

RESOLUTION NO. 11935-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT NEWS, VIRGINIA, CONCURRING WITH THE DECLARATION AND FINDING OF THE COMMISSION OF THE PENINSULA PORTS AUTHORITY OF VIRGINIA THAT THE SAID AUTHORITY SHOULD BE DISSOLVED.

WHEREAS, by chapter 46 of the Acts of Assembly of 1952, the General Assembly of Virginia authorized the council of the City of Newport News, Virginia ("the City"), to create a political subdivision to be known as the Newport News Port and Industrial Authority; and

WHEREAS, on multiple occasions after 1952 the General Assembly enacted amendments to chapter 46, all of which taken together with chapter 46 are referred to hereinafter as "the PPAV charter;" and

WHEREAS, by chapter 42 of the Acts of Assembly of 1956, Extra Session, the General Assembly amended the PPAV charter by authorizing the council of the City, either alone or together with the councils of the cities of Hampton or Warwick or both to create a political subdivision to be known as the Peninsula Port and Industrial Authority; and

WHEREAS, on February 24, 1959, acting pursuant to an agreement with the council of the City of Hampton, Virginia, by Ordinance No. 111, the council of the City created the Peninsula Port and Industrial Authority, subject to similar action being taken by the council of the City of Hampton; and

WHEREAS, on March 11, 1959, acting pursuant to the aforesaid agreement with the council of the City, by Ordinance No. 39, the council of the City of Hampton, Virginia, created the Peninsula Port and Industrial Authority; and

WHEREAS, by chapter 39 of the Acts of Assembly of 1964, the General Assembly amended the PPAV charter to change the name of the Peninsula Port and Industrial Authority to the Peninsula Ports Authority of Virginia ("PPAV"); and

WHEREAS, by chapter 724 of the Acts of Assembly of 2008, the General Assembly amended the PPAV charter to authorize the council of the City to authorize the dissolution of PPAV under terms therein specified without the concurrence of the council of the City of Hampton being required; and

WHEREAS, pursuant to the PPAV charter, by resolution adopted on May 26, 2009, the commission of PPAV ("the commission") declared and found that substantially all of its functions have been taken over or are being undertaken by one or more political subdivisions and that PPAV should be dissolved ("the PPAV resolution"); and

WHEREAS, on or about May 29, 2009, the Chairman of the commission filed a copy of the

PPAV resolution with the Clerk of the Council of the City; and

WHEREAS, the PPAV resolution authorizes and directs the officers and staff of PPAV, with the advice of counsel, to take appropriate actions and to execute and deliver the appropriate instruments to cause the transfer of the assets of PPAV to and the assumption of the obligations of PPAV by the Industrial Authority of the City of Newport News, Virginia ("the IDA"); and

WHEREAS, following the adoption of the PPAV resolution, the IDA and the Economic Development Authority of the City of Newport News, Virginia ("the EDA"), concluded that the EDA should accept the transfer of the assets of PPAV and assume its obligations instead of the IDA; and

WHEREAS, representatives of PPAV have agreed to recommend that the commission agree to permit the substitution of the EDA in place of the IDA; and

WHEREAS, the EDA completed an investigation of the assets and obligations of PPAV with the assistance of the financial advisor to the City; and

WHEREAS, by resolution adopted by its Board on November 6, 2009, the EDA agreed to accept a transfer of the assets of PPAV and to assume its obligations, subject to the concurrence by the council of the City that PPAV should be dissolved in accordance with the declaration and finding of the commission and subject further to the EDA and PPAV entering into a mutually satisfactory Transfer and Assumption Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News, Virginia, that it concurs with the declaration and finding by the commission that PPAV should be dissolved.

BE IT FURTHER RESOLVED, HOWEVER, that PPAV shall not be dissolved unless all of its obligations have been assumed by the EDA substantially as set forth herein.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON NOVEMBER 10, 2009

Mabel Washington Jenkins, CMC  
City Clerk

Joe S. Frank  
Mayor

A true copy, teste:

City Clerk