MEMORANDUM

TO: The Honorable City Council

CC TO: Douglas L. Smith, City Manager; Wynter C. Benda, Chief Deputy City Manager

FROM: Kristen M. Lentz, P. E., Director

SUBJECT: Amendment to 2014 MOA with HRSD

DATE: October 12, 2018

In 2010, all Hampton Roads localities and Hampton Roads Sanitation District (HRSD) were the subject of enforcement action by the U.S. Environmental Protection Agency (EPA) due to sanitary sewer overflows that occurred during wet weather events. As a result, HRSD and the localities entered into Consent Orders requiring them to make wet weather capacity and other improvements to their sanitary sewer facilities.

In 2014, HRSD and the Hampton Roads localities entered into a Memorandum of Agreement (MOA) outlining roles and responsibilities for a coordinated plan to improve the region’s sanitary sewer system. A key component of the MOA was HRSD’s acceptance of regulatory liability for capacity-related wet weather overflows in the locality-owned sewer collection systems after the wet weather capacity improvements had been completed.

HRSD has changed its approach and is now planning to invest $1B in the Sustainable Water Initiative for Tomorrow (SWIFT) program between 2018 and 2030. SWIFT will treat wastewater to drinking water standards and pump it into the groundwater aquifer. HRSD believes investment in the SWIFT will provide a greater environmental benefit than enhancing the region’s sanitary sewer system capacity, and HRSD has asked EPA to allow them to delay the capacity improvements to 2050 and beyond.

While the localities are supportive of the SWIFT program, they are not comfortable with being subject to legal action for capacity related sewer overflows without HRSD taking short-term actions to significantly improve the system’s capacity. To assuage those concerns, HRSD has agreed to assume liability for wet weather overflows immediately upon approval by EPA of their proposal. That agreement is reflected in the amended MOA that City Council will be considering on October 23rd. All of the utilities directors for Hampton Roads localities are recommending approval of the amended MOA.