilities" (KSA's) and explores factors that are unique to public sector positions including the following aspects of a job:

- ❖ Records, Reports and Programs
- ❖ Impact of Decisions and Consequents of Errors
- ❖ Contact with Others (both inside and outside the organization)
- ❖ Equipment, Machines and Tools
- ❖ Budget, Financial, and Cash Handling
- ❖ Education, Experience, Licensure/Certifications
- ❖ Complexity and Judgment
- ❖ Confidential Data
- ❖ Stress (degree of mental or emotional fatigue or stress inherent to the job)
- ❖ Technology
- ❖ Leadership and Supervisory Responsibilities
- ❖ Work Environment and Physical Requirements

5. Compensation Analysis

A Compensation analysis determines the organization's relative position in the comparable labor market. This analysis allows County leaders to understand the organization's compensation as a whole and by position, allowing them to make sound compensation decisions. Compensation Analysis will consist of the following:

- ❖ McGrath consultants will prepare and conduct a tailored compensation, and special pay survey specific to the County's positions to **collect external market data**. The following is a sample section of a market survey that has been modified in format to fit the proposal.

A market survey is developed specific to the County's positions. We believe that collecting fresh market data establishes a more accurate look of the current market. We do not utilize third-party market surveys unless requested or discussed with the client in advance.



Job Title	Dept.	Description	# of Emp. in Job Title	Minimum Salary	Midpoint Salary	Max. Salary	Avg Salary of Incumbents	Your position title if different	Questions or to leave a Comment
Assistant City Manager	Administration	Second in command							
City Manager	Administration	Chief Administrator							
City Secretary/City Clerk	Administration	Maintains official records							
Assistant City Secretary/Assistant City Clerk	Administration	Assists the City Secretary							
Receptionist	Administration	Entry level customer service							
Executive Assistant to the City Manager	Administration	Confidential Secretary							
City Attorney	Administration	Serves as City Counsel							
PIO/Communications Specialist	Administration	Chief communications officer							

- ❖ The County has identified a list of **Comparable Organizations** as the labor market. The goal is to establish a comprehensive list of organizations that are similar in scope and/or in job responsibilities with whom the organization is competing to attract and retain employees. If any additions are recommended, the County will have input and must approve the list of comparables prior to starting the external market survey.
- ❖ The consultants will **analyze salary data**. The market survey collects minimum, midpoint, maximum, and incumbent salary information for each benchmark position; and other data points as needed. A statistical analysis is conducted on each dataset to ensure consistent and objective analysis. The outcome is then calculated into a ratio between the market and the County to measure the County's alignment against the market.

The following shows a slightly modified data format to fit the proposal.

Position Title	Minimum	Midpoint	Maximum	Mkt Ave Min	Comp Ratio	Mkt Ave Mid	Comp Ratio	Mkt Ave Max	Comp Ratio	Ave Inc.	Mkt Ave Inc	Comp Ratio
	\$18.43	\$20.73	\$23.02									
Clerical Assistant	\$38,331.90	\$43,112.58	\$47,871.62	\$36,066.55	56%	\$44,260.22	47%	\$52,990.22	40%	\$43,025.01	\$45,853.37	44%
Maintenance Worker	\$38,331.90	\$43,112.58	\$47,871.62	\$31,511.15	72%	\$38,557.94	62%	\$46,875.15	52%	\$40,477.80	\$37,603.44	58%
CSR	\$38,331.90	\$43,112.58	\$47,871.62	\$31,625.67	71%	\$36,679.04	68%	\$42,570.67	62%	\$42,744.83	\$34,191.95	75%
Permit Clerk	\$38,331.90	\$43,112.58	\$47,871.62	\$32,228.81	69%	\$38,644.11	62%	\$46,919.72	52%	\$38,604.47	\$36,454.16	56%
Utility Maintenance Tech I	\$38,331.90	\$43,112.58	\$47,871.62	\$32,873.86	67%	\$41,015.96	55%	\$48,420.96	49%	\$39,471.91	\$38,346.94	53%
Utility Services Representative	\$38,331.90	\$43,112.58	\$47,871.62	\$31,350.60	72%	\$36,528.84	68%	\$45,461.41	55%	\$39,089.02	\$36,671.91	57%
	\$20.27	\$22.79	\$25.31									
Code Inspector	\$42,160.77	\$47,395.71	\$52,652.29	\$39,211.06	58%	\$47,405.38	50%	\$58,851.09	39%	\$48,899.14	\$47,040.73	54%
Deputy Court Clerk	\$42,160.77	\$47,395.71	\$52,652.29	\$31,883.28	82%	\$38,457.92	73%	\$47,471.98	61%	\$44,994.56	\$37,490.48	70%
Utility Maintenance Tech II	\$42,160.77	\$47,395.71	\$52,652.29	\$36,330.45	66%	\$43,968.02	58%	\$52,047.19	51%	\$42,182.40	\$41,189.62	52%

- ❖ The consultants will examine the status of your current compensation systems including **structural analysis, special pay analysis, compression analysis, and incumbent pay analysis** to give guidance to the consultants for compensation and implementation recommendations and will also provide information to the County regarding overtime, promotional and retention opportunities, internal equity, and how multiple pay plans are working together. The following shows a sampling of raw compression data for analysis.



Position	Total Gross	OT	Other Pays	Total
Sergeant/Sheriff	\$120,161.08	\$42,968.25	\$21,683.87	\$184,813.20
Deputy Sheriff	\$103,928.37	\$29,119.89	\$22,446.00	\$155,494.26
Lieutenant/Sheriff	\$107,701.88	\$46,542.36		\$154,244.24
Deputy Sheriff	\$90,177.67	\$20,414.04	\$22,787.31	\$133,379.02
Deputy Sheriff	\$83,930.00	\$15,343.13	\$25,193.35	\$124,466.48
Deputy Sheriff	\$82,397.26	\$15,783.37	\$21,357.73	\$119,538.36
Deputy Sheriff	\$75,469.97	\$15,170.10	\$22,287.85	\$112,927.92
Deputy Sheriff	\$72,959.66	\$21,004.31	\$18,460.55	\$112,424.52
Corporal/Sheriff	\$80,607.03	\$18,670.22	\$13,104.90	\$112,382.15
Deputy Sheriff	\$75,089.75	\$18,517.53	\$18,517.53	\$112,124.81
Corporal/Sheriff	\$79,479.39	\$29,896.67		\$109,376.06
Bench Warrant Admin	\$80,251.81	\$23,751.55		\$104,003.36
Corporal/Sheriff	\$72,587.67	\$20,889.51		\$93,477.18
Corporal/Sheriff	\$72,355.15	\$21,105.13		\$93,460.28

- ❖ The consultants will **review your compensation-related policies** for compliance and best practices. We will make recommendations for policy updates or considerations that impact the County.
- ❖ The consultants will gather and analyze external and internal demographic data and workforce metrics to define:
 - Employee's tenure within the organization as well as tenure in current position.
 - Turnover rate for the organization.
 - Local geographic and economic factors impacting the attraction and retention of employees.

Understanding your employee demographics and external challenges allows for the development of strategic recommendations.

The outcome of this portion of the project is very important because it identifies current trends and future predictors. This information guides the consulting team in developing strategy options and recommendations for the County's current and future needs.

6. McGrath 360Comp™ Integration

Upon completion of the compensation analysis and job analysis, etc. the consultants will engage the County to:

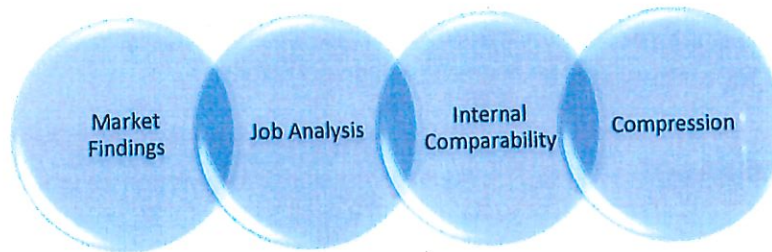
- ❖ Confirm the recommended compensation philosophy.
- ❖ Discuss the data obtained and share the findings and trends found in the analysis as it compares to the current Compensation System.
- ❖ Discuss the future compensation systems.
- ❖ Discuss the tie between the compensation system, performance, and tenure.
- ❖ Discuss Minimum Wage impacts.

Visualizing and understanding the full picture between the job analysis, compensation analysis, and market findings, allows the County and consulting team to have a meaningful dialogue to confirm the desired place in the market, desired compensation system model, and other compensation and benefit solutions identified.



7. Systems Update/Development and County Review

The Classification and Compensation Systems will be updated or redeveloped with the following information:



Allowing County leaders and department directors the opportunity to review our recommendations in advance of finalization provides an opportunity for dialogue and sound quality control.

The consultants will develop a **detailed fiscal impact** of the Compensation Systems and will present implementation strategy options that fit the fiscal needs, culture, and compensation strategy of the County. *While some entities can fully implement the compensation system immediately, some clients have utilized a phased approach. We will work with the County to assure that any phased approach fits with best practices and your fiscal realities.*

Once the Systems are updated/developed, the consultants will meet with appropriate County personnel to **review the draft Classification and Compensation Systems**. This visit will include meetings with the County's project designee and each Department Director to review placements within the Classification and Compensation System to identify any concerns prior to finalization. This provides an opportunity to discuss any changes in placement in the current system and/or ensure proper placement if the Systems are redesigned.

8. Finalization

A **Compensation Policy/Procedure Manual** will be developed for Administration/Human Resources. This report details:

- a. Study methodology and findings.
- b. Recommended compensation structure modifications.
- c. Recommended position title, classification specification or career progression changes.
- d. Fiscal impact and implementation strategies.
- e. Policies and procedure modifications or to adopt to administer and maintain the system in-house going forward.

The County will receive the Compensation and Classification documents and cost estimates in editable format for the County to maintain/integrate.

An **Executive Summary Report** for governing body and public distribution will also be provided as appropriate.

These reports will first be provided to County Administration in draft form to allow for feedback before the reports are placed into final form and provided electronically.



9. Presentation and Communication

The Study includes a ***presentation to the Board of Supervisors***.

If desired, the consulting team will also be available to introduce the recommendations to employee groups to the depth, and in the manner, you prefer and offer suggestions and recommendations. We prepare correspondence and notices tailored to our client, whether for written, verbal or electronic presentation.

We stand behind our methodology and process, and recommendations. We are available to present findings to the County.

10. Ongoing Support and Training

McGrath Human Resources Consultants will continue to work with your organization to ***support implementation*** of the compensation system at no additional cost.

The County may also consider its future needs as follows:

- ❖ McGrath Human Resources believes in providing our clients with the tools to be able to manage their Compensation System independently, if the client desires. In addition to policy recommendations to manage and maintain the Compensation System, we offer to teach the Human Resources staff the point factor/position analysis process.
- ❖ Alternatively, some clients prefer that McGrath Human Resources set current and future pay grade placements, position changes, and job description development rather than completing that in-house. This can be done for a nominal fee depending upon the time involved in the placement.

We will continue to assist the County through implementation.

We embrace client independence. We will train Human Resources and provide the tools necessary for self-maintenance, if desired by the County.



Project Schedule

Project Progress Communication

Since we work closely with our clients, open communication and collaboration between the consulting team and project designee is critical for the project to be most successful. Because of that, we will develop a communication plan at the onset of the project so the Firm can provide routine updates on progress as well as discuss any issues that may result in a delay or a challenge within the project. Our designated project manager coordinates meetings, data sharing, and ensures the work plan is progressing according to the designed work plan so the deliverables are met within the scope and timeline of the project.

Proposed Timeline

The consulting team is prepared to start the project in August 2021. The timeliness of the market data collection is heavily dependent upon the workload and staffing of the comparable organizations we are asking to participate, so additional time is built into the schedule for better survey participation/timely responses to capture current data.

With all those factors in mind, there are defined milestones throughout the process where we will be sharing information about where the County stands in relation to the comparable market. We recommend the following project schedule:

Activity	Month 1				Month 2				Month 3				Month 4				Month 5				Month 6			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Task 1 - Project orientation/planning																								
Task 2 and 3- Project Kickoff meetings with identified stakeholders for information meetings																								
Task 4 –Position Questionnaire distribution/ collection and Job Analysis																								
Task 5 and 6- Market Data collection and analysis; and internal analysis																								
Task 7 - Review Findings with County																								
Task 8 – Develop/Update Compensation and Classification Systems																								
Task 8 - Review Recommendations with County																								
Task 9 -Finalize changes. Provide Draft Reports for County review. Finalize Reports.																								
Task 10 - Presentations																								



COVID-19 Modifications to Our Site Visit Plans

We understand the concern and uncertainty, as well as resource re-allocation challenges you may be experiencing around COVID-19, and we are committed to being responsive and flexible to meet our customers' needs. We can accommodate onsite or remote site visits, with fluid scheduling as conditions change.



References

McGrath Consulting is proud to list over 450 clients in 39 states. Below are a few compensation studies either within the region and/or are similar to your project. ***Additional client names, projects and locations are viewable on our website at www.mcgrathhumanresources.com*** and their contact information will be provided upon request.

Client Name	Description
Dodge County, WI Contact: Sarah Hinze Title: Human Resources Director Phone: 920-386-3692 Email: shinze@co.dodge.wi.us	Comprehensive compensation schedule was developed with benefit recommendations for 250+ non-union job classifications, inclusive of a skilled nursing facility. Implementation in 2021 due to COVID delays. Project also included job description updates and performance evaluation process. Services ongoing.
Delaware County, PA Contact: Jim Kane Title: Chief Personnel/HR Officer Phone: 610-891-5236 Email: kanej@co.delaware.pa.us	Developed the County's first ever comprehensive classification and compensation schedule in 2020 for 600 union and non-union job classifications, inclusive of benefits recommendations. Services ongoing.
City of Lawrence, KS Contact: Lori Carnahan Title: Human Resources Manager Phone: 785-832-3203 Email: Lcarnahan@lawrenceks.org	Completed an external market analysis for all union and non-union position. Created a new compensation system for all non-union positions. Rehired in 2020 to develop a point factor system to align with the new compensation system; develop a market strategy for the 2021 budget and update the compensation system; An external market analysis is underway in 2021. <i>Lawrence is part of the Kansas City area.</i>
City of Watertown, SD Contact: Kristen Bobzien Title: Finance Officer Phone: 605-753-3563 Email: kbobzien@watertownsd.us	Conducted comprehensive compensation analysis of all union and non-union positions within the City ~120 positions in 2019. Included the development of separate salary schedules for police, fire, AFSCME, and non-union – however, keeping internal equity and compression issues in line. Updated job descriptions in 2020. Services ongoing.
City of Dodge City, KS Contact: Ernestor De La Rosa Title: Assistant City Manager Phone: 620-225-8100 Email: Ernestord@dodgecity.org	Completed a comprehensive compensation study for all positions, with continued support to public safety salary schedules.
Burnett County, WI Contact: Nathan Ehalt Title: County Administrator Phone: 715-349-2181 Email: nehalt@burnettcounty.org	Comprehensive compensation and classification schedule was updated in 2019 based upon market updates and implemented new internal comparability indicators into existing Schedule. Adoption of updates occurred in 2020. Ongoing assistance for position placements.
Barron County, WI Contact: Rachel Richie Title: Human Resources Director	Conducted Performance Evaluation training for supervisors in 2016. Rehired in 2017 to develop new compensation system for approximately 300 job titles.



Phone: 715-537-6825 Email: rachael.richie@co.barron.wi.us	Rehired in 2019 to complete job description updates and develop point factoring process. Ongoing assistance for position placements.
City of Crossville, TN Contact: Leah Crockett Title: Human Resources Manager Phone: 931-456-5681 Email: leahcrockett@crossvilletn.gov	Comprehensive compensation schedule for all City positions was developed.
City of Oak Ridge, TN Contact: Mark Watson Title: City Manager Phone: 865-425-3550 Email: mwatson@oakridgetn.gov	Comprehensive compensation schedules for all City positions were developed, and development of job descriptions for approximately 190 positions. All Departments, including Police, Fire, and Public Works, and Electric were included.
Town of Greeneville, TN Contact: Patsy Fuller Title: Human Resources Director Phone: 423-639-7105 Email: Pfuller@greenevilletn.gov	Developed a compensation system for all employees within the Town.
City of Alcoa, TN Contact: Melissa Thompson Title: Human Resources Director Phone: 855-380-4753 Email: mthompson@cityofalcoa.tn.gov	Completed a comprehensive compensation study for all employees. Project was completed in March 2020, and due to COVID, has been put on hold for implementation until the City's fiscal health is determined.
City of Clayton, MO Contact: Janet Watson Title: Finance and Administration Director Phone: 314-290-8445 Email: jwatson@claytonmo.gov	Conducted a comprehensive compensation analysis of all positions within the City, and a benefits review. Created a system that placed positions to lead the market. Utilized an employee committee for review and approval of all comparable data. Rehired to develop job descriptions. A comprehensive market update was conducted in 2019. <i>Clayton is in the St. Louis metropolitan region.</i>
City of Saint Charles, MO Contact: Shanton Fountain Title: Human Resources Director Phone: 636-949-3232 Email: shanton.fountain@stcharlescitymo.gov	Completed a classification and compensation study for all positions in 2016 placing compensation to lead the market average. An update to the Administrative classifications which was completed in March 2020. <i>St. Charles is in the St. Louis metropolitan region.</i>
City of Northfield, MN Contact: Michelle Mahowald Title: Human Resources Director Phone: 507-645-3012 Email: michelle.mahowald@ci.northfield.mn.us	A comprehensive compensation schedule of union and non-union positions was developed into one (1) classification system, and job descriptions were updated. This Compensation system had to be compliant with the State of Minnesota's Pay Equity Act. <i>Northfield is in the Minneapolis-St. Paul metropolitan area.</i>
Village of Mount Pleasant, WI Contact: Carol Thiel Title: Human Resources Director Phone: 262-664-7838 Email: cthiel@mtpleasant.wi.gov	Comprehensive compensation schedule was updated in 2019 based upon market updates and organizational restructuring resulting in significant position adjustments. Job Descriptions were also developed in 2019. <i>Mount Pleasant is part of the Milwaukee area.</i>



Project Cost

By submission of the proposal, McGrath Human Resources Group shows its intention to accept and contract with New Kent County, Virginia. McGrath Human Resources sets project fees based on the total project. Therefore, the fees listed below include all consulting professional fees, administrative costs, and travel expenses.

Compensation and Classification Study

• Market Pay & Compression	\$32,750
• Current pay grade updates/recommendations	\$27,690
• Development of separate pay structure	\$52,700
• Completion of the entire project	\$69,750*

Note: It is often more difficult to do parts of a compensation plan and adds to the time and cost of the project. If contracted to do the entire study, and either update the current compensation system, or design one that fits the organization – all elements of market, minimum wage, wage compression, and internal equity can be evaluated at once – saving time and money.

Terms of Payment

Payment for the Project will be made in three (3) installments:

- \$ 8,000 upon completion of the signed contract;
- \$ 51,750 upon submission of the draft report; and
- \$ 10,000 upon submission of the final report.

All invoices are due within 30 days of receipt. Proposal cost is good for a minimum of 90 days from July 15, 2021. Dr. Victoria McGrath is the individual with the authority to negotiate and contractually bind McGrath Human Resources in any type of negotiations and contracts.

Optional Services

In most compensation studies, there are areas that must be addressed that are not planned for. In the 21 years McGrath Consulting Group, Inc., has been in business, it has never increased the agreed upon price and will address these areas. In the event the work is so beyond the scope of the original project, the Consultant will work with the County to either bill the service at an hourly rate, plus travel fees; or determine a fixed price. However, no work will begin until an agreement with the County has been approved.




County Required Forms

My signature certifies that the proposal as submitted complies with all requirements specified in this Request for Proposal ("RFP").

My signature also certifies that by submitting a proposal in response to this RFP, the Offeror represents that in the preparation and submission of this proposal, the Offeror did not, either directly or indirectly, enter into any combination or arrangement with any person or business entity, or enter into any agreement, participate in any collusion, or otherwise take any action in the restraining of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section 1) or Sections 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia.

I hereby certify that I am authorized to sign as a legal representative for the business entity submitting this proposal.

LEGAL NAME OF OFFEROR (DO <u>NOT</u> USE TRADE NAME):
McGrath Human Resources Group
ADDRESS:
PO Box 190
Wonder Lake IL 60097
SIGNATURE: 
NAME OF PERSON SIGNING (print): Victoria J. McGrath
TITLE: CEO
TELEPHONE: 815-728-9111
FAX: 815-331-0215
E-MAIL ADDRESS: victoriaphd@mcgrathconsulting.com
DATE: 07/15/2021



ATTACHMENT D

PROPRIETARY/CONFIDENTIAL INFORMATION IDENTIFICATION

NAME OF FIRM/OFFEROR: McGrath Human Resources Group

Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protections of Va. Code § 2.2-4342.F in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected including the section of the proposal in which it is contained and the page numbers, and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. In addition, a summary of proprietary information submitted shall be submitted on this form. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable. If, after being given reasonable time, the Offeror refuses to withdraw such a classification designation, the proposal will be rejected.

SECTION/TITLE	PAGE NUMBER(S)	REASON(S) FOR WITHHOLDING FROM DISCLOSURE
NONE		



ATTACHMENT E

VIRGINIA STATE CORPORATION COMMISSION (SCC)

REGISTRATION INFORMATION

The Bidder or Offeror:

- ☐ is a corporation or other business entity with the following SCC identification number:
_____ -OR-
- ☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust -OR-
- ☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Bidder/Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from offeror's out-of-state location) -OR-
- X is an out-of-state business entity that is including with this bid/proposal an opinion of legal counsel which accurately and completely discloses the undersigned Bidder's/Offeror's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

Please check the following box if you have not checked any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for bids/proposals: ☐



Human Resources Consulting Services:

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- Compensation & Benefit Analysis
- Employee Handbooks
- FLSA Compliance
- Policies & Procedures
- Executive Recruitment
- Assessment Center Testing
- General Recruitment
- Open Positions
- Performance Evaluations
- Management/Labor Relations
- Personnel Records
- Training
- Compliance



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The McGrath Consulting Group compliments our HR services by offering:

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AGENDA ITEM REQUEST
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO
THE MEETING)

Meeting Date: 9/29/2021

Agenda Item

Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)	Mr. Chairman, I move to authorize the County Administrator to advertise a request for proposals for an Internet Service Provider to design, construct, deploy, maintain, and operate a "fee-for-service" broadband network to provide internet service to underserved areas throughout the County.		
Subject	Request to Solicit Proposals for an Internet Service Provider		
Issue	Staff request authorization to seek proposals from internet service providers to design, construct, deploy, maintain, and operate a "fee-for-service" broadband network to provide internet service to underserved areas throughout the County.		
Recommendation	Staff recommends adoption of the proposed motion.		
Fiscal Implications	New Kent recognizes the challenges of deploying broadband in rural areas and is prepared to financially support a private partner's deployment of internet service.		
Policy Implications	In order to comply with the Virginia Public Procurement Act and the County's purchasing policy, the County shall procure an Internet Service Provider through a competitive procure process such as the issuance of a Request for Proposals.		
Legislative History	The County has implemented several broadband studies that have resulted in a better understanding of the County's broadband needs, a plan to deploy a county-wide broadband system, and an understanding of the cost that would be involved in such a project. New Kent is now positioned to proceed with the design, construction, and and operation of a County-wide broadband network.		
Discussion	Staff will review the draft Request for Proposals (RFP), and discuss options for contracting the services of an Internet Service Provider.		
Time Needed:	10:20 a.m.	Person Appearing:	County Administrator Rodney Hathaway
Request prepared by:	Rodney Hathaway, County Administrator	Telephone:	(804) 966-9683
Copy provided to:			

REVIEWERS:

Department	Reviewer	Action	Date
Administration	Hathaway, Rodney	Approved	9/22/2021 - 10:44 AM

Administration
Attorney

Hathaway, Rodney
Hefty, Brendan

Approved
Approved

9/22/2021 - 10:44
AM

9/22/2021 - 1:07 PM

New Kent County Board of Supervisors
P O Box 150, 12007 Courthouse Circle
New Kent, VA 23124

AGENDA ITEM REQUEST
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO
THE MEETING)

Meeting Date: 9/29/2021

Agenda Item

Motion: "Mr.
Chairman, I move to
(not required for Consent
Agenda items)

Subject

Other Business

Issue

Recommendation

Fiscal Implications

Policy Implications

Legislative History

Discussion

Time Needed:

10:40 a.m.

Person Appearing:

Request
prepared by:

W. Watkins, Deputy
Clerk of the Board

Telephone:

804-966-9687

Copy provided
to:

REVIEWERS:

Department
Clerk

Reviewer
Watkins, Wanda

Action
Approved

Date
9/21/2021 - 9:41 PM

AGENDA ITEM REQUEST
(TO BE SUBMITTED NO LATER THAN 12 DAYS PRIOR TO
THE MEETING)

Meeting Date: 9/29/2021

Agenda Item

Motion: "Mr. Chairman, I move to (not required for Consent Agenda items)	adjourn		
Subject	Adjournment		
Issue			
Recommendation	Approval		
Fiscal Implications			
Policy Implications			
Legislative History			
Discussion	The next regularly scheduled meeting of the Board of Supervisors will be held at 6:00 p.m. on Tuesday, October 12, 2021 and the next work session at 9:00 a.m. on Wednesday, October 27, 2021, both in the Boardroom of the County Administration Building. The Board will also meet for a Budget Retreat on Friday, October 29, 2021 from 9:00 a.m. to noon - Location TBA.		

Time Needed:	10:50 a.m.	Person Appearing:	
Request prepared by:	W. Watkins, Deputy Clerk of the Board	Telephone:	804-966-9687
Copy provided to:			

ATTACHMENTS:

Description	Type
Closed Session Motions (PDF)	Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
Clerk	Watkins, Wanda	Approved	9/21/2021 - 9:43 PM

MOTIONS FOR CONVENING A CLOSED SESSION

- 1 I move to go into closed session pursuant to §2.2-3711A.1 of the Code of Virginia for *(discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or County employees)* involving _____.
- 3 I move to go into closed session pursuant to §2.2-3711A.3 of the Code of Virginia for *discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County)* involving _____.
- 4 I move to go into closed session pursuant to §2.2-3711A.4 of the Code of Virginia for *(the protection of the privacy of individuals in personal matters not related to public business)* involving _____.
- 5 I move to go into closed session pursuant to §2.2-3711A.5 of the Code of Virginia for *(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)* involving _____.
- 6 I move to go into closed session pursuant to §2.2-3711A.6 of the Code of Virginia for *(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 County would be adversely affected)* involving _____.
- 7 I move to go into closed session pursuant to §2.2-3711A.7 of the Code of Virginia for *(consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel)* involving _____.
- 19 I move to go into closed session pursuant to §2.2-3711A.19 of the Code of Virginia for *(discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure)* involving _____.
- 28 I move to go into closed session pursuant to §2.2-3711A.28 of the Code of Virginia for *(discussion or consideration of records excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected local jurisdiction, as those terms are defined in § 56-557, or any independent review panel appointed to review information and advise the responsible public entity concerning such records)* involving _____.

- 29 I move to go into closed session pursuant to §2.2-3711A.29 of the Code of Virginia for *(discussion of the award of a public contract involving the expenditure of public funds, including interviews of 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 Board)* involving _____.
- 33 I move to go into closed session pursuant to §2.2-3711A.3 of the Code of Virginia for *(discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6.)* involving _____.

CERTIFICATION OF CLOSED SESSION

A. Motion

I move that the Board certify by roll call vote that to the best of each member's knowledge only public business matters lawfully exempted from open session requirements of the Freedom of Information Act and identified in the motion to go into closed session were heard, discussed or considered in the closed session.

B. Vote taken on certification.

Present:

Vote:

Thomas W. Evelyn
C. Thomas Tiller, Jr.
Patricia A. Paige
Ron Stiers
John N. Lockwood