

INTRODUCED: November 14, 2022

AN ORDINANCE No. 2022-312

To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a Standard Project Administration Agreement between the City of Richmond and the Virginia Department of Transportation to provide funding for the implementation of the James River Branch Trail project from its intersection with West 49th Street to its intersection with Hopkins Road; and to repeal Ord. No. 2022-034, adopted Feb. 28, 2022.

Patrons – Mayor Stoney and Ms. Lynch

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: DEC 12 2022 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the Chief Administrative Officer, for and on behalf of the City of Richmond, be and is hereby authorized to execute a Standard Project Administration Agreement between the City of Richmond and the Virginia Department of Transportation to provide funding for the implementation of the James River Branch Trail project from its intersection with West 49th Street to its intersection with Hopkins Road. The Standard Project Administration Agreement

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: DEC 12 2022 REJECTED: _____ STRICKEN: _____

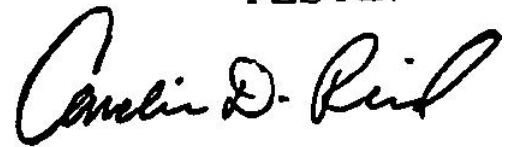
shall be approved as to form by the City Attorney and shall be substantially in the form of the document attached to this ordinance.

§ 2. That Ordinance No. 2022-034, adopted February 28, 2022, be and is hereby repealed.

§ 3. This ordinance shall be in force and effect upon adoption.

A TRUE COPY:

TESTE:

A handwritten signature in black ink, appearing to read "Camelin D. Reil". The signature is written in a cursive, flowing style.

City Clerk



DEPARTMENT OF PUBLIC WORKS

O&R REQUEST

DATE: October 12, 2022

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: J. E. Lincoln Saunders, Chief Administrative Officer

THROUGH: Robert C. Steidel, Deputy Chief Administrative Officer - Operations

Robert C
Steidel

Digitally signed by Robert C
Steidel
Date: 2022.10.17 15:48:38
-0400'

THROUGH: Bobby Vincent, Director of Public Works

Bobby Vincent

Digitally signed by Bobby Vincent
Date: 2022.10.17 11:20:17 -0400'

THROUGH: M. S. Khara, P.E., City Engineer

M. S. Khara, PE

Digitally signed by M. S. Khara, PE
Date: 2022.10.14 14:58:37 -0400'

THROUGH: Michael B. Sawyer, City Transportation Engineer

Michael B. Sawyer P.E.

Digitally signed by Michael B.
Sawyer P.E.
Date: 2022.10.14 13:54:12 -0400'

FROM: Jakob Helmboldt, Pedestrian, Bicycle & Trails Coordinator

RE: **TO AUTHORIZE THE CHIEF ADMINISTRATIVE OFFICER OR
DESIGNEE TO EXECUTE A STANDARD CITY/STATE AGREEMENT
FOR THE IMPLEMENTATION OF THE JAMES RIVER BRANCH
TRAIL (JRBT) PROJECT**

ORD. OR RES. No. _____

PURPOSE: To authorize the Chief Administrative Officer (CAO) or designee, for and on behalf of the City of Richmond, to execute a standard City/State Agreement for the purpose of implementing the James River Branch Trail (JRBT) project.

REASON: The Virginia Department of Transportation (VDOT) changed the funding source from Federal funds to State funds for the James River Branch Trail (JRBT) project, therefore, requiring the City to execute a new City/State Agreement for the purpose of implementing the James River Branch Trail (JRBT) project.

RECOMMENDATION: The Department of Public Works recommends approval of this ordinance.

BACKGROUND: The City of Richmond developed the concept for the James River Branch Trail more than a decade ago. The initial plan called for construction of a shared-use path and greenway along the abandoned James River Branch Railroad corridor, located in Council Districts 5 and 8, in Southside Richmond. The JRBT will be a paved, shared-use path for bicyclists and pedestrians, extending from W. 49th Street to Hopkins Road. Future extensions are conceived, contingent upon availability of additional segments of the abandoned railroad corridor and funding.

The JRBT will connect to, and provide access to multiple neighborhoods along the corridor. The path and greenway will serve pedestrians, including those with mobility impairments, bicyclists, and other non-motorized users as both an active-transportation and recreational facility, linking a number of underserved communities and providing needed greenspace. Further, this facility would link to the expanding network of bicycle and pedestrian facilities being developed by the City, including the Fall Line Trail which is receiving significant funding from the Commonwealth. Implementation of the JRBT project has remained idle due to the costs of acquiring the parcels from CSX which will be provided with this funding. Funding for the design and construction of the JRBT has been allocated in FY22 and FY23 from the American Rescue Plan Act (ARPA).

Earlier, City Council authorized the CAO by Ord 2022-034, adopted February 28, 2022, to execute a federal funded City/State Agreement. This federal agreement had \$4,122,214 allocated to the project. With the change in the funding source from federal to state; allocation is reduced from \$4,122,214 to \$3,700,000 in state funds for the acquisition of two CSX parcels. This change in allocation will require appropriation to be reduced through the FY24-FY28 CIP budget process.

VDOT requests that the City executes a new state-funded standard City/State agreement for the implementation of the James River Branch Trail project. In addition to the \$9,000,000 in Federal ARPA funds for the design, property acquisition and construction of the JRBT, the State of Virginia is providing \$3.7 million in state funds (100% reimbursable) for the purchase of two CSX railroad properties. Total project cost is estimated at \$12.7 million.

FISCAL IMPACT/COST: None. The State of Virginia is providing \$3.7 million in 100% reimbursable funds for the purchase of two parcels from CSX, which is supplemented by \$9,000,000 in ARPA funds that will be used for the design, acquisition of property and construction of the project.

FISCAL IMPLICATION: By not adopting the ordinance, the City will not receive the funding from the Commonwealth, precluding development of the James River Branch Trail project.

BUDGET AMENDMENT NECESSARY: None. Change in funding source from Federal to State and reducing appropriations from \$4,122,214.00 to \$3,700,000 will be completed through the FY24-FY28 CIP budget process.

REVENUE TO CITY: \$3.7 million in funding from the Commonwealth of Virginia. (Additionally, allocated ARPA Federal funds of \$4.5M in FY22, and \$4.5M in FY23 by the City for the purpose of implementing the project).

DESIRED EFFECTIVE DATE: Upon adoption.

REQUESTED INTRODUCTION DATE: November 14, 2022

CITY COUNCIL PUBLIC HEARING DATE: December 12, 2022

REQUESTED AGENDA: Consent Agenda

RECOMMENDED COUNCIL COMMITTEE: Land Use, Housing and Transportation Committee on November 22, 2022

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: None

AFFECTED AGENCIES: Department of Parks, Recreation, and Community Facilities; Department of Public Works; Office of the City Attorney; Department of Public Utilities; Copies also sent to: City Mayor (Levar M. Stoney); Chief Administrative Officer (Lincoln Saunders); and Robert C. Steidel, Deputy CAO of Operations; City Attorney's office.

RELATIONSHIP TO EXISTING ORD. OR RES.: Ord. 2021-291 appropriating ARPA funds; Ord. 2022-034 City/State Agreement execution for Federal funds; Ord. 2022-038 FY22 CIP Budget amendment to appropriate federal funds.

REQUIRED CHANGES TO WORK PROGRAM(S): Maintenance costs are expected in the future years after construction is completed.

ATTACHMENTS: City/State Project Administration Agreement

STAFF: Jakob Helmboldt, Pedestrian, Bicycle & Trails Coordinator, DPW, 646-7141
Ryan Rinn, Economic Development Business Services Manager, DPRCF, 646-4743

STANDARD PROJECT ADMINISTRATION AGREEMENT
State-aid Projects

Project Number	UPC	Local Government
U000-127-111	118943	City of Richmond

THIS AGREEMENT, is hereby made and executed in triplicate effective the date of the last (latest) signature set forth below, by and between the CITY OF RICHMOND, VIRGINIA, hereinafter referred to as the LOCALITY and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the DEPARTMENT. The DEPARTMENT and the LOCALITY are collectively referred to as the “Parties.”

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

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

WHEREAS, the LOCALITY is committed to the development and delivery of the Project in an expeditious manner; and

WHEREAS, the LOCALITY is responsible for administering the Project in accordance with DEPARTMENT guidelines, including the most current *Locally Administered Projects Manual* (“LAP Manual”), and with the program specific requirements shown in Appendix B, based on the nature of the allocated funding for the Project as shown in the Appendix A; and

WHEREAS, the LOCALITY's governing body has by resolution, demonstrated the LOCALITY’S commitment to provide local funding for the Project as contemplated by this Agreement and further, by resolution or otherwise, authorized its designee to execute this Agreement, and said authorizations are attached hereto.

WHEREAS, the Parties have concurred in the LOCALITY's administration of all phases of work for the Project 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 representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section 1.
2. The LOCALITY shall:

- a. Be responsible for all activities necessary to complete the noted phase(s) of the Project as shown in Appendix A, except for activities, decisions, and approvals which are the responsibility of the DEPARTMENT, as expressly required by federal or state laws and regulations, or as otherwise agreed to, in writing, between the Parties. Every phase of the Project will be designed and constructed to meet or exceed current American Association of State Highway and Transportation Officials standards when the facilities are locally maintained and shall further comply with all supplementary standards established by the DEPARTMENT when the facilities are maintained by the DEPARTMENT.
- b. Meet all funding obligation and expenditure timeline requirements in accordance with all applicable federal and state laws and regulations, all applicable Commonwealth Transportation Board and DEPARTMENT policies, and those additional requirements as identified in Appendices A and B to this Agreement. Noncompliance with this requirement may result in deallocation of the funding from the Project, rescission of state funding match, termination of this Agreement, or the DEPARTMENT denial of future requests to administer projects by the LOCALITY, all of which actions are at the discretion of the DEPARTMENT or as can be taken pursuant to applicable laws, regulations or policies.
- c. Administer the Project in accordance with the DEPARTMENT's most current LAP Manual and other guidelines applicable to Locally Administered Projects as published by the DEPARTMENT.
- d. Provide timely certification by a LOCALITY official of the LOCALITY'S 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 the Project's development as required in the LAP Manual and any supplemental guidance and directives of the DEPARTMENT and retain documentation of all expenditures and make such information available for inspection or auditing by the DEPARTMENT upon request. Records and documentation for the Project shall be maintained for no less than three (3) years following the DEPARTMENT'S acceptance of the final voucher on the Project.
- f. At least quarterly, but 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 vendor and contractor invoices paid by the LOCALITY, an up-to-date Project summary and schedule, and a summary of all payment requests, payments and adjustments. A request for reimbursement shall be made within 90 days after any eligible project expenses are incurred by the LOCALITY. Reimbursement for eligible expenditures shall not exceed funds allocated each year for the Project by the Commonwealth Transportation Board in the Six Year Improvement Program.
- g. Reimburse the DEPARTMENT for all Project expenses incurred by the DEPARTMENT if, due to action or inaction of the LOCALITY, the Project becomes

ineligible for state reimbursement, or in the event the reimbursement is required by the provisions of § 33.2-214 or § 33.2-331 of the Code of Virginia (1950) as amended, or other applicable provisions of state law or regulations.

- 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. Provide, or have others provide, maintenance of the Project upon completion, unless otherwise agreed to by the DEPARTMENT. Where the Project results in physical construction, the LOCALITY will continue to operate and maintain the Project in accordance with the final constructed design as approved by the DEPARTMENT. The LOCALITY agrees that any modification of the approved design features, without the approval of the DEPARTMENT, may, at the discretion of the DEPARTMENT, result in restitution either physically or monetarily as determined by the DEPARTMENT.
3. The DEPARTMENT shall:
- a. Perform any actions and provide any decisions and approvals, within a reasonable time, which are the responsibility of the DEPARTMENT, as required by federal and 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 2.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. Where applicable, 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. and 3.a.
 - d. Audit the LOCALITY's Project records and documentation as may be required to verify LOCALITY compliance with applicable laws and regulations.
 - e. Upon LOCALITY'S request, make available to the LOCALITY guidelines to assist the Parties in carrying out responsibilities under 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 § 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. State and federal Project funding is limited to those identified in the Appendix A of this Agreement and is allocable only upon LOCALITY'S compliance with all requirements of this Agreement. In the event the cost of all or part of the Project is anticipated to exceed the allocation shown on Appendix A, the Parties agree to cooperate in seeking additional funding for the Project or to terminate the Project before Project costs exceed the allocated amount. Any requested increase in federal or state funding is subject to DEPARTMENT policy and procedures applicable to the funding source and is not guaranteed.
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 capacity 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 the 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 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 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, received 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 to the other Party. Eligible Project expenses incurred through the date of termination shall be reimbursed in accordance with paragraphs, 2.g., 2.h, and 3.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.

10. Prior to any action pursuant to paragraphs 2.b or 2.h of this Agreement, the DEPARTMENT shall provide notice to the LOCALITY with a specific description of the LOCALITY'S breach of this Agreement. Upon receipt of a notice of breach, the LOCALITY will be provided the opportunity to cure such breach or to provide a plan to cure to the satisfaction to the DEPARTMENT. If, within sixty (60) days after receipt of the written notice of breach, the LOCALITY has neither cured the breach, nor is diligently pursuing a cure of the breach to the satisfaction of the DEPARTMENT, then upon receipt by the LOCALITY of a written notice from the DEPARTMENT stating that the breach has neither been cured, nor is the LOCALITY diligently pursuing a cure, the DEPARTMENT may exercise any remedies it may have under this Agreement or at law or in equity.
11. 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.
12. THE LOCALITY and the DEPARTMENT further agree that should Federal-aid Highway funds be added to the Project, this Agreement is no longer applicable. The LOCALITY and the DEPARTMENT mutually agree that they shall then enter into a Standard Project Administration Agreement for Federal-aid Projects upon execution of which this Agreement shall be terminated.
13. THIS AGREEMENT, when properly executed, shall be binding upon both Parties, their successors, and assigns.
14. THIS AGREEMENT may be modified only in writing by mutual agreement of the Parties.

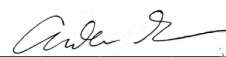
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IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written.

CITY OF RICHMOND, VIRGINIA:

Signature

Approved as to form:



Andrew A. Gore
Assistant City Attorney

Typed or printed name of signatory

Title

Date

Signature of Witness

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

Attachments

Appendix A

Appendix B

Appendix A - Locally Administered

Version: Original

Prepared Date: 10/7/2022

Project Details

UPC: 118943 State Project #: U000-127-111 CFDA #: 20.205 Locality UEI #: EG4LF5GYLK81

Locality: City of Richmond Address: 900 East Broad Street Richmond, VA 23219-1907

Work Description:

James River Branch - Rail to Trail Greenway - The James River Branch Trail is a 2-mile shared-use path along abandoned CSX ROW in Richmond, VA. It extends from the Forest View neighborhood near 49th Street to George Wythe High School to McGuire VA Hospital to Hopkins Road.

Project Location
(Zip +4)

23225-4767

Project Points of Contact

Locality Project Manager

Name: Jakob Helmboldt

Phone: 804-646-7141

Email: Jakob.Helmboldt@rva.gov

VDOT Project Coordinator

Name: James Maiden

Phone: 804-524-6000

Email: James.Maiden@vdot.virginia.gov

Project Estimates

	Preliminary Engineering	Right of Way and Utilities	Construction	Total
Estimated Locality Project Expenses	\$0	\$3,700,000	\$0	\$3,700,000
Estimated VDOT Project Oversight	\$0	\$0	\$0	\$0
Estimated VDOT Project Services (Appendix C)	\$0	\$0	\$0	\$0
Estimated Total Project Costs	\$0	\$3,700,000	\$0	\$3,700,000

Project Financing

Allocated Funds Type	Allocated Funds Amount	Local % Participation	Local Share Total	Max Reimbursement to Locality	Total Estimated Reimbursement to Locality
CTB Formula - High Priority State	\$3,700,000	0%	\$0	\$3,700,000	
Funding Totals	\$3,700,000		\$0	\$3,700,000	\$3,700,000

Note - The funds order is not indicative of the actual spend order of funds on the project.

This Appendix A supersedes all previous versions signed by VDOT and the LOCALITY for the Project.

Authorized Locality Official

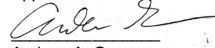
Date

Authorized VDOT Official

Date

Printed Name of Locality Official

Approved as to form:



Andrew A. Gore
Assistant City Attorney

Printed Name of VDOT Official

Title of Locality Official

Title of VDOT Official

This attachment is certified and made an official attachment to this document by the Parties to this Agreement.

Locally Administered State-Aid Agreement

Appendix B – Special Funding Program Conditions and Requirements

Project Number	UPC	Local Government
U000-127-111	118943	City of Richmond

SMART SCALE

Administration of this Project, including but not limited to Project estimate, schedule and commitment to funding, is subject to the requirements established in the Commonwealth Transportation Board's (CTB's) most current *Policy for Implementation of the SMART SCALE Project Prioritization Process*, the applicable requirements of the Code of Virginia, and VDOT's applicable *Instructional and Informational Memoranda*.

Without limiting the foregoing, this Project has been selected through the Smart Scale (HB2) application and selection process and will remain in the Six-Year Improvement Plan as a funding priority unless certain conditions set forth in the CTB's most current *Policy for Implementation of a Project Prioritization Process* arise. Pursuant to the CTB's *Policy for Implementation of a Project Prioritization Process*, 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, or a reduction in the locally/regionally leveraged funds. Applications may not be submitted in a subsequent SMART SCALE prioritization cycle to account for a cost increase on a previously selected project.

This Project shall be initiated and at least a portion of the Project's 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 CTB, the LOCALITY or the localities within the 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.

Revenue Sharing

This Project shall be administered in accordance with VDOT's most current *Revenue Sharing Program Guidelines*.

Without limiting the foregoing, the Project shall be initiated such that at least a portion of the Revenue Sharing Funds are expended within one year of allocation. For any project that has not been initiated within one year, the CTB has the discretion to defer consideration of future allocations until the project moves forward. Further, if the Project has not been initiated within two fiscal years subsequent to the allocation of Revenue Sharing Funds, the Revenue Sharing

Funds for the Project may be subject to deallocation from the Project at the discretion of the CTB.

Economic Access

This Project shall be administered in accordance with VDOT's most current *Economic Development Access Program Guide*.

Airport Access

This Project shall be administered in accordance with VDOT's most current *Airport Access Program Guide*.

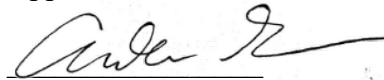
Recreational Access

This Project shall be administered in accordance with VDOT's most current *Recreational Access Program Guide*.

Authorized Locality Official Signature and Date

Printed Name of Locality Official

Approved as to form:



Andrew A. Gore
Assistant City Attorney