

CITY/TOWN/TOWN OF ____
Urban Construction Initiative
Program Administration Agreement

THIS AGREEMENT, made and executed in triplicate as of this ____ day of _____, 201_, by and between the CITY/TOWN/Town of ____, Virginia, a municipal corporation of the Commonwealth of Virginia, hereinafter referred to as the CITY/TOWN/TOWN and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT; and

WHEREAS, the CITY/TOWN/TOWN has, in accordance with Section 33.2-362 of the Code of Virginia 1950, as amended, expressed its desire to administer its urban system construction program and receive quarterly payments for the state portion of its annual urban construction allocations; and

WHEREAS, the CITY/TOWN/TOWN has held a public hearing and adopted a capital improvement program of projects and provided an ordinance or resolution approving same to the DEPARTMENT; and

WHEREAS, the Commonwealth Transportation Board adopts a Six-Year Improvement Program annually, and this program includes allocations for urban system projects in the CITY/TOWN/TOWN, and the federal portion of such construction allocations is identified as a part of 20.205 Highway Planning and Construction in the Catalog of Federal Domestic Assistance; and

WHEREAS, the DEPARTMENT is required to meet specific requirements of the Federal Highway Administration (FHWA) on projects funded by federal transportation funds; and

WHEREAS, both parties have concurred in the CITY/TOWN/TOWN's general administration of the design, right-of-way acquisition, utility relocation, and construction of the federally-funded and state-funded projects; and

WHEREAS, DEPARTMENT costs for State Environmental Review Process (SERP) processing, National Environmental Policy Act (NEPA) processing, and project review are eligible project costs and shall be billed to the CITY/TOWN/TOWN as may be agreed upon prior to project initiation by the CITY/TOWN/TOWN and DEPARTMENT; and

WHEREAS, the CITY/TOWN/TOWN may enter into separate agreements with the DEPARTMENT so that the DEPARTMENT may provide services to assist the CITY/TOWN/TOWN in the administration of specific projects as may be mutually agreed.

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

A. For urban system construction projects partially funded by federal highway construction allocations as shown in an approved Six-Year Improvement Program:

1. The CITY/TOWN shall:

- a. Be responsible for all regulatory clearances including permits, the design, right-of-way acquisition, utility relocation, inspection, and construction of projects in accordance with federal and state law and regulations, except the administrative portion of the SERP, and coordinate with the DEPARTMENT for all NEPA scoping decisions, reviews, and approvals.
- b. Receive authorization from the DEPARTMENT before initiating preliminary engineering, right-of-way acquisition, and construction phases of project development.
- c. Maintain accurate records of the projects including documentation of all expenditures. Records for items upon which reimbursement will be requested shall be maintained for no less than three (3) years following FHWA acceptance of the final voucher. Project records shall be made available for inspection and/or audit by the DEPARTMENT or FHWA upon request.
- d. Submit no more frequently than monthly project level invoices with supporting documentation to the DEPARTMENT in the form prescribed by the DEPARTMENT.
- e. Reimburse the DEPARTMENT all project expenses incurred by the DEPARTMENT in the event that the CITY/TOWN cancels a project and/or, due to actions by the CITY/TOWN, the expenditures incurred are not reimbursed by the FHWA or in the event reimbursements are required to be returned to the FHWA.

2. The DEPARTMENT shall:

- a. Perform the administrative portion of the SERP, provide the CITY/TOWN the results of the SERP, and provide the necessary coordination with the FHWA relative to environmental study scoping, design, decisions, reviews, approvals, and financial documentation, as appropriate.
- b. Upon receipt of the CITY/TOWN's monthly invoices submitted pursuant to paragraph A.1.d, reimburse the CITY/TOWN an amount not to exceed the lesser of the federal portion of the actual cost of eligible items or the amount appropriated and allocated to date for each project. Such reimbursements shall be payable by the DEPARTMENT within 30 calendar days of receipt of a complete and acceptable invoice.

B. For urban system construction projects not financed by federal funds but at least partially financed by state construction funds through the quarterly payments made by the DEPARTMENT to the CITY/TOWN:

1. The CITY/TOWN shall:

- a. Be responsible for all regulatory clearances including permits, the design, right-of-way acquisition and utility relocation, inspection, and construction of projects, except the administrative portion of the SERP, in accordance

with federal and state law and regulations pertaining to highways, as applicable.

- b. Maintain such records as necessary to show compliance with law and regulations for a period of three (3) years after the completion of each project and make such records available for audit by the DEPARTMENT upon request.

2. The DEPARTMENT shall perform the administrative portion of the SERP and provide the results to the CITY/TOWN.

C. For administration of the CITY/TOWN's entire Urban System Construction Program:

1. The CITY/TOWN shall:

- a. Manage its highway program in accordance with federal and state law and regulations pertaining to highways, as applicable.
- b. Prepare each year's capital improvement program of projects so that all federal funds apportioned to the CITY/TOWN shall be obligated within three (3) years of apportionment. If federal funds are unable to be obligated within that time, the CITY/TOWN will notify the DEPARTMENT in writing.
- c. Provide certification annually in a form prescribed by the DEPARTMENT by a responsible CITY/TOWN official that all urban project activities have been performed in accordance with state and federal laws and regulations. If the CITY/TOWN expends more than \$500,000 in federal funding annually, such certification shall include a copy of the CITY/TOWN's single program audit prepared in accordance with Office of Management and Budget Circular A-133.
- d. In cooperation with the DEPARTMENT and pursuant to paragraph C.2.b, annually conduct a joint review of the CITY/TOWN's urban system construction program.
- e. Design and construct projects to meet or exceed current American Association of State Highway and Transportation Officials standards or appropriate supplementary standards as may be agreed upon by the DEPARTMENT.

2. The DEPARTMENT shall:

- a. Pay the CITY/TOWN the state portion of its annual construction apportionment on a quarterly basis in accordance with Section 33.2-362 of the Code of Virginia 1950, as amended. Such payments shall be made no later than the 30th day of September, December, March, and June.
- b. In cooperation with the CITY/TOWN and pursuant to paragraph C.1.d, annually conduct a joint review of the CITY/TOWN's urban system construction program.

- c. In Conjunction with the CITY/TOWN, develop, update as needed, and make available to the CITY/TOWN program guidelines to assist the parties in carrying out program responsibilities under this agreement.
- d. Audit on a random basis urban system construction program and project records as may be required to verify CITY/TOWN compliance with federal and state laws and regulations.

THIS AGREEMENT shall not be construed as a waiver of the CITY/TOWN's or the Commonwealth of Virginia's sovereign immunity.

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.

THIS AGREEMENT may be terminated by either party upon 180 days advanced written notice. Such termination by the CITY/TOWN requires a resolution of the CITY/TOWN Council.

THE CITY/TOWN 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.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed in triplicate in its name and on behalf of its duly authorized officer as of the day, month, and year first herein written.

CITY/TOWN OF ____, VIRGINIA:

CITY/TOWN Manager

Date

APPROVED AS TO FORM:

CITY/TOWN Attorney

Date

Signature of Witness

Date

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

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:

 Commissioner of Highways,
 Commonwealth of Virginia
 Department of Transportation

Date

Signature of Witness

Date