



**DRAFT  
LEGISLATIVE AGENDA  
GENERAL ASSEMBLY  
2021 SESSION**

**November 12, 2020**

*CITY OF VIRGINIA BEACH – CITY COUNCIL*

Mayor Robert M. “Bobby” Dyer – At Large

Vice-Mayor James L. Wood – Lynnhaven

Jessica P. Abbott – Kempsville

Michael Berlucchi – Rose Hall

Barbara M. Henley – Princess Anne

Louis R. Jones – Bayside

John D. Moss – At Large

Aaron R. Rouse – At Large

Guy K. Tower - Beach

Rosemary A. Wilson – At Large

Sabrina D. Wooten – Centerville

*CITY OF VIRGINIA BEACH – GENERAL ASSEMBLY DELEGATION*

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Senator Jen A. Kiggans – Senate District 7

Senator William R. DeSteph, Jr. – Senate District 8

Senator John A. Cosgrove, Jr. – Senate District 14

Delegate Kelly K. Convirs-Fowler – House District 21

Delegate C. E. “Cliff” Hayes, Jr. – House District 77

Delegate Barry D. Knight – House District 81

Delegate Jason R. Miyares – House District 82

Delegate Nancy D. Guy – House District 83

Delegate Glenn R. Davis – House District 84

Delegate Alex Q. Askew – House District 85

Delegate Joseph C. Lindsey – House District 90

Delegate Robert S. Bloxom, Jr. – House District 100

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# **SECTION 1.1 – CITY OF VIRGINIA BEACH LONG TERM POLICY POSITIONS**

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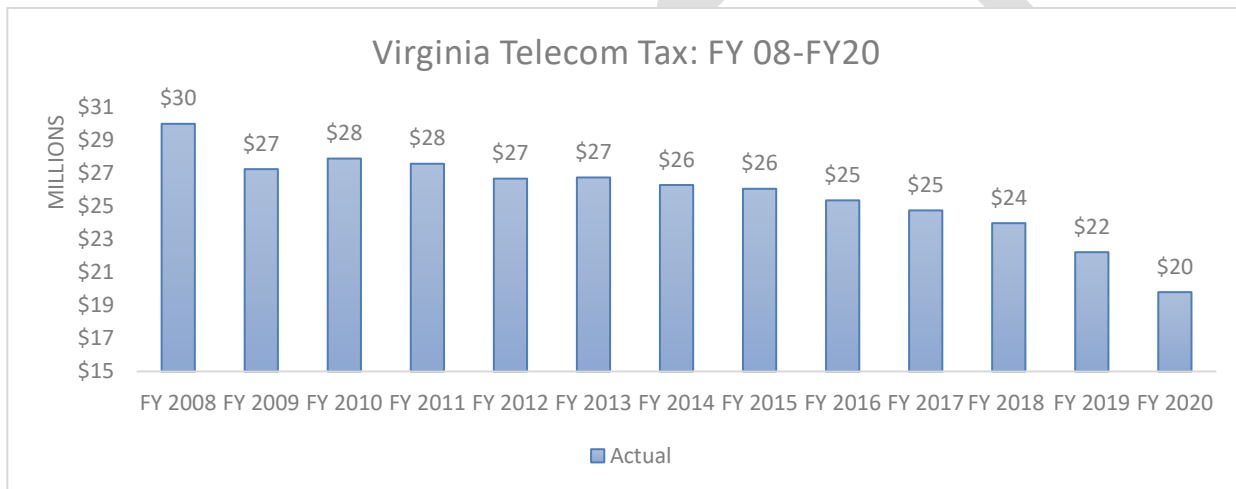


# 1. COMMONWEALTH OF VIRGINIA COMMUNICATIONS TAX UPDATE

SPONSORED BY CITY COUNCIL

## Background Information:

In 2006, the Virginia General Assembly passed legislation to replace state and local taxes and fees on communication services with one statewide Virginia Communications Sales and Use Tax. This statewide tax imposed a 5% fee, which is collected from consumers by service providers and remitted to the state on a monthly basis. After collection by the state, the tax is then distributed to individual localities. Revenues from the Sales and Use Tax are in long-term decline. For example, Virginia Beach now brings in \$10 million less per year than when the tax first went into effect over a decade ago. This \$10 million decline is equal to a 33% loss in revenue over this period. As technology progresses, this revenue gap will only grow wider. The chart below shows actual revenues received by the City. In total, the City averaged a 3.4% per year reduction in Virginia Telecom Tax Revenue between Fiscal Year 2007-08 and Fiscal Year 2019-20.



Consistent with these declines, the City has sizably lowered its budgeted projections for Telecom Tax revenue. Yet, Fiscal Year 2020 actual receipts came in less than the lowered amount budgeted for Fiscal Year 2021. Should the present tax structure continue as is, the City will likely see a decline in this revenue source in Fiscal Year 2022 that would bring the total amount of revenue received by the City to around \$17 million.

FY 2020 Budgeted	FY 2021 Budgeted	FY 2021 Estimate (Using Historic Average)
\$23.4 million	\$20.3 million	\$ 17.5 million

**REQUEST:** The General Assembly is requested to restore funding to localities consistent with amounts received at the time of the formula’s adoption in 2006.



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## 2. FULL FUNDING FOR THE STEP-VA PROGRAM

SPONSORED BY COUNCILMEMBER MICHAEL BERLUCCHI & THE VIRGINIA BEACH HUMAN RIGHTS COMMISSION

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### Background Information:

While Virginia's overall ranking in the 2020 State of Mental Health Report released in February 2020 by MH America (MHA) ranked the Commonwealth at 27<sup>th</sup> nationwide (up from 33<sup>rd</sup> in 2019), Virginia ranked 42<sup>nd</sup> for adult mental health (down from 35<sup>th</sup> in 2019). MHA indicates any state with a ranking of 39-51 indicate that adults have higher prevalence of mental illness and lower rates of access to care. The decrease in our adult mental health ranking means more adults reported they were not able to receive the treatment they needed. Although Virginia's youth mental health ranking improved to 17<sup>th</sup>, the prevalence of youth with Major Depressive Episode dropped to 24<sup>th</sup>. Virginia's overall access to mental health care in in the 2020 MHA report depicts the greatest challenge for Virginians with a rank of 37<sup>th</sup> in the nation. Additionally, Virginia has continued to be low while the percentage of inmates with mental disorders in jails has continued to increase annually. (Virginia Compensation Board)

The need for a comprehensive, effective and accessible system of mental health services is quite clear. When individuals are not able to receive the treatment and services they need for the cause of their mental health crisis in their communities, the effect often include: homelessness, suicide, substance use, incarceration, frequent hospitalizations, and use of emergency rooms. The increased need for services due to COVID-19 has been widely reported and are likely to be reflected in the Virginia Department of Behavioral Health and Developmental Services (DBHDS) 2020 statistical reports.

STEP-VA (System Transformation, Excellence and Performance in Virginia) when fully funded will provide the community mental health care system which have been needed for many years. STEP-VA was developed in 2015 through a federal planning grant received by DBHDS to address this systematic delivery approach to providing mental health services by providing quality, access, accountability and consistency across all Community Services Boards. The federal planning grant providing the means to lay the foundation for a behavioral health system that would be standardized in the provision of nine core services:

- Same-day access
- Primary care screenings
- Outpatient behavioral services
- Behavioral health crisis services
- Peer/family support services
- Psychiatric rehabilitation
- Veterans' behavioral health
- Case management for adults and children
- Care coordination

The 2017 General Assembly amended the code to implement the STEP-VA System of nine services by 2021. Same Day Access and Primary Care Screening were fully funded and implemented in 2019 and Outpatient Services and Crisis Services were partially funded.



The 2020 General Assembly provided additional funding for partial implementation of STEP-VA: FY 2021- \$19,704,173; FY 2022 - \$30,151,414.

In April 2020, due to the COVID-19 emergency, these funds were unallocated; a freeze was placed on new spending until economic circumstances improved and revenues could be forecasted again. The 2021 Governor's budget priorities will be outlined in mid-November and the 2021 General Assembly House and Senate Finance and Appropriations Committees will likely be inundated with requests to amend the Governor's budget post-COVID. As a lack of fully funding the mental health needs of our citizens can have a domino effect of many other areas of the state and individual localities budget, restoring the funding levels for STEP-VA must be ranked among the highest of budget priorities.

**Request:**

The City requests that the General Assembly restore funds allocated by the 2020 General Assembly and provide the remaining funds needed for the full implementation of the STEP VA System throughout the Commonwealth to ensure all nine Core Services are implemented by 2021.



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## SECTION 1.2 – CITY OF VIRGINIA BEACH NEW POLICY INITIATIVES

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### 3. HEART DISEASE PRESUMPTION FOR SALARIED EMS PERSONNEL

SPONSORED BY VICE-MAYOR JIM WOOD

#### Background Information:

In Virginia, public safety benefit programs have historically been designed specifically for firefighters and police officers. Most municipal EMS providers were either cross trained as firefighters, volunteers or civilians. There was little attention given to governmental EMS workers. Virginia Beach has the largest with its cadre of medics within the Department of EMS. We currently have 65 officers or medics who are considered full time salary Emergency Medical Technicians for purposes of benefit calculations. However, those workers are not given the same protections of heart disease presumption that Fire and Police have.

#### Request:

The General Assembly is requested to modify Code of Virginia Title 65.2, Workers' Compensation, Chapter 3: Occupational Diseases §65.2-402(B) as follows:

*B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Game and Inland Fisheries, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in §65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, ~~and~~ (xiv) campus police officers appointed under Article 3 (§23.1-1-809 et seq.) and (xv) full-time salaried Emergency Medical Technicians employed by the City of Virginia Beach. Of Chapter 8 of Title 23.1 and employed by any public institution of higher education shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.*



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#### **4. OBTAINING PRESCRIPTION DRUGS BY FRAUD, DECEIT, OR FORGERY**

SPONSORED BY VICE-MAYOR JIM WOOD

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##### **Background Information:**

Over the past year, the City of Virginia Beach has experienced an increase in the amount of illegally obtained prescription drugs via rogue internet sites that sell prescription drugs without valid prescriptions. These drugs are not FDA approved, and are often adulterated or misbranded. This involves Schedule II narcotics as well as Schedule III – Schedule VI drugs.

##### **Request:**

The General Assembly is requested to initiate legislation criminalizing the purchase of prescription drugs or procuring administration of prescription drugs including controlled substances by fraud, deceit, or forgery.

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## 5. SMART SCALE - RESILIENCY

SPONSORED BY COUNCILMEMBER BARBARA HENLEY

### Background Information:

According to the Virginia General Assembly, it is in the "public interest that a prioritization process ...be ...implemented to improve the efficiency and effectiveness of the state's transportation system, transportation safety, transportation accessibility for people and freight, environmental quality, and economic development in the Commonwealth" (§33.2-214.1 of the Code of Virginia). This process, known as SMART SCALE, allows the Commonwealth Transportation Board and the Virginia Department of Transportation to score and subsequently award funds to new transportation construction projects throughout the Commonwealth of Virginia. In the forthcoming SMART SCALE Round 4, it is estimated that \$1 billion will be distributed to projects based upon this scoring system.

Despite the existence of categories covering congestion mitigation, economic development, accessibility, safety, and environmental quality, no category considers or evaluates a metric that will define the efficiency and effectiveness of the Hampton Roads and Virginia Beach transportation system in the 21st Century: resiliency. Although resiliency could be accounted for within several of the existing categories, to date, resiliency is not mentioned in their definitions. For example, safety considers crash frequency and rate, while environment scores are based upon sensitive acreage disturbed and air quality.

As a result of this exclusion, Virginia Beach and other localities transportation projects that are in part designed due to the threat of climate change, rising seas, and disruptive weather events score poorly in the SMART SCALE process. Further, projects that score in the existing categories are not given an additional benefit for their potential longevity. Given the critical need for the transportation sector to be part of the City, region, and Commonwealth's response to sea level rise, resiliency must be considered a factor in Round 5 of SMART SCALE and in other future awards of transportation dollars by the Commonwealth Transportation Board and the Virginia Department of Transportation.

### Request:

The City Council of the City of Virginia Beach requests that the General Assembly amend §33.2-214.1 to incorporate resiliency. Specifically, the City requests that §33.2-214.1 (A) be rewritten to read "The General Assembly declares it to be in the public interest that a prioritization process for projects funded by the Commonwealth Transportation Board be developed and implemented to improve the efficiency and effectiveness of the state's transportation system, transportation safety, transportation accessibility for people and freight, *current and future transportation resiliency*, environmental quality, and economic development in the Commonwealth" and that §33.2-214.1(B)(1) state, "The prioritization process shall be based on an objective and quantifiable analysis that considers, at a minimum, the following factors relative to the cost of the project or strategy: congestion mitigation, economic development, accessibility, safety, ~~and~~ environmental quality, *and resiliency*."

Furthermore, the City Council requests that the Commonwealth Transportation Board and the Virginia Department of Transportation adopt the following definition of resiliency: "*The ability to anticipate, prepare for, or adapt to conditions; or withstand, respond to, or recover rapidly from disruptions;*



*including the impacts of sea level rise, extreme weather events, flooding , or other natural disasters. This resilience should extend to the entire transportation system including all modes and components such as roads, railroads, waterways, runways, power from multiple sources and various fuels, control and communications location systems, consideration of alternative routes. Alternative- especially harden routes for which there are no good alternative, alternative sources and backup system for fuels and backup control, communications, location systems, increased flooding from sea level rise, subsidence, increased occurrence of record storms, increased intensity of hurricanes, winter weather events and other extreme climatological and other climatological occurrences”.*

Put very simply, a road system is only as good as it’s drainage system, or the electrical system for traffic control, etc. For instance, VDOT is now requiring that road and bridge projects take into account projected sea level rise, but no additional credit is given to those added costs.

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## 6. LIMITATION ON THE NUMBER OF BALLOONS THAT MAY BE SET FREE

SPONSORED BY COUNCILMEMBER GUY TOWER

### **Background Information:**

The Virginia Aquarium & Marine Science Center, Clean Virginia Waterways, Christina Trapani Consulting, and Virginia's Coastal Zone Management Program have been monitoring coastal shorelines, water quality, and marine animal health in the state for more than 25 years. During this period, the Virginia Aquarium conducted coastal surveys, responded to stranded animals, and identified and documented the impacts of balloons on the environment. During these surveys, more than 150 balloons and balloon parts (ribbons, plastic closures) were recorded per mile of beach. Balloon litter injures and kills wildlife – more than 30 animal species are known to be impacted by balloons. The Virginia Aquarium's nationally recognized stranding response team has documented numerous balloons ingested by endangered sea turtles and marine mammals.

In Virginia, it is currently legal for any person to release up to 49 balloons within a one-hour period – in essence, it is legal to litter. Released balloons are a particularly insidious form of litter because of the ease with which they travel great distances and impact even remote areas. The Virginia Aquarium studies have documented balloons on Virginia beaches from as far away as Northern Virginia and even other states such as North Carolina, Maryland, New York, West Virginia, and Kansas.

### **Request:**

The General Assembly is requested to support legislation for the prohibition of any person for the deliberate, outdoor release, of any balloon(s). The proposed legislation would include a civil penalty of \$25 per balloon released, to be paid into the Nongame Wildlife Fund of the Virginia Department of Wildlife Resources. The bill would have exceptions for government agencies and releases for approved scientific and meteorological purposes.



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## 7. DEFINITION OF SMALL BUSINESS

SPONSORED BY COUNCILMEMBERS SABRINA WOOTEN & ROSEMARY WILSON

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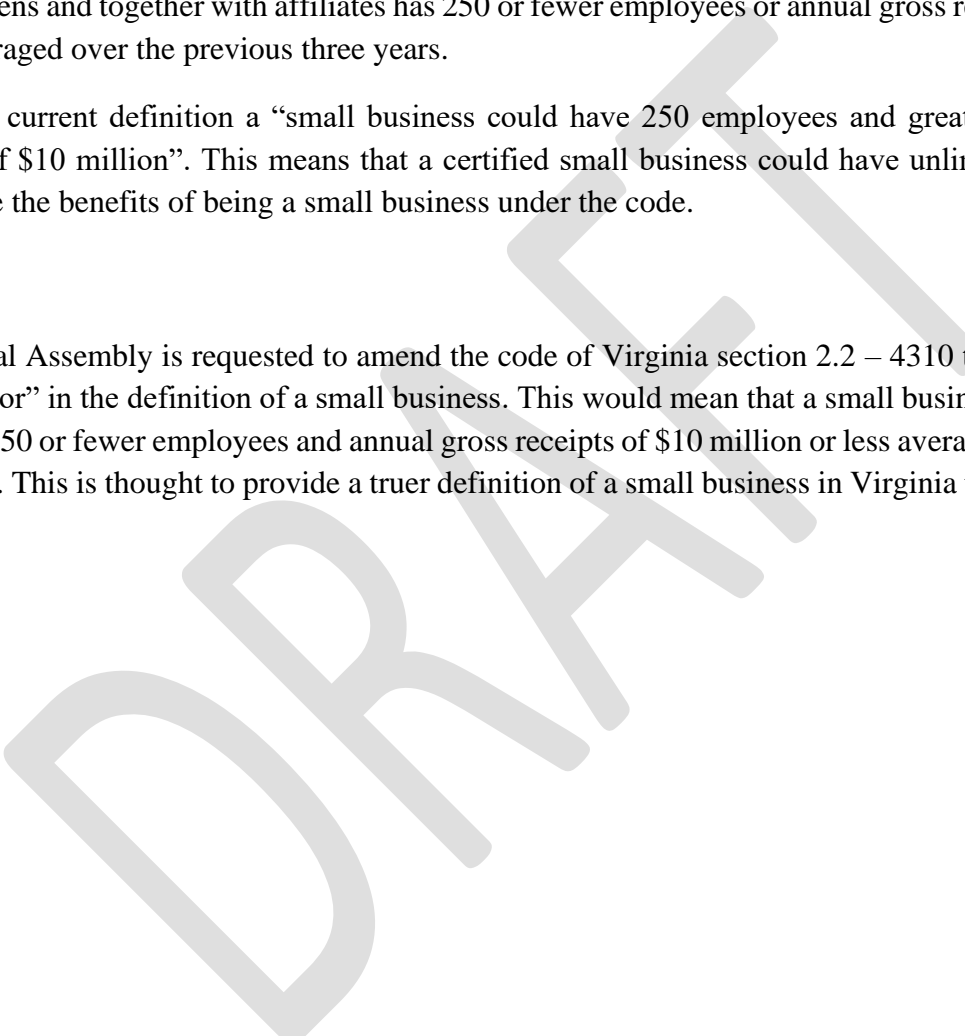
### **Background Information:**

Currently there are multiple definitions for small businesses in the code of Virginia. The one that is utilized most predominantly is in the Virginia Public Procurement Act. This states that a small business means a business independently owned and controlled by one or more individuals who are US citizens or legal resident aliens and together with affiliates has 250 or fewer employees or annual gross receipts of \$10 million or less averaged over the previous three years.

Under this current definition a “small business could have 250 employees and greater than annual gross revenues of \$10 million”. This means that a certified small business could have unlimited annual revenue and receive the benefits of being a small business under the code.

### **Request:**

The General Assembly is requested to amend the code of Virginia section 2.2 – 4310 to substitute the word “and” for “or” in the definition of a small business. This would mean that a small business would be defined as having 250 or fewer employees and annual gross receipts of \$10 million or less averaged over the previous three years. This is thought to provide a truer definition of a small business in Virginia than the current code.





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## 8. DIVERSITY IN JUDICIAL APPOINTMENTS

SPONSORED BY COUNCILMEMBER MICHAEL BERLUCCHI & THE VIRGINIA BEACH HUMAN RIGHTS COMMISSION

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### **Background Information:**

Bringing diverse experiences and perspectives to bear, allows judges to make better informed decisions and increases public confidence in their rulings. Given the diversity of the citizenry subject to the power of local courts in Virginia, judges from different backgrounds and experiences help to enrich judicial decision-making by including a variety of voices and perspectives. Despite these important benefits, the City's courts do not reflect the diversity of the City they serve. A recent retirement from this court has exacerbated this problem.

### **Request:**

The City requests that the General Assembly give favorable consideration to judicial candidates who are exceptionally well-qualified, but who also reflect the full diversity of the community they serve, and especially candidates of color, when filling any Virginia Beach court vacancy.

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## 9. RESTORE FUNDING DURING THE 2021 SESSION FOR THE RENOVATION OF BUILDING 2 IN RESPONSE TO THE EVENTS OF MAY 31, 2019

SPONSORED BY CITY COUNCIL

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### **Background Information:**

In response to the tragedy of May 31, 2019, City Council has pledged to not require workers previously working from Building 2 to return to those office spaces. The City is planning a total of \$83 million of expenditures to renovate three buildings in order to accommodate the workers from Building 2 into facilities that better serve the public. The displaced employees are working from over 20 different locations throughout the City. \$4 million has been expended for designing the needed renovations. Building 2 would be repurposed as Police headquarters and the first precinct headquarters, the current Police headquarters building, would be renovated at the cost of \$19 million to accommodate some of the workers previously in Building 2. The current City Hall would be renovated at a cost of \$30 million to accommodate the remainder of the displaced workers.

### **Request:**

The General Assembly is requested to appropriate \$10 million during the regular 2021 General Assembly session to the City to assist in renovations to the Building 2 at the City Hall complex made necessary due to the tragedy of May 31, 2019.





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## **10. REQUEST FOR THE GENERAL ASSEMBLY TO RESTORE FUNDING TO K-12 EDUCATION**

SPONSORED BY CITY COUNCIL

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### **Background Information:**

The General Assembly in its Regular Session of 2020 adopted significant increases in funding for kindergarten through 12<sup>th</sup> grade education. This additional funding would have provided substantial increases to teachers and other school system employees. Following the realization of the impact of the COVID-19 epidemic, the General Assembly re-allotted over \$2 billion in K-12 funding and subsequent to that defunded that amount. While although the state and the nation as a whole are still suffering under the impacts of COVID-19, impacts on the revenues of the Commonwealth are substantially less severe than envisioned just two months ago. The General Assembly may be in a position in January to restore a substantial amount of the funding that has been reduced for K-12 and other uses.

### **Request:**

The General Assembly is requested, to the extent possible, restore the de-allotted funding to K-12 made necessary after the adjournment of the Regular Session of 2020 with revenues much improved over that forecast just a few months ago. The General Assembly may be in a much better position fiscally by the middle of February 2021 when final decisions on the budget must be made.

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## **11. STORMWATER SUPPLEMENTAL FEE TO SUPPORT FLOOD MITIGATION BOND REFERENDUM**

SPONSORED BY COUNCILMEMBER JOHN MOSS

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### **Background Information:**

Section 15.2-2114 of the Virginia Code authorizes a locality to undertake a stormwater management program. Included in this legislation is the authorization to impose stormwater charges to residents of the City receiving the services provided by the stormwater management program. The City has a two-tier rate structure. The rate structure for residential customers is by a fixed equivalent residential unit or ERU. The rate structure for non-residential customers is based on the impermeable square footage of the relevant parcel.

As the City explores a possible bond referendum for flood mitigation, there is a desire to apportion the costs of flood mitigation projects equally upon all residents of the City. If the City seeks to pay for the debt associated with a flood mitigation referendum through increased real estate taxes, there would be an inequitable distribution of the burden of such debt, so the City desires additional options to structure the repayment of debt for flood mitigation.

### **Request:**

The City Council requests enabling authority to permit the levy of a supplemental stormwater management charge dedicated to flood mitigation upon properties exempted from real estate taxes, and such supplemental stormwater management charge shall be equal to the proportional costs imposed from increased real estate taxes upon taxable properties required for repayment of debt issued pursuant to a bond referendum for flood mitigation.



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## 12. REQUEST FOR A \$10 MILLION APPROPRIATION FOR THE HAMPTON UNIVERSITY PROTON THERAPY CANCER INSTITUTE

SPONSORED BY COUNCILMEMBER SABRINA WOOTEN

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### **Background Information:**

The Hampton University Proton Therapy Cancer Institute (HUPTI) is a \$225M state-of-the-art cancer treatment and research facility. HUPTI utilizes innovative precision medicine applications treating cancers of all types. Hampton University's outstanding medical physics program, strong ties to Jefferson Labs and long-standing relationship with the local cancer treatment health community made it uniquely suited to become home to our nation's eighth proton therapy treatment center.

HUPTI treats prostate, lung, breast, head and neck, CNS and brain, pediatric, and gynecological cancers using a state-of-the-art facility.

Most recently, Hampton University is also developing a strong COVID-19 Testing Center and a strategic MRI capability, that allows patients in Virginia's underserved areas to receive much needed diagnosis of lung conditions caused by COVID-19, which is a respiratory virus. Hampton University has been a partner with Virginia Beach for many years and is consistently recognized nationally as one of the finest Historically Black Colleges and Universities (HBCU) in the nation.

### **Request:**

The City Council of Virginia Beach supports the request of Hampton University to the General Assembly, during its 2021 session, to appropriate \$10 million to the Hampton University Proton Therapy Institute so they can expand its cancer therapy outreach and research. In addition to continuing to provide precision medicine via the proton beam while developing the delivery of innovative MRI advanced technology, especially to the underserved populations throughout the Commonwealth. Cancer remains the leading cause of death in Virginia and in the City of Virginia Beach citizens produce is the largest percentage of patients at HUPTI.



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### **13. REQUEST THE GENERAL ASSEMBLY TO FIND ALTERNATIVE SOURCES TO FUND MASS TRANSIT IN HAMPTON ROADS**

SPONSORED BY COUNCILMEMBER GUY TOWER

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#### **Background Information:**

The General Assembly during the 2020 session, enacted legislation creating a funding source for a backbone of transit services throughout the region. This legislation created the Hampton Roads Regional Transportation Program and is funded by additional taxes and redirection of existing taxes. An additional fee of 6 cents per hundred on deeds, instruments, etc., is to be paid by the grantor, and a redistribution of recordation tax to the localities, wherein the City of Virginia Beach lost \$1.9M per year that we formerly received to the general fund. Also, there was a new Transient Occupancy Tax, at the rate of 1% of the amount charged for the occupancy of any hotel space within the Hampton Roads region. The implementation of these fees and redirection will occur on May 1, 2021. The City believes that these is an inequitable burden on the City of Virginia Beach and an inequitable source of revenue. For instance, Transient Occupancy Tax has been purely a local tax and utilized by the City of Virginia Beach for infrastructure and other improvements for our resort industry. The additional 1% tax means that Virginia Beach's rates are now some of the highest in the nation. Also, the City, while having 25% of the region's population, generates over 40% of the recordation taxes as well as the Transient Occupancy Tax.

#### **Request:**

General Assembly is requested to find other, more equitable sources of revenue to fund transit in Hampton Roads. The increase in the Transient Occupancy Tax is proving detrimental to the hotel industry in the City as well as other jurisdictions in Hampton Roads. The use of the recordation tax, which the City has been counting on for many years, creates a decrease in revenue available to the City equal to 1/3 of a cent on the real estate tax rate.

The City believes that there are other, more equitable ways to fund transit than to put the burden on existing sources of revenue to the local governments, such as the recordation tax and Transient Occupancy Tax and the associated effect on tourism for the Commonwealth.



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## 14. AMENDMENTS TO 2020 ACTS OF ASSEMBLY FOR THE ATLANTIC PARK/DOME SITE DEVELOPMENT

SPONSORED BY COUNCILMEMBER GUY TOWER

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### Background Information:

During its 2020 session, the General Assembly amended 2019 legislation authorizing the City to receive certain sales and use taxes at a proposed \$250 million project known as Atlantic Park/Dome Site Development. As the City pursued due diligence on the project, there is a need to amend the development agreement to allow phasing of the project. In reviewing the implications of that change, bond counsel for the City has identified two items in the 2020 legislation that require clarification. Accordingly, the City requests technical amendments to the 2020 Acts of Assembly, Chapter 467.

### Request:

The City Council requests the General Assembly make the following amendments to 2020 Acts of Assembly, c. 467:

- Amend 15.2-5931(C)(1) to read as follows:
  - *Be issued at, above, or below par value, for cash or other valuable consideration, and mature at a time or times, whether as serial bonds or as term bonds or both, not later than June 30 of the fiscal year in which the City's entitlement to tax revenues expires pursuant to provisions of §15.2-5933(A)(2);*
- Amend 15.2-5931(I) in the following manner:
  - Refunding bonds may be issued for the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring, **and for** alleviating impending or actual default, **or either**, and may be issued in one or more series in an amount in excess of that of the bonds to be refunded.