

**ADMINISTRATION AGREEMENT FOR JAMES CITY COUNTY/CITY OF NEWPORT NEWS**

**POCAHONTAS TRAIL/JAMES CITY COUNTY  
STATE PROJECT NO: 0060-047-V11, PE101, 612  
FEDERAL PROJECT NO: STP-084-1 (109)**

**WARWICK BOULEVARD/CITY OF NEWPORT NEWS  
STATE PROJECT NO: 0060-121-V14, PE101, 612  
FEDERAL PROJECT NO: STP-5403 (490)**

THIS AGREEMENT is made as of this \_\_\_\_ day of \_\_\_\_\_, 2007, by and between the **COUNTY of JAMES CITY COUNTY**, a political subdivision of the Commonwealth of Virginia ("James City") and the **CITY OF NEWPORT NEWS**, a municipal corporation of the Commonwealth of Virginia ("Newport News") (individually, "party" and collectively, the "parties").

**RECITALS**

- A. On September 29, 2006 James City and the Virginia Department of Transportation ("VDOT") entered into an agreement, authorizing James City to locally administer the Route 60 East Relocation Project (the "Project") within James City County's jurisdictional limits. The Project includes the widening and re-alignment of Route 60, beginning in James City County at Blow Flats Road and ending in the City of Newport News at Route 105, Fort Eustis Boulevard. Approximately seventy percent (70%) of the Project is in James City, beginning at Blow Flats Road and ending at the centerline of Skiffes Creek, and is identified by VDOT as UPC No. 13496. The remaining thirty percent (30%) of the Project is Newport News, beginning at the centerline of Skiffes Creek and ending at Route 105, Fort Eustis Boulevard, and is identified by VDOT as UPC No. 14598.
- B. The purpose of the Project is to alleviate traffic congestion on existing Route 60 through James City and Newport News.
- C. This Project is included in VDOT's Six Year Improvement Program for Fiscal Year 2007-2013, and in the Hampton Roads 2030 Regional Transportation Plan for Preliminary Engineering and Right-of-Way acquisition.
- D. The parties desire that James City administer the design and construction of the Project for Newport News which includes the design, right-of-way and utility coordination and construction of the Skiffes Creek bridge and roadway features<sup>1</sup> for Newport News. Newport News' acceptance and participation in this Agreement in no way alters planned urban and primary system priorities established by the Newport News City Council for local and regional transportation improvements.

<sup>1</sup>Highway features consist of all street improvements from right-of-way line to right-of-way line to reflect City Council's ultimate adoption of a 4-lane divided roadway section that has been subject to public involvement input. This design includes street section, sidewalk and pedestrian accommodations, bikeways, bridges as well as design components such as drainage lighting, landscaping, traffic control and other identified amenities critical to the final design acceptance.

- E. The parties desire to design and construct the Project in accordance with the Virginia Public-Private Transportation Act of 1995, as amended (“PPTA”), James City’s guidelines for the implementation of the PPTA (the “Guidelines”), Newport News guidelines for the implementation of the PPTA (“the Newport News Guidelines”), the American Association of State Highway and Transportation Standards (“AASHTO”), and based on the Commonwealth Transportation Board’s approved location alignment, known as “Corridor A”.
- F. The parties desire James City to administer the Project should James City successfully develop the Project under the PPTA, the Guidelines, AASHTO, and all other applicable state and federal requirements. The parties agree to continue to seek funds to administer the Project during the updating of VDOT’s “Six-Year Improvement Program” and will actively encourage VDOT to find funding for this Project.

### **AGREEMENT**

For and in consideration of the mutual covenants hereinafter set forth, the parties do hereby agree as follows:

#### **I. The Roadway Improvements**

1. Design. James City shall cause the design of the roadway improvements for the Project to be, in accordance with all applicable local, state and federal specifications and standards including but not limited to VDOT and AASHTO standards. The design of the Project shall incorporate the relocation and widening of Route 60 beginning from Blow Flats Road in James City and ending at Route 105, Fort Eustis Boulevard in Newport News, into a four-lane divided roadway. The design shall include all survey, geotechnical, and engineering work to prepare a complete set of construction documents required for the successful construction of the Project. The Project shall be established as a locally administered project by the James City for VDOT.
2. Right-of-Way. James City shall coordinate right-of-way acquisition, to include appraisals and negotiations. In the event the necessary right-of-way acquisition for the Project cannot be accomplished through negotiations for those properties located in Newport News, then Newport News shall be responsible for the condemnation of the property needed for right-of-way within its boundaries, and all proceedings and costs associated with the condemnation.
3. Project Manager. The parties do hereby agree that the Project Manager for the design of and implementation of the Project shall be an employee of James City. As the Project Manager, James City shall be responsible for the following: 1) reviewing proposals submitted in accordance with the PPTA for the design and construction of the Project; 2) awarding a contract for the Project under the PPTA (the “PPTA Contract”); 3) overseeing and managing the implementation and construction of the Project and the PPTA Contract; and 4) preparing final plans and specifications for construction of the Project. Newport News shall designate one of its employees as a Design Team (defined hereafter) member and a liaison to coordinate the Project.
4. Design Team. A Design Team shall be established for the purpose of developing design objectives and requirements, reviewing design proposals, and reviewing design plans for the Project. The Design Team shall consist of the following members: 1) representatives of both parties; and 2) any other individual deemed necessary by both parties for the completion of the design. The Design Team shall convene as necessary to accomplish the objectives set forth in this Agreement.

5. Award of the PPTA Contract for the Project

- (a) Upon execution of this Agreement, James City shall review all the PPTA proposals, including proposals for the Newport News portion of the Project. The PPTA proposals and contract shall be in accordance with the consultant procurement requirements contained within VDOT's PPTA Guideline.
- (b) Newport News shall have a representative as part of the Design Team for the purpose of reviewing the proposals and selecting a firm to implement the Project. After a firm has been selected, James City shall award the PPTA Contract. Newport News shall pursue, by agreement through VDOT, the release of Federal or State funds to James City for the portion of the Project in Newport News, to cover PPTA billed expenses for authorized phases of design and future phases associated with utilities, right-of-way and construction if so authorized by both parties.

6. Project Design Phase

- (a) During the design phase of the Project, the parties shall jointly conduct appropriate citizen information meetings and public hearings in accordance with VDOT procedures for the purpose of collecting public input on the design of the Project. Such public hearings shall be advertised and held in compliance with all applicable State and Federal requirements.
- (b) Plans and specifications will be released to Newport News , at intervals of thirty-percent (30%), sixty-percent (60%), ninety-percent (90%), one hundred percent (100%), and as-built plans. Design plans shall be distributed by James City to the Design Team for review. The Design Team shall convene to review and discuss the design plans.
- (c) If necessary, each party shall be responsible for securing access to private property in their respective locality during the design phase so that survey or environmental investigations may be completed.
- (d) Utility coordination, identification of utility conflicts and the development of cost estimates for resolution of design shall be included in the design phase contract. Design Team members shall coordinate with the private utility companies in their respective locality to determine if relocations or adjustments are necessary and to obtain estimates of work to be completed.

7. Change Orders. Either party may request a change order to the design of the Project during the term of this Agreement. The party requesting a change order shall promptly notify the other party, in writing, of the nature of the change order. If the party receiving a notice of requested change orders objects, the Design Team shall convene to review and discuss the requested change order. The Project Manager shall have the authority to make the final determination as to the necessity of a requested change order, after consultation with Newport News. The Design Team shall convene to review any proposed change order, which would exceed one percent (1%) of the cost of the design contract. Authorization of change orders less than or equal to one-percent (1%) of the cost of the design contract shall be at the discretion of the Project Manager. Upon mutual agreement between the parties change orders for work solely in Newport News, which would exceed one percent (1%) of the cost of the design and construction contract, must have the written approval of the City Manager or his designee prior to authorization by James City, and such written approval shall be provided within three business days from the

date the change order is requested.

## II. General Provisions

1. Term. This Agreement shall be effective upon execution and shall remain in full force and effect until the completion of the Project design. At the termination of the design phase, both parties may submit written notice of their intention to mutually agree to extend or amend the Agreement to include future phases associated with utilities, right-of-way, or construction.
2. Termination. In the event that either party shall for any reason or through any cause be in default of the terms of this Agreement, the other party shall give it written notice of such default. Unless otherwise provided, the party in default shall have twenty-one (21) days from the date such notice is mailed or delivered in which to cure the default, except to the extent such cure period requires a reasonably longer period, in which case, such longer period shall apply, provided, however, that such actions required to cure are commenced and proceeded to completion in a prompt and diligent manner. If such default is not timely cured, the other party may cancel and terminate this Agreement as of the date of the default notice. This Agreement may also be terminated without cause by either party. The party seeking to terminate the Agreement shall give the other party sixty (60) days prior written notice of its intention to terminate. Each party shall pay its share of the expenditures outstanding at termination and shall retain any work product, including, but not limited to, plans, specifications, up to the point of the termination.
3. Assignment. Neither party shall assign its rights and duties under this Agreement without the prior written consent of the other party, which shall not be unreasonably delayed, refused, or denied.
4. Modification. No modification of this Agreement shall be effective unless made in writing and executed by the authorized representatives of both parties.
5. Performance. The parties shall perform their respective obligations to effectuate the intent of this Agreement in a timely and diligent manner, with time being of the essence.
6. Applicable Law; Compliance With All Laws; Venue
  - (a) Applicable Law. This Agreement shall be deemed to be a Virginia contract and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Agreement shall be deemed to have been delivered and accepted by the parties in the Commonwealth of Virginia.
  - (b) Compliance With All Laws. The parties shall comply with all federal, state and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of their obligations set forth herein. The parties shall at all times observe all health and safety measures and precautions necessary for the sanitary and safe performance of their obligations set forth herein.
  - (c) Venue. Any and all suits for any claims or for any and every breach or dispute arising out of this Agreement shall be maintained in the appropriate court of

competent jurisdiction in James City County.

7. Notices. Any notice given hereunder may be mailed, delivered or faxed to the named project contact at the address provided below:

For **James City:**

Steven W. Hicks  
General Services Manager  
James City County  
113 Tewning Road  
Williamsburg, Virginia 23188  
(757) 258-1528

For **Newport News:**

John B. Kaoudis, P.E  
Senior Engineer - Transportation  
City of Newport News  
2400 Washington Avenue  
Newport News, Virginia 23607  
(757) 926-8611

8. Force Majeure. Neither party shall be deemed to be in default with respect to the performance of any of the terms, covenants, and conditions of this Agreement where a party's failure to perform, or delay in performance, is caused by war, invasions, insurrection, blockage, domestic or foreign embargoes, riots, floods, earthquakes, fire, epidemics, lock-outs or other labor disturbance adversely affecting the party's ability to perform, interruption, delay, or other inadequacy of carriers or other transportation facilities of any type, the operation of domestic or foreign statutes, law, rules, rulings, or regulations, interference by domestic, civil or military authority, agency or governmental unit, shortages of materials, services or supplies, failure of parties with whom the party has contracted for services to provide the same, or any other causes whether of the same or different character from those herein specified, which cannot be avoided or prevented by the due diligence of the party. To the extent that any such cause of the party's failure or delay in performance ceases, the period for the performance by the party of any act required under the terms of this Agreement shall be extended for a reasonable period of time thereafter.

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IN WITNESS WHEREOF, the parties hereto have executed and sealed Agreement as of the day and year first above written.

**JAMES CITY COUNTY**

\_\_\_\_\_  
Sanford B. Wanner  
County Administrator

Approved as to form:

\_\_\_\_\_  
Leo P. Rogers  
County Attorney  
JAMES CITY COUNTY

**CITY OF NEWPORT NEWS**

\_\_\_\_\_  
Randy W. Hildebrandt  
City Manager

Approved as to form:

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Stuart Katz  
City Attorney  
NEWPORT NEWS

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