

**RESOLUTION NO. 12992-16**

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN PROJECT ADMINISTRATION AGREEMENT BETWEEN THE CITY AND THE VIRGINIA DEPARTMENT OF TRANSPORTATION FOR THE WARWICK BOULEVARD OVERLAKE MAURY BRIDGE REPLACEMENT PROJECT DESIGNATED BY VDOT AS UPC NO. 101279.

WHEREAS, the City requested that VDOT establish a Smart SCALE grant for the Project as UPC No. 101279: and

WHEREAS, in order to obtain funds from VDOT for this project, it is necessary that the City execute a Project Administration Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Project Administration Agreement by and between the City of Newport News, Virginia, and the Commonwealth of Virginia, Department of Transportation.

2. That a copy of the Project Administration Agreement is attached hereto and made a part hereof.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON DECEMBER 13, 2016

Mabel Washington Jenkins, MMC  
City Clerk

McKinley L. Price, DDS  
Mayor

A true copy, teste:

City Clerk

**STANDARD PROJECT ADMINISTRATION AGREEMENT**  
**State-aid Projects**

Project Number	UPC	Local Government
0060-121-R18	101279	City of Newport News

THIS AGREEMENT, made and executed in triplicate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Newport News, Virginia, hereinafter referred to as the LOCALITY and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT.

WHEREAS, the LOCALITY has expressed its desire to administer the work described in Appendix A, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds shown in Appendix A have been allocated to finance the Project(s) and the funding currently allocated or proposed for the project(s) does not include Federal-aid Highway funds; and

WHEREAS, both parties have concurred in the LOCALITY's administration of the phase(s) of work for the respective Project(s) listed in Appendix A in accordance with applicable federal, state and local laws and regulations.

NOW THEREFORE, in consideration of the mutual premises contained herein, the parties hereto agree as follows:

1. The LOCALITY shall:
  - a. Be responsible for all activities necessary to complete the noted phase(s) of each Project shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties.
  - b. Receive prior written authorization from the DEPARTMENT to proceed with the project.
  - c. Administer the project(s) in accordance with guidelines applicable to Locally Administered Projects as published by the DEPARTMENT.
  - d. Provide certification by a LOCALITY official of compliance with applicable laws and regulations on the **State Certification Form for State Funded Projects** or in another manner as prescribed by the DEPARTMENT.
  - e. Maintain accurate and complete records of each Project's development of all expenditures and make such information available for inspection or auditing by the DEPARTMENT. Records and documentation for items for which reimbursement

will be requested shall be maintained for not less than three (3) years following acceptance of the final voucher on each Project.

- f. No more frequently than monthly, submit invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT. The supporting documentation shall include copies of related vendor invoices paid by the LOCALITY and also include an up-to-date project summary and schedule tracking payment requests and adjustments.
- g. Reimburse the DEPARTMENT all Project expenses incurred by the DEPARTMENT if due to action or inaction solely by the LOCALITY the project becomes ineligible for state reimbursement, or in the event the reimbursement provisions of Section 33.2-348 or Section 33.2-331 of the Code of Virginia, 1950, as amended, or other applicable provisions of state law or regulations require such reimbursement.
- h. On Projects that the LOCALITY is providing the required match to state funds, pay the DEPARTMENT the LOCALITY's match for eligible Project expenses incurred by the DEPARTMENT in the performance of activities set forth in paragraph 2.a.
- i. Administer the Project in accordance with all applicable federal, state, and local laws and regulations. Failure to fulfill legal obligations associated with the project may result in forfeiture of state-aid reimbursements
- j. If legal services other than that provided by staff counsel are required in connection with condemnation proceedings associated with the acquisition of Right-of-Way, the LOCALITY will consult the DEPARTMENT to obtain an attorney from the list of outside counsel approved by the Office of the Attorney General. Costs associated with outside counsel services shall be reimbursable expenses of the project.
- k. For Projects on facilities not maintained by the DEPARTMENT, provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT.

2. The DEPARTMENT shall:

- a. Perform any actions and provide any decisions and approvals which are the responsibility of the DEPARTMENT, as required by federal or state laws and regulations or as otherwise agreed to, in writing, between the parties.
- b. Upon receipt of the LOCALITY's invoices pursuant to paragraph 1.f, reimburse the LOCALITY the cost of eligible Project expenses, as described in Appendix A. Such reimbursements shall be payable by the DEPARTMENT within 30 days of an acceptable submission by the LOCALITY.
- c. If appropriate, submit invoices to the LOCALITY for the LOCALITY's share of eligible project expenses incurred by the DEPARTMENT in the performance of activities pursuant to paragraph 2.a.

- d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with applicable laws and regulations.
  - e. Make available to the LOCALITY guidelines to assist the parties in carrying out responsibilities under this Agreement.
3. Appendix A identifies the funding sources for the project, phases of work to be administered by the LOCALITY, and additional project-specific requirements agreed to by the parties. There may be additional elements that, once identified, shall be addressed by the parties hereto in writing, which may require an amendment to this Agreement.
  4. If designated by the DEPARTMENT, the LOCALITY is authorized to act as the DEPARTMENT's agent for the purpose of conducting survey work pursuant to Section 33.2-1011 of the Code of Virginia, 1950, as amended.
  5. Nothing in this Agreement shall obligate the parties hereto to expend or provide any funds in excess of funds agreed upon in this Agreement or as shall have been included in an annual or other lawful appropriation. In the event the cost of a Project is anticipated to exceed the allocation shown for such respective Project on Appendix A, both parties agree to cooperate in providing additional funding for the Project or to terminate the Project before its cost exceeds the allocated amount, however the DEPARTMENT and the LOCALITY shall not be obligated to provide additional funds beyond those appropriated pursuant to an annual or other lawful appropriation.
  6. Nothing in this agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.
  7. The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement. The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.
  8. The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this of this Agreement or otherwise. Notwithstanding any other provision of this Agreement to the contrary, unless otherwise provided, the Parties agree that the LOCALITY or the DEPARTMENT shall not be bound by any agreements between the either party and other persons or entities concerning any matter which is the subject of

this Agreement, unless and until the LOCALITY or the DEPARTMENT has, in writing, receive a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

9. This agreement may be terminated by either party upon 30 days advance written notice. Eligible Project expenses incurred through the date of termination shall be reimbursed in accordance with paragraphs 1.f, 1.g, and 2.b, subject to the limitations established in this Agreement and Appendix A. Upon termination and unless otherwise agreed to, the DEPARTMENT shall retain ownership of plans, specifications, and right of way for which state funds have been provided, unless all state funds provided for the Project have been reimbursed to the DEPARTMENT by the LOCALITY, in which case the LOCALITY will have ownership of the plans, specifications, and right of way.

THE LOCALITY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THE LOCALITY and the DEPARTMENT further agree that should Federal-aid Highway funds be added to the project, this agreement is no longer applicable and shall be terminated. The LOCALITY and the DEPARTMENT mutually agree that they shall then enter into a Standard Project Administration Agreement for Federal-aid Projects.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors, and assigns.

THIS AGREEMENT may be modified in writing by mutual agreement of both parties.

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IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

**CITY OF NEWPORT NEWS, VIRGINIA:**

\_\_\_\_\_  
James M. Bourey  
Typed or printed name of signatory

APPROVED AS TO FORM:

\_\_\_\_\_  
City Manager  
Title

\_\_\_\_\_  
City Attorney  
Date

WITNESS:  
\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Date

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this agreement.

**COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:**

\_\_\_\_\_  
Chief of Policy  
Commonwealth of Virginia  
Department of Transportation

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

**Attachment**  
Appendix A – UPC 101279

Appendix A

Date: 11/8/2016

Project Number: 0060-121-R18 UPC: 101279 CFDA # 20.205 Locality: City of Newport News

Project Location ZIP+4: 23606-2344	Locality DUNS# 809755085	Locality Address (incl ZIP+4): 2400 Washington Avenue Newport, News VA 23607-4301
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**Project Narrative**

Scope:	Warwick Blvd - Replacement of bridge over Lake Maury
From:	0.08 miles south of Route 312
To:	0.35 miles south of Route 312
Locality Project Manager Contact Info:	Carolyn Beamon
Department Project Coordinator Contact Info:	Chessica Villaflores (757)925-2227 CVillaflores@VDOT.Virginia.gov

**Project Estimates**

	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	\$858,400	\$130,500	\$7,235,000	\$8,223,900
Estimated VDOT Project Expenses	\$7,000	\$0	\$15,000	\$22,000
Estimated Total Project Costs	\$865,400	\$130,500	\$7,250,000	\$8,245,900

**Project Cost and Reimbursement**

Phase	Estimated Project Costs	Funds type <i>(Choose from drop down box)</i>	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering	\$865,400	Revenue Sharing	50%	\$432,700	\$432,700	
				\$0	\$0	
				\$0	\$0	
				\$0	\$0	
<b>Total PE</b>	<b>\$865,400</b>			<b>\$432,700</b>	<b>\$432,700</b>	<b>\$425,700</b>
Right of Way & Utilities	\$130,500	Revenue Sharing	50%	\$65,250	\$65,250	
				\$0	\$0	
				\$0	\$0	
				\$0	\$0	
<b>Total RW</b>	<b>\$130,500</b>			<b>\$65,250</b>	<b>\$65,250</b>	<b>\$65,250</b>
Construction	\$5,964,024	Revenue Sharing	50%	\$2,982,012	\$2,982,012	
	\$45,900	Local Funds	100%	\$45,900	\$0	
	\$1,240,076	Smart Scale (HB2)	0%	\$0	\$1,240,076	
				\$0	\$0	
<b>Total CN</b>	<b>\$7,250,000</b>			<b>\$3,027,912</b>	<b>\$4,222,088</b>	<b>\$4,207,088</b>
<b>Total Estimated Cost</b>	<b>\$8,245,900</b>			<b>\$3,525,862</b>	<b>\$4,720,038</b>	<b>\$4,698,038</b>

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)

\$4,720,038

Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)

\$4,698,038

**Project Financing**

Revenue Sharing State Match	Revenue Sharing Local Match	Smart Scale (HB2) DGP	Local Funds		Aggregate Allocations
\$3,479,962	\$3,479,962	\$1,240,076	\$45,900		\$8,245,900

**Program and Project Specific Funding Requirements**

- This project shall be administered in accordance with VDOT's Urban Manual and Urban Construction Initiative Program Administration Guide
- In accordance with Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual, the locality completed scoping on 01/07/2014.
- This is a limited funds project. The Locality shall be responsible for any additional funding in excess of (if applicable)
- Revenue Sharing Program funds, as indicated in the Project Financing section, were approved in the following fiscal years:
  - FY08 - \$209,924 (\$104,962 Locality and \$104,962 VDOT)
  - FY12 - \$1,750,000 (\$875,000 Locality and \$875,000 VDOT)
  - FY13 - \$1,989,310 (\$984,655 Locality and \$984,655 VDOT)
  - FY14 - \$1,780,690 (\$890,345 Locality and \$890,345 VDOT)
  - FY17 - \$1,250,000 (\$625,000 Locality and \$625,000 VDOT)
- This project has Revenue Sharing Program allocations. Per §33.2-357 the project must progress in order to prevent these funds from being de-allocated"
- All local funds included on this Appendix have been formally committed by the local government's board or council resolution
- Project estimate, schedule and commitment to funding are subject to the requirements established in the Commonwealth Transportation Board Policy and Guidelines for Implementation of a Project Prioritization Process, Code of Virginia, and VDOT's Instructional and Informational Memorandums.
- This project shall be initiated and at least a portion of the programmed funds expended within one year of the budgeted year of allocation or funding may be subject to reprogramming to other projects selected through the prioritization process. In the event the Project is not advanced to the next phase of construction when requested by the Commonwealth Transportation Board, the locality or metropolitan planning organization may be required, pursuant to § 33.2-214 of the Code of Virginia, to reimburse the Department for all state and federal funds expended on the project.
- This project has been selected through the Smart Scale (HB2) application and selection process and will remain in the SYIP as a funding priority unless certain conditions set forth in the Commonwealth Transportation Board Policy and Guidelines for Implementation of a Project Prioritization Process arise. Pursuant to the Commonwealth Transportation Board Policy and Guidelines for Implementation of a Project Prioritization Process and HB2 Implementation Policy Guide, Section 5.3, this project will be re-scored and/or the funding decision re-evaluated if any of the following conditions apply: a change in the scope, an estimate increase prior to contract advertisement or award, or a significant reduction in the locally/regionally leveraged funds. Applications may not be submitted in a subsequent annual HB2 prioritization cycle to account for a cost increase on a previously prioritized project.

Authorized Locality Official and Date

Authorized VDOT Official and Date

Typed or printed name of person signing

Typed or printed name of person signing