



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Aubrey L. Layne, Jr.
Chairman

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Agenda item # 8

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

May 17, 2017

MOTION

**Made By: Mr. Fralin, Seconded By: Mr. Rosen
Action: Motion Carried, Unanimously**

Title: Authorization for the Commissioner of Highways to Enter into a Memorandum of Agreement Between the Virginia Department of Transportation and FHWA-Eastern Federal Lands Highway Division (EFLHD) for a project receiving funds through the Federal Lands Access Program, Roanoke River Greenway Extension, Roanoke County, Located in the Salem District

WHEREAS, the Fixing America's Surface Transportation Act (FAST Act) authorizes use of federal transportation funds and state or local matching funds for projects that improve access to federal lands through the Federal Lands Access Program (FLAP); and

WHEREAS, the Federal Highway Administration Eastern Federal Lands Highway Division (FHWA/EFLHD) requires VDOT to enter into an agreement for the management of FLAP projects; and

WHEREAS, on July 22, 2016, the Virginia Programming Decisions Committee selected a project in Roanoke County for the design and construction of an extension of the Roanoke River Greenway (Project) using FLAP funds; and

WHEREAS, VDOT and FHWA/EFLHD have prepared an agreement, identified as Attachment A, outlining the general responsibilities and obligations of each party for administration of the identified project under FLAP; and

WHEREAS, it is believed to be in the best interest of the Commonwealth to take advantage of the funding provided through FLAP and execute the agreement; and

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WHEREAS, Section 33.2-221 of the *Code of Virginia* empowers the CTB to comply fully with federal-aid acts, to enter into all contracts or agreements with the United States government and do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future acts of Congress in the area of transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Commonwealth Transportation Board hereby authorizes the Commissioner of Highways or his designee to enter into the agreement for the Project set forth as Attachment A and to take all other actions needed to comply with this resolution.

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CTB Decision Brief

Authorization for the Commissioner of Highways to Enter into a Memorandum of Agreement Between the Virginia Department of Transportation and FHWA-Eastern Federal Lands Highway Division (EFLHD) for a project receiving funds through the Federal Lands Access Program, Roanoke River Greenway Extension, Roanoke County, Located in the Salem District

Issue: On July 22, 2016, the Virginia Programming Decisions Committee selected a project in Roanoke County for the design and construction of an extension of the Roanoke River Greenway using Federal Lands Access Program (FLAP) funds. A project agreement must be executed by Federal Highway Administration Eastern Federal Lands Highway Division (FHWA/EFLHD) and VDOT in order to move forward with obligation of federal funds for a project being funded under FLAP. Pursuant to Virginia Code §33.2-221, approval of the CTB and authorization for the Commissioner to sign is necessary in order to execute the agreement.

Facts: The Fixing America's Surface Transportation Act (FAST Act) authorizes use of federal transportation funds and state or local matching funds for projects improving access to federal lands through FLAP. The federal law also creates a Committee to evaluate applications for use of the FLAP funds. The committee, known as the Programming Decision Committee (PDC) is comprised of a representative of the Federal Highway Administration, a representative of the Virginia Department of Transportation (VDOT), and a representative for local governments within that State.

Proposed projects must be located on a public highway, road, bridge, trail or transit system that is located on, is adjacent to, or provides access to Federal lands for which title or maintenance responsibility is vested in a state, county, town, township, tribal, municipal, or local government. Section 33.2-221 of the *Code of Virginia* empowers the CTB to comply fully with federal-aid acts, to enter into all contracts or agreements with the United States government and do all other things necessary to carry out fully the cooperation contemplated and provided for by present or future acts of Congress in the area of transportation.

An application was received from Roanoke County during the regular call for projects for FFY2015-2018 FLAP funds. The project scope was the design and construction of a 1.7-mile extension of the Roanoke River Greenway. Initially, the Virginia PDC did not recommend the project due to the limitation of available FLAP funds. Subsequently, a FLAP award recipient decided not to implement their project, resulting in available funding. On July 22, 2016, the PDC approved funding for the Roanoke River Greenway extension as described in the original application.

The FHWA/EFLHD requires that VDOT enter into an agreement for the management of this FLAP project.

Recommendations: VDOT recommends the CTB approve the resolution titled "Authorization for the Commissioner of Highways to Execute a Federal Lands Access Program Project Agreement."

Action Required by CTB: Approve by majority vote the resolution providing the authorization recommended herein.

Result, if Approved: VDOT can enter into a project agreement for the proposed FLAP project and obligate program funds, thereby allowing project development to commence in a timely manner.

Options: Approve, Deny, or Defer

Public Comments/Reactions: NA

FEDERAL LANDS ACCESS PROGRAM
PROJECT MEMORANDUM OF AGREEMENT

Project / Facility Name: VA FLAP RRG TRL(1)

Project Route: Roanoke River Greenway (RRG)

State: Virginia

County(ies): Roanoke County

Owner of Federal Lands to which the Project Provides Access: National Park Service (NPS), Blue Ridge Parkway

Entity with Title or Maintenance Responsibility for Facility: Roanoke County, VA

Type of Work:

- Preliminary Engineering: Prepare environmental documents, finalize PS&E package, and acquire necessary permits.
- Right-of-way: Roanoke Valley Resource Authority (RVRA) has agreed to easement for trail and parking area.
- Construction: Construct a 1.7 mile extension of Roanoke River Greenway (RRG) from the Blue Ridge Parkway at the corner of Highland Rd and Rutrough Rd to the Explore Park River Trail.

This Agreement does not obligate (commit to) the expenditure of Federal funds nor does it commit the parties to complete the project. Rather, this Agreement sets forth the respective responsibilities as the project proceeds through the project development process.

Parties to this Agreement: FHWA-Eastern Federal Lands Highway Division (EFLHD), Virginia Department of Transportation (VDOT), and Roanoke County (ROCO), VA

The Program Decision Committee (PDC) approved this project on 7/22/2016.

AGREED:

Commissioner of Highways, VDOT Date



County Administrator Roanoke County, VA 3/7/17
Date

Chief of Business Operations, EFLHD Date

A. PURPOSE OF THIS AGREEMENT

This Agreement documents the intent of the parties and sets forth the anticipated responsibilities of each party in the development, construction, and future maintenance of the subject project. The purpose of the Agreement is to identify and assign responsibilities for the environmental analysis, design, right-of-way, utilities, acquisition and construction as appropriate for this programmed project, and to ensure maintenance of the facility for public use if improvements are made. The parties understand that any final decision as to design or construction will not be made until after the environmental analysis required under the National Environmental Policy Act (NEPA) is completed (this does not prevent the parties from assigning proposed design criteria to be studied in the NEPA process.) Any decision to proceed with the design and construction of the project will depend on the availability of appropriations at the time of obligation and other factors such as issues raised during the NEPA process, a natural disaster that changes the need for the project, a change in Congressional direction, or other relevant factors.

If Federal Lands Access Program funds are used for the development or construction of this project, Roanoke County, VA agrees to provide a matching share equal to 18.50% of the total cost of the project, as detailed more fully in Section J below. FLAP project funds are not to exceed the approved amount of \$1,387,000.00. Before the expenditure of any funds for which reimbursement will be sought from FHWA, the parties agree to execute a separate obligating document. No reimbursement will be made for expenditures made prior to having an obligating document in place.

B. AUTHORITY

This Agreement is entered into between the signatory parties pursuant to the provisions of 23 U.S.C. 204, and Code of Virginia Sections §33.2-221.A, 33.2-1011 and 33.2-102.

C. JURISDICTION AND MAINTENANCE COMMITMENT

Roanoke County, VA has jurisdictional authority to operate and maintain the existing facility and will operate and maintain the completed project at its expense.

D. FEDERAL LAND MANAGEMENT AGENCY COORDINATION

The Virginia Department of Transportation and Roanoke County, VA have coordinated project development with the NPS Blue Ridge Parkway. The NPS Blue Ridge Parkway support of the project is documented per the signed support letters dated 4/9/2015. Each party to this agreement who has a primary role in NEPA, design, or construction shall coordinate their activities with the NPS Blue Ridge Parkway.

E. PROJECT BACKGROUND/SCOPE

This project will construct an extension of the Roanoke River Greenway (RRG) from the Blue Ridge Parkway to Explore Park, completing a 23-mile bicycle/pedestrian trail across the Roanoke Valley. RRG is a paved path, 10-foot wide, built to AASHTO and VDOT standards, including ADA requirements. Completion of the currently funded sections does not provide connection to the BLRI motor road because the trail would end at

Highland Road where it tunnels under the Parkway. The next phase, which is included in this project, would provide connection from Highland to the Roanoke River Parkway and thus to BLRI. One alternative is to utilize Roanoke Valley Resource Authority (RVRA) land, under easement to BLRI, and cross in an existing tunnel under Roanoke River Parkway with connections to the two overlooks. After passing through the tunnel, RRG would go across the capped landfill, be built on top of a service road, and continue down to the Roanoke River, intersecting the Explore Park River Trail at its terminus.

F. PROJECT BUDGET

Item	Estimate (\$)	Comments
EFLHD PROJECT MANAGEMENT	\$ 27,000.00	
PRELIMINARY ENGINEERING	\$ 95,500.00	
RIGHT-OF-WAY	\$ 54,500.00	
CONSTRUCTION ENGINEERING	\$ 100,000.00	
CONSTRUCTION	\$ 1,456,750.00	
TOTAL PROJECT COST	\$ 1,733,750.00	

The EFLHD project management funds (estimated at \$27,000.00) will require a tapered match using local matching funds. The matching ratio is 18.50%. Project cost based on the current bid amount, the total available FLAP budget may not be sufficient to award the project as defined in the application. As necessary, Roanoke County, VA will provide additional local funding to address any funding shortfall.

G. ROLES AND RESPONSIBILITIES

Responsible Party	Product/Service/Role	Comments
EFLHD	<ul style="list-style-type: none"> • Review documentation showing the project is on an approved program of projects and a TIP or STIP • Approve identified design standards/geometrics and the project scope, schedule, and budget • If applicable, review and/or concur with identified lead federal agency and draft environmental documents • Review and adopt NEPA document • Review/approve design exceptions, ROW certifications, utility agreements and, where applicable, railroad agreements • Review and approve 95% PS&E package • Review and/or approve contract package, award package, and all contract modifications • Attend final project inspection. Can be done electronically with photos • Provide assistance in contract disputes and claims if requested by the partner 	

Responsible Party	Product/Service/Role	Comments
VDOT	<ul style="list-style-type: none"> • Responsible for stewardship and oversight of construction letting, bid review, contract award, and project delivery following standard federal-aid procedures as outlined in 23 CFR • Schedule and invite EFLHD and appropriate parties to public meetings • Submit quarterly reimbursement requests to EFLHD for expenses incurred in order to maintain financial activity • Provide quarterly progress and financial reports to EFLHD • Schedule and hold pre-construction meetings and construction inspections • Notify EFLHD of any contract disputes or claims • Provide stewardship and oversight and documentation of the following: <ul style="list-style-type: none"> ○ Evidence that project is on an approved program of projects and a TIP or STIP ○ Design Standards/Geometrics to be used ○ Identified design exception approval agency ○ Identified lead federal agency ○ Anticipated NEPA action ○ Copy of draft NEPA documents ○ Copy of final NEPA action ○ Evidence of permits ○ Review of Public Notices ○ 95% and final PS&E packages ○ Design exceptions ○ ROW certifications ○ Utility/Railroad Agreements ○ Approval of proprietary products ○ Contract award documents for review/concurrence ○ Copy of award package ○ Proposed contract modifications for concurrence ○ Documentation of project close-out ○ Copy of As-builts ○ Copy of final voucher 	

Responsible Party	Product/Service/Role	Comments
Roanoke County, VA	<ul style="list-style-type: none"> • Responsible for construction letting, bid review, contract award, and project delivery following standard federal-aid procedures as outlined in 23 CFR • Provide construction administration including stewardship and oversight for federal funded projects • Submit quarterly reimbursement requests for expenses incurred in order to maintain financial activity. • Provide quarterly progress and financial reports • Schedule and invite EFLHD and appropriate parties to public meetings • Schedule and hold pre-construction meetings and construction inspections • Provide data on traffic, accidents, material sources, etc • Notify EFLHD of any contract disputes or claims • Final acceptance of project and project closeout • Assume responsibility of the NPDES permit after project completion • Provide long term maintenance and operation of the facility • Provide the following documents and information: <ul style="list-style-type: none"> ○ Evidence that project is on an approved program of projects and a TIP or STIP ○ Design Standards/Geometrics to be used ○ Identified design exception approval agency ○ Identified lead federal agency ○ Anticipated NEPA action ○ Copy of draft NEPA documents ○ Copy of final NEPA action ○ Evidence of permits ○ Review of Public Notices ○ 95% and final PS&E packages ○ Design exceptions ○ ROW certifications ○ Utility/Railroad Agreements ○ Approval of proprietary products ○ Contract award documents for review/concurrence ○ Copy of award package ○ Proposed contract modifications for concurrence ○ Documentation of project close-out ○ Copy of As-builts ○ Copy of final voucher 	

H. ROLES AND RESPONSIBILITIES – SCHEDULE

Responsible Lead	Product/Service/Role	Schedule Start-Finish
ROCO	NEPA Document	12/12/16 – 04/08/18
ROCO	Final Design	12/12/16 – 04/08/18
ROCO	Right of Way	04/09/18 – 04/02/19
ROCO	Advertisement	04/02/19 – 04/23/19
ROCO	Construction Engineering	04/24/19 – 12/16/20
ROCO	Construction	06/20/19 – 08/12/20
ROCO	Contract Closeout	08/13/20 – 12/16/20

I. PROPOSED DESIGN STANDARDS

Final design standards will be determined through the NEPA process.

Criteria		Comments
Standard	AASHTO	
Functional Classification	N/A	
Surface Type	AASHTO	
Design Volume	AASHTO	

J. FUNDING

Fund Source	Amount	Comments
Federal Lands Access Program Funding	\$ 1,387,000.00	
Roanoke County, VA Local Cash Match	\$ 346,750.00	
TOTAL	\$ 1,733,750.00	

The matching fund share will be documented with a PR-2 to be submitted by the VDOT following submittal of required stewardship documents.

K. MATCHING SHARE REQUIREMENTS

Matching or cost sharing requirements may be satisfied following the obligation of funds to the project by: allowable costs incurred by the State or local government, cash donations, the fair and reasonable value of third party in-kind contributions (but only to the extent that the value of the costs would be allowable if paid for by the party responsible for meeting the matching share), including materials or services; however no costs or value of third party contributions may count towards satisfying the matching share requirements under this agreement if they have or will be counted towards meeting the matching share requirements under another federal award.

Costs and third party contributions counting toward satisfying a cost sharing or matching requirement must be verifiable from the records of the party responsible for meeting the matching requirements. The records must demonstrate how the value of third party in

kind contributions was derived. Voluntary services sought to be applied to the matching share will be supported by the same methods that the party to this agreement uses to support allocability of personnel costs. Any donated services provided by a third party will be valued at rates consistent with those ordinarily paid by employers for similar work in the same labor market. Supplies furnished will be valued at their market value at the time of donation. Donated equipment or space will be valued at fair rental rate of the equipment or space. All records associated with valuations or costs under section K shall be accessible and be maintained for three years following project close-out.

L. PROJECT TEAM MEMBERS - POINTS OF CONTACT

The following table provides the points of contact for this project. They are to be the first persons to deal with any issues or questions that arise over the implementation of each party’s role and responsibility for this agreement.

Name	Title	Agency	Element	Phone & Email
Jacinda Russell	EFLHD Access Program Manager	EFLHD	Project Management	571-434-1543 Jacinda.Russell@dot.gov
Charlie Costello	Program Planning Specialist	EFLHD	Coordination	571-434-1558 Charlie.Costello@dot.gov
Doug Blount	Director of Parks, Recreation and Tourism	Roanoke County	Coordination	540-777-6321 dblount@roanokecountyva.gov
Lon Williams	Planning and Development Manager	Roanoke County	Project Manager	540-777-6324 lwilliams@roanokecountyva.gov
Cheryl Becker	Locally Administered Projects Coordinator	VDOT	District Project Coordination	540-387-5399 cheryl.becker@vdot.virginia.gov
Jay Guy	Program Manager	VDOT	District Project Coordination	540-387-5247 james.guy@vdot.virginia.gov
H.W. Chenault	Federal Programs Supervisor	VDOT	Coordination	804-786-2264 H.Chenault@VDOT.virginia.gov
Richard Caywood	Assistant County Administrator	Roanoke County	Coordination	540-776-7190 rcaywood@roanokecountyva.gov

M. CHANGES/AMENDMENTS/ADDENDUMS

The agreement may be modified, amended, or have addendums added by mutual agreement of all parties. The change, amendment, or addendum must be in writing and executed by all of the parties.

The types of changes envisioned include, but are not limited to, changes that significantly impact scope, schedule, or budget; changes to the local match, either in type or responsibility; changes that alter the level of effort or responsibilities of a party. The

parties commit to consider suggested changes in good faith. Failure to reach agreement on changes may be cause for termination of this agreement.

A change in the composition of the project team members does not require the agreement to be amended.

It is the responsibility of the project team members to recognize when changes are needed and to make timely notification to their management in order to avoid project delivery delays.

N. ISSUE RESOLUTION PROCEDURES MATRIX

Issues should be resolved at the lowest level possible. The issue should be clearly defined in writing and understood by all parties. Escalating to the next level can be requested by any party. When an issue is resolved, the decision will be communicated to all levels below.

FHWA	VDOT	Roanoke County, VA	Time
Project Manager (Jacinda Russell)	LAP Coordinator (Cheryl Becker)	Lon Williams	5 Working Days
Planning and Programs Manager	Program Manager (Jay Guy)	Doug Blount	5 Working Days
Chief of Business Operations	Federal Programs Supervisor (H.W. Chenault)	Doug Blount	5 Working Days
Division Director	Federal Programs Supervisor (H.W. Chenault)	Richard Caywood, Assistant County Administrator	5 Working Days

O. TERMINATION

This agreement may be terminated by mutual written consent of all parties. This agreement may also be terminated if either the NEPA process or funding availability requires a change and the parties are not able to agree to the change. Any termination of this agreement shall not prejudice any rights or obligations accrued to the parties prior to termination. If Federal Access funds have been expended prior to termination, the party responsible for the match agrees to provide a match in the applicable percentage of the total amount expended on the project prior to the termination.

P. STEWARDSHIP & OVERSIGHT ACTIVITIES

Based upon the risk assessment, complexity of the undertaking, and capabilities and past performance of the delivery partner, the EFLHD had determined this project to be low risk. The table below identifies necessary Stewardship and Oversight Activities. If items are not delivered timely or in such poor condition that it brings into question the ability to deliver, the issue will be elevated to all participants to the agreement using the issue resolution procedures matrix identified above.

Phase or Activity	Partner Role	EFLHD Role	Comments
Planning & Programming			
Evidence that project is on an approved program of projects	Provide	Review	For funds disbursed by a division, they may know this already
Evidence of being on a TIP or STIP	Provide	Review	
Project agreement with scope, schedule, & budget	Provide	Approve	EFLHD would be a signatory. Would be involved in the drafting to define what S&O deliverables it will receive
Environment			
Lead Federal agency identified	Provide	Concur	FHWA must be a co- lead agency on an EIS
Copy of/review of Draft documents	Provide	Review/Concur	EFLHD should review to insure they can be adopted by EFLHD
Copy of NEPA action	Provide	File copy	(CE, EA, or EIS)
Evidence of permits	Provide	File copy	
Sign off on FHWA NEPA document	Provide	Adopt or develop parallel Document	EFLHD approval needed
Design			
Review 95% PS&E	Provide	Review/Approve	Are required contract provisions included – Common Rule or Fed-Aid?
Review design exceptions	Provide	Review/Approve	If the partner is a State DOT, they would follow their process
Review ROW certifications	Provide	Review/Approve	If ROW is acquired, it must follow Uniform Federal Relocation Act
Utility/Railroad Agreements	Provide	Review/Approve	EFLHD needs certification

Phase or Activity	Partner Role	EFLHD Role	Comments
Acquisitions			
Review contract package for required clauses (Civil Rights, Davis-Bacon, Buy America/ American, etc.)	Provide	Review/Approve	Would not need to do this if the partner is another federal agency or State DOT following Fed Aid procedures.
Concur in award of contract	Provide	Review/Concur	Generally would only get involved if additional funds required
Receive copy of award package	Provide	File copy	EFLHD should have a copy of the package in its files in case inquiries are received

Review or approve contract modifications	Provide	Review/ Concur Depends upon nature of CM	Need to assure non-eligible work is not being paid for with program funds
Construction			
Final Project Inspections	Schedule	Attend	FLH should attend the final project inspection for projects above \$500,000.00 in FLAP funds regardless of risk level or elevated risk projects. Final project inspection could be done electronically with photos.
Copy of As-builts	Provide	File copy	Generally only request these if project adjacent to or along a corridor EFLHD is working on or if EFLHD does asset management. Used for updating system info
Copy of final voucher	Provide	File copy	
Contract Dispute (Claim)	Notify	Provide assistance if requested	Need to be aware if additional funds are needed