City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

February 11, 2014

From: Gregory D. Underwood
Norfolk Commonwealth's Attorney

Subject: Federal Asset Forfeiture Funds

Reviewed: Joseph Howell, Assistant to the City Manager

Ward/Superward: Citywide

Approved: Marcus D. Jones, City Manager

Item Number: R-6

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Norfolk Commonwealth's Attorney's Office

III. **Description**

This agenda item is an Ordinance to establish a Federal Forfeiture Asset Fund for Norfolk's pro rata share of Virginia's $2 million equitable share of a criminal asset forfeiture awarded to the State of Virginia Office of the Attorney General. While we don't have an exact amount of Norfolk's pro rata share, we believe it will be approximately $95,000 based on 35 Comp Board paid attorneys out of 739 Comp Board paid attorneys state-wide. A separate Federal Asset Forfeiture Revenue Account must be maintained and funds must be used solely for the purpose of law enforcement in accordance with the Guide to Equitable Sharing for State and Local Law Enforcement Agencies (April 2009).

IV. **Analysis**

The Federal Asset Forfeiture Fund will be used to help purchase a new case management system for the Norfolk Commonwealth's Attorney's Office to replace the outdated and unsupported VCAIS system the office currently uses.

V. **Financial Impact**

There is no local matching or percentage funding requirement for this Grant.

VI. **Environmental**

N/A

810 Union Street #1101 ▪ Norfolk, Virginia 23510
Phone: 757-664-4242 ▪ Fax: 757-664-4239

VII. Community Outreach/Notification

Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter has been coordinated with the Commonwealth's Attorney's Office and the City Attorney's Office.

Supporting Material from the U.S. Department of Justice and the Norfolk Commonwealth's Attorney's Office

- Federal Asset Forfeiture Fund Ordinance
- U.S. Department of Justice Equitable Sharing Program Participant Form VA117031A
- News Release about the Abbott Labs Depakote case settlement from the Commonwealth of Virginia Office of the Attorney General

mr12/20/2013

Form and Correctness Approval: RAP

By _____
Office of the City Attorney

Contents Approved:

By Gregory Underwood gdu
DEPT. Norfolk Commonwealth's ATTORNEY

NORFOLK, VIRGINIA

Form CCO-002

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund form which it is drawn and not appropriated for any other purpose.

$95,000.00 2275-120-8903
Account

_____ 1/8/14
Director of Finance Date

BCM

ORDINANCE No.

AN ORDINANCE ESTABLISHING THE FEDERAL ASSET FORFEITURE REVENUE ACCOUNT, ACCEPTING FROM THE U.S. DEPARTMENT OF JUSTICE, ASSET FORFEITURE AND MONEY LAUNDERING SECTION, AN EQUITABLE SHARING PROGRAM FUND AWARD OF $95,000.00, MORE OR LESS, AS FEDERAL FORFEITURE ASSET FUNDS, APPROPRIATING AND AUTHORIZING EXPENDITURE OF THE FUNDS FOR LAW ENFORCEMENT PURPOSES, IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ATTACHED EQUITABLE SHARING AGREEMENT AND CERTIFICATION.

— — —

BE ORDAINED by the Council of the City of Norfolk:

Section 1:- That $95,000.00, more or less, equitable sharing program award from the U. S. Department of Justice, Asset Forfeiture and Money Laundering Section, for law enforcement purposes in accordance with the Guide to Equitable Sharing for State and Local Law Enforcement Agencies (April 2009) and the Equitable Sharing Agreement and Certification, a copy of which agreement is attached hereto as Exhibit A, is hereby authorized and approved.

Section 2:- That a sum of $95,000.00, more or less, in asset forfeiture award funds is hereby appropriated and authorized for expenditure for law enforcement purposes as herein described, when made available from the U.S. Department of Justice, Asset Forfeiture and Money Laundering Section.

Section 3:- That the Federal Asset Forfeiture Fund Account is hereby established and the aforesaid $95,000.00, more or less, in forfeiture award funds shall be deposited in the said account. The said account shall be maintained and reported annually, within 60 days of the Fiscal Year End utilizing Exhibit A.

Section 4:- That the City Manager is authorized to correct, amend or revise Exhibit A, as he may deem desirable to carry out the intent of the Council and ensure compliance with the U. S. Department of Justice, Asset Forfeiture and Money Laundering Section, Equitable Sharing Program.

EXHIBIT
A.

OMB Number 1123-0011
Expires 9-30-2014

Equitable Sharing Agreement and Certification

◯ Police Department ◯ Sheriff's Office ◯ Task Force (Complete Table A)
◉ Prosecutor's Office ◯ National Guard Counterdrug Unit ◯ Other

** Please fill each required field. Hover mouse over any fillable field for pop-up instructions. **

Agency Name: Norfolk Commonwealth's Attorney's Office

NCIC/ORI/Tracking Number: V A 1 1 7 0 3 1 A

Mailing Address: 800 East City Hall Avenue, Suite 600

City: Norfolk **State:** VA **Zip:** 23510

Finance Contact: First: Betsy Last: Powell
Phone: 757-664-4808 E-mail: betsy.powell@norfolk.gov

Preparer: First: Betsy Last: Powell
☒ Same as Finance Contact Phone: 757-664-4808 E-mail: betsy.powell@norfolk.gov

Independent Public Accountant: E-mail: cxystros@kpmg.com

Last FY End Date: 06/30/2013 **Agency Current FY Budget:** $2,516,129.92

◉ **New Participant:** Read the Equitable Sharing Agreement and sign the Affidavit.

◯ **Existing Participant:** Complete the Annual Certification Report, read the Equitable Sharing Agreement, and sign the Affidavit.

◯ **Amended Form:** Revise the Annual Certification Report, read the Equitable Sharing Agreement, and sign the Affidavit.

Annual Certification Report

	Summary of Equitable Sharing Activity	Justice Funds[1]	Treasury Funds[2]
1	Beginning Equitable Sharing Fund Balance (must match Ending Equitable Sharing Fund Balance from prior FY)		
2	Federal Sharing Funds Received		
3	Federal Sharing Funds Received from Other Law Enforcement Agencies and Task Forces (To populate, complete Table B)		
4	Other Income		
5	Interest Income Accrued — Non-Interest Bearing ◯ Interest Bearing ◯		
6	Total Equitable Sharing Funds (total of lines 1 - 5)	$0.00	$0.00
7	Federal Sharing Funds Spent (total of lines a - m below)	$0.00	$0.00
8	Ending Balance (difference between line 7 and line 6)	$0.00	$0.00

[1] Justice Agencies are: FBI, DEA, ATF, USPIS, USDA, DCIS, DSS, and FDA.

[2] Treasury Agencies are: IRS, ICE, CBP, TTB, USSS, and USCG.

	Summary of Shared Funds Spent	Justice Funds	Treasury Funds
a	Total spent on salaries under permitted salary exceptions		
b	Total spent on overtime		
c	Total spent on informants, "buy money", and rewards		
d	Total spent on travel and training		
e	Total spent on communications and computers		
f	Total spent on weapons and protective gear		
g	Total spent on electronic surveillance equipment		
h	Total spent on buildings and improvements		
i	Total transfers to other participating state and local law enforcement agencies (To populate, complete Table C)		
j	Total spent on other law enforcement expenses (To populate, complete Table D)		
k	Total Expenditures in Support of Community-Based Programs (To populate, complete Table E)		
l	Total Windfall Transfers (To populate, complete Table F)		
m	Total spent on matching grants (To populate, complete Table G)		
n	**Total**	$0.00	$0.00
o	Did your agency receive non-cash assets? ◯ Yes ◯ No If yes, complete Table H.		

Please fill out the following tables, if applicable.

Table A: Members of Task Force

Agency Name	NCIC/ORI/Tracking Number

Table B: Equitable Sharing Funds Received from other Agencies

Transferring Agency Name, City, and State	Justice Funds	Treasury Funds
Agency Name:		
NCIC/ORI/Tracking Number:		

Table C: Equitable Sharing Funds Transferred to Other Agencies

Receiving Agency Name, City, and State	Justice Funds	Treasury Funds
Agency Name:		
NCIC/ORI/Tracking Number:		

Table D: Other Law Enforcement Expenses

Description of Expense	Justice Funds	Treasury Funds

Table E: Expenditures in Support of Community-Based Programs

Recipient	Justice Funds	

Table F: Windfall Transfers

Recipient	Justice Funds	Treasury Funds

Table G: Matching Grants

Matching Grant Name	Justice Funds	Treasury Funds

Table H: Other Non-Cash Assets Received

Source	Description of Asset
Justice ◯	
Treasury ◯	

Table I: Civil Rights Cases

Name of Case	Type of Discrimination Alleged			
	☐ Race	☐ Color	☐ National Origin	☐ Gender
	☐ Disability	☐ Age	☐ Other _____	

Paperwork Reduction Act Notice

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create accurate and easily understood forms that impose the least possible burden on you to complete. The estimated average time to complete this form is 30 minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, please write to the Asset Forfeiture and Money Laundering Section, 1400 New York Avenue, N.W., Washington, DC 20005.

Equitable Sharing Agreement

This Federal Equitable Sharing Agreement, entered into among (1) the Federal Government, (2) the above-stated law enforcement agency ("Agency"), and (3) the governing body, sets forth the requirements for participation in the federal Equitable Sharing Program and the restrictions upon the use of federally forfeited cash, property, proceeds, and any interest earned thereon, which are equitably shared with participating law enforcement agencies.
By its signatures, the Agency agrees that it will be bound by the statutes and guidelines that regulate shared assets and the following requirements for participation in the federal Equitable Sharing Program. Receipt of the signed Equitable Sharing Agreement and Certification (this "Document") is a prerequisite to receiving any equitably shared cash, property, or proceeds.

1. **Submission.** This Document must be submitted to aca.submit@usdoj.gov within 60 days of the end of the Agency's fiscal year. This Document must be submitted electronically with the Affidavit/Signature submitted by fax. This will constitute submission to the Department of Justice and the Department of the Treasury.

2. **Signatories.** This agreement must be signed by the head of the Agency and the head of the governing body. Examples of Agency heads include police chief, sheriff, director, commissioner, superintendent, administrator, chairperson, secretary, city attorney, county attorney, district attorney, prosecuting attorney, state attorney, commonwealth attorney, and attorney general. The governing body's head is the person who allocates funds or approves the budget for the Agency. Examples of governing body heads include city manager, mayor, city council chairperson, county executive, county council chairperson, director, secretary, administrator, commissioner, and governor.

3. **Uses.** Any shared asset shall be used for law enforcement purposes in accordance with the statutes and guidelines that govern the federal Equitable Sharing Program as set forth in the current edition of the Department of Justice's *Guide to Equitable Sharing for State and Local Law Enforcement (Justice Guide),* and the Department of the Treasury's *Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies (Treasury Guide).*

4. **Transfers.** Before the Agency transfers cash, property, or proceeds to other state or local law enforcement agencies, it must first verify with the Department of Justice or the Department of the Treasury, depending on the source of the funds, that the receiving agency is a current and compliant Equitable Sharing Program participant.

5. **Internal Controls.** The Agency agrees to account separately for federal equitable sharing funds received from the Department of Justice and the Department of the Treasury. Funds from state and local forfeitures and other sources must not be commingled with federal equitable sharing funds. The Agency shall establish a separate revenue account or accounting code for state, local, Department of Justice, and Department of the Treasury forfeiture funds. Interest income generated must be accounted for in the appropriate federal equitable sharing account.

The Agency agrees that such accounting will be subject to the standard accounting requirements and practices employed for other public funds as supplemented by requirements set forth in the current edition of the *Justice Guide* and the *Treasury Guide,* including the requirement in the *Justice Guide* to maintain relevant documents and records for five years.

The misuse or misapplication of shared resources or the supplantation of existing resources with shared assets is prohibited. Failure to comply with any provision of this agreement shall subject the recipient agency to the sanctions stipulated in the current edition of the *Justice or Treasury Guides,* depending on the source of the funds/property.

6. **Audit Report.** Audits will be conducted as provided by the Single Audit Act Amendments of 1996 and OMB Circular A-133. The Department of Justice and Department of the Treasury reserve the right to conduct periodic random audits.

Affidavit - New Participant

Under penalty of perjury, the undersigned officials certify that **they have read and understand their obligations under the Equitable Sharing Agreement** and that the information submitted in conjunction with this Document is an accurate accounting of funds received and spent by the Agency under the *Justice* and/or *Treasury Guides* during the reporting period and that the recipient Agency is in compliance with the National Code of Professional Conduct for Asset Forfeiture.

The undersigned certify that the recipient Agency is in compliance with the nondiscrimination requirements of the following laws and their Department of Justice implementing regulations: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), which prohibit discrimination on the basis of race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity. The Agency agrees that it will comply with all federal statutes and regulations permitting federal investigators access to records and any other sources of information as may be necessary to determine compliance with civil rights and other applicable statutes and regulations.

During the past fiscal year: (1) has any court or administrative agency issued any finding, judgment, or determination that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above; or (2) has the Agency entered into any settlement agreement with respect to any complaint filed with a court or administrative agency alleging that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above? ○ **Yes** ◉ **No**

If you answered yes to the above question, complete Table I

Agency Head		**Governing Body Head**	
Signature:	Gregory D. Underwood	Signature:	
Name:	Gregory D. Underwood	Name:	Marcus D Jones
Title:	Commonwealth Attorney	Title:	City Manager
Date:	11-13-13	Date:	11-13-13
E-mail:	gregory.underwood@norfolk.gov	E-mail:	city.manager@norfolk.gov

Subscribe to Equitable Sharing Wire:
The Equitable Sharing Wire is an electronic newsletter that gives you important, substantive, information regarding Equitable Sharing policies, practices, and procedures.

Gregory.Underwood@norfolk.gov
Betsy.powell@norfolk.gov

Final Instructions:

Step 1: Click to save for your records
Step 2: Click to save in XML format
Step 3: Email the XML file to aca.submit@usdoj.gov
Step 4: Scan & email this Affidavit to aca.affidavit@usdoj.gov
(Email subject line must include Agency NCIC/ORI Code)

FOR AGENCY USE ONLY

Entered by _____

Entered on _____

◉ FY End: 06/30/2013

Date Printed: November 12, 2013 14:16

○ NCIC: VA117031A Agency: Norfolk Commonwealth's Attorney's Office Phone: 757-664-4808

○ State: VA Preparer: Betsy Powell E-mail: betsy.powell@norfolk.gov

Commonwealth of Virginia
Office of the Attorney General

Mark Herring
Attorney General

900 East Main Street
Richmond, Virginia 23219

For media inquiries only, contact: Brian J. Gottstein
Email: bgottstein@oag.state.va.us (best contact method)
Phone: 804-786-5874

Commonwealth's attorneys present Cuccinelli with "Champion of Justice" award

- Prosecutors thank AG and his office for giving $20 million from criminal forfeiture to pay for statewide prosecutor training in perpetuity -

News release from the Virginia Association of Commonwealth's Attorneys:

RICHMOND (October 25, 2013) -- On Friday, October 25, 2013, the Virginia Association of Commonwealth's Attorneys presented its "Champion of Justice" Award to Attorney General Kenneth T. Cuccinelli, II, in recognition of his efforts to secure for Virginia's prosecutors $20 million from the Abbott Labs drug asset forfeiture. A memorandum of understanding has been signed by both the Office of the Attorney General and the Commonwealth's Attorneys' Services Council and currently is awaiting final approval by the United States Treasury Executive Office for Asset Forfeiture (TEOAF).

$18 million of this drug asset forfeiture money will be used to establish an endowment, the interest from which will help fund in perpetuity the mandatory training needs of Virginia's 700+ prosecutors. Currently, the cost of this training is paid by localities or out of the pockets of individual prosecutors.

Attorneys in Virginia are required to attend a minimum of 12 hours of mandatory legal training each year. At current rates of return, the interest on this figure amounts to approximately $500-$700 of training per attorney per year.

The remaining $2 million will go directly on a *pro rata* basis to the individual offices to pay for some urgent equipment and computer needs.

The "Champion of Justice Award" is given annually to a select group of legislators and other state officials who have worked to enhance the criminal justice system and who have demonstrated support for Virginia's prosecutors. This award was one of six awarded by VACA in 2013, and is intended to recognize the Attorney General's efforts on behalf of the Commonwealth's Attorneys over the past two years. VACA is non-partisan, and this award should not be construed as an endorsement of the Attorney General's campaign for Governor.

Commonwealth's attorneys who were present to make the award:
Don Caldwell, Roanoke City
Joel Branscom, Botetourt County
Erin DeHart, Bland County

Harvey Bryant, City of Virginia Beach
Rusty McGuire, Louisa County
Robert Cunningham, Lancaster County
Mike Doucette, City of Lynchburg, Immediate Past President, VACA
and Bob Harris, Executive Director, Commonwealth's Attorneys Services Council

More about Attorney General Cuccinelli

Photos of the attorney general

A copy of this news release may be found on the attorney general's web site (http://r20.rs6.net/tn.jsp?e=001ott-eVZGUTeB4XrBT5tRRY-4QZ3erX9v4-Eln81YYH5IRYBB8zFAJ1PuEyCjU6YZip6QcYv8wPB9wlb83tzWLoH2SCq8RBoOA3DZW7hgbyWz275b4JF5LYZemGaaugBvKeR40mwVRtMqUAdTksbNBPxsDd5Zh7WIcGfFeqcpTwhFfzRzFMM1LYpBbD-1lzwnoovajQD7f0Q=) here(http://r20.rs6.net/tn.jsp?e=001ott-eVZGUTeB4XrBT5tRRY-4QZ3erX9v4-Eln81YYH5IRYBB8zFAJ1PuEyCjU6YZip6QcYv8wPB9wlb83tzWLoH2SCq8RBoOA3DZW7hgbyWz275b4JF5LYZemGaaugBvKeR40mwVRtMqUAdTksbNBPxsDd5Zh7WIcGfFeqcpTwhFfzRzFMM1LYpBbD-1lzwnoovajQD7f0Q=).

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