

AGREEMENT No.: DTFH71-15-X-50015

Memorandum of Agreement

among the

Department of the Army
Fort Lee Garrison

the

Commonwealth of Virginia
Virginia Department of Transportation

and the

Department of Transportation
Federal Highway Administration
Eastern Federal Lands Highway Division

for the

Fort Lee
Lee Avenue Gate Project
VDOT Project #0036-074-753, P101, R201, C501
UPC 104697 and _____

in

Prince George County, Virginia

PURPOSE

The purpose of this Memorandum of Agreement (Agreement or MOA) is to establish the roles, responsibilities, funding, and procedures by which the Department of the Army (Army), U.S. Army, Fort Lee Garrison (Fort Lee or FL); the Commonwealth of Virginia, Virginia Department of Transportation (VDOT); and the Department of Transportation, Federal Highway Administration (FHWA), Eastern Federal Lands Highway Division (EFLHD), will jointly participate in the environmental planning, design, and construction of a Project at Fort Lee in Prince George County (County), Virginia, to lengthen and realign the right turn lane from eastbound Route 36 onto Lee Avenue and to provide additional queue storage and separate inbound traffic from the double left turns coming from westbound Route 36. This will improve the traffic operations at the Lee Avenue Gate near the VA Route 36/Lee Avenue intersection (hereinafter referred to as the Project).

AUTHORITIES

WHEREAS, the Army is authorized to enter into this Agreement pursuant to the authority contained in 10 U.S.C. §3001 *et seq.*, and is the agency with administrative oversight, maintenance, and jurisdictional authority for Fort Lee, hereinafter referred to as the Army;

WHEREAS, the Commissioner of Highways acting pursuant to the decision of the Commonwealth Transportation Board is authorized to enter into this Agreement pursuant to the authority contained in §§33.2-208, 33.2-209, 33.2-221, and 33.2-223 of the Code of Virginia (1950), as amended, and VDOT is the State agency with administrative oversight, maintenance, and jurisdictional authority for State-administered roads;

WHEREAS, 23 U.S.C. §308(a) authorizes the FHWA to perform engineering and other services in connection with the survey, design, construction, and improvements of highways for other Federal or State cooperating agencies;

WHEREAS, 23 USC 104(f)(3) authorizes the FHWA, at the request of VDOT, to transfer funds apportioned or allocated under Title 23, United States Code, to the FHWA Eastern Federal Lands Highway Division for the purpose of funding one or more projects that are eligible for assistance under such title;

WHEREAS, it is understood that VDOT has available \$3,000,000.00 in the Commonwealth Transportation Board's "2016-2021 Six-Year Improvement Program" for design, right-of-way acquisition, utility relocation and construction of the Project. Costs shall include, but are not limited to, planning; preliminary engineering; preparation of the environmental documentation, permits, and other clearances; investigations of hazardous materials (defined, for the purposes of this Agreement, as hazardous substances, pollutants, and contaminants) and munitions or explosives of concern (MEC); acquisition of right-of-way; relocation of utilities; and construction and contract administration. As of June 19, 2015 VDOT has expended \$99,252.00 of these funds on preliminary engineering, environmental activities, and administrative costs leaving a balance of \$2,900,748.00. Some of this remaining balance will need to be expended by VDOT to directly pay costs for completing the design, and administrative costs; and

WHEREAS, although this MOA is subject to the provisions of the Anti-Deficiency Act (31 U.S.C. §1341(a)(1)), the Parties to this agreement understand, recognize and agree that the EFLHD is not responsible for any percentage part of the cost of this Project;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

ARTICLE I: SCOPE OF WORK (Obligations, Responsibilities, and Funding)

A. The Army-FL agrees to:

1. Subject to the approval of VDOT and FHWA, cause the design and construction of the Project by VDOT and FHWA, respectively, be undertaken; the design and construction to be in accordance with applicable American Association of State Highway and Transportation Officials (AASHTO) and VDOT standards, regulations and guides, current edition, as amended;
2. Act as a cooperating agency and be responsible for guiding the decisions associated with improvements to Army-owned or maintained roadways or where Army interests are involved;
3. Coordinate and “cooperatively participate” (a term which is defined throughout this agreement as providing functions such as advice and review) in NEPA environmental studies and documentation activities, including activities associated with Section 106 of the National Historic Preservation Act (16 U.S.C. 470s); design activities; hazardous materials and MEC investigations; any jurisdictional transfers through easements for maintenance; public involvement; review and comment for any portion of NEPA documentation that relates to or impacts Army property; and any other Project activities as applicable;
4. Review and provide comments on the utility relocation plans;
5. Approve the final design standards for any impacts related to Army-owned facilities (including utilities);
6. Assume maintenance responsibility for any and all protection barriers built to meet Anti-Terrorism/Force Protection (ATFP) standards. Since the road layout is not finalized at this time, and until the design documents are completed and approved, the final design standards for the Project will provide protection barriers, if required to meet current DOD ATFP standards, for existing buildings on Army lands that will be in close proximity to the Project;
7. Cooperate with the FHWA’s activities as necessary to provide and obtain the required final environmental and historical clearances and the requisite coordination and approval process, and to assist in obtaining permits required for work on Army-FL land;

8. Designate the FHWA as the lead agency for compliance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470s) in accordance with 36 CFR §800.2(a)(2);
9. Assign and designate a Project Manager representing Army-FL, for the Project so that all communication regarding the Project will be coordinated and managed through this identified person;
10. If required, provide ingress/egress rights through a perpetual easement acceptable to VDOT on roads located on Fort Lee so that VDOT will be afforded continuous access to and from any portion of the completed Project for which VDOT will assume responsibility for the purpose of performing maintenance, operations, and other oversight activities. Said rights shall be granted to VDOT prior to acceptance of the Project into the system of state highways. The Army acknowledges that any action to restrict or limit VDOT's ability to safely access a portion of the completed Project for which VDOT will assume maintenance responsibility may prevent VDOT from performing maintenance activities, including, but not limited to, snow removal. If the Army chooses to restrict or limit VDOT access to and from the Project, the Army will assume maintenance responsibility;
11. At no cost to the Commonwealth, (a) grant perpetual easements to VDOT at locations acceptable to VDOT and the Army for the portion of the Project through Army-FL lands for which VDOT will assume maintenance responsibility; (b) perform any and all improvements needed for the possible future transfer of right-of-way by perpetual easement, so that the real property and any improvements when and if conveyed shall be free of mitigation requirements and administrative fees and meet (1) VDOT design and construction standards and specifications; and (2) the conveyance requirements of §1-405 of the Code of Virginia (1950), as amended; and (c) develop the Environmental Baseline Survey (EBS) and obtain a Finding of Suitability to Transfer for any transfer of property to VDOT;
12. Participate in the transfer of jurisdiction of land as determined necessary;
13. Grant a construction license (right-of-entry) to the FHWA, FHWA's authorized contractors, VDOT, and other parties as required for the purposes of environmental studies, remediation of hazardous materials and MEC, design, construction, and other activities in support of the Project, free of mitigation requirements and administrative fees; at no cost to VDOT participate in all design and construction field reviews and other Project development activities and milestones as applicable;
14. Conduct its required processes and activities in accordance with this Project concurrent and in accordance with the Project development schedule, and cooperate to maintain the Project schedule and funding established for the Project;
15. Assist the FHWA during construction to coordinate scheduling of utility outages with Army facilities;
16. Cooperate in applicable Project activities to ensure satisfactory completion of the Project;

17. Participate in the final inspection of the Project constructed facility;
 18. Accept improvements to Army-owned facilities for maintenance;
 19. Should any MEC/MC or hazardous substance be found during NEPA or through hazardous materials investigations or construction of the Project, and prior to the conveyance of any jurisdiction to the Commonwealth, as required under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. 9601, *et seq.*), 10 U.S.C. §2700, *et seq.* and §1-405 of the Code of Virginia (1950), as amended and other applicable Federal and State laws and regulations to: (1) perform all environmental investigations, property assessments, or studies for MEC/MC, or any hazardous substance on the parcels of the Project right-of-way on-Army-FL that are necessary to complete the Project. The Army will provide the reports of these investigations, assessments, or studies to VDOT and the FHWA; and (2) perform environmental response to MEC/MC, releases of petroleum or any hazardous substances on the Project right-of-way on-Army-FL as required under CERCLA and other applicable Federal and State laws and regulations as necessary for completion of design, construction, maintenance and operation of the Facility;
 20. Upon any notification of discovery of MEC/MC or any Army-caused hazardous substances during NEPA or construction, operation and maintenance periods, to: (1) confer immediately with the other Parties to determine the scope of any investigation and the requisite response action; and (2) perform timely response and remediation as required under CERCLA and other applicable Federal and State laws and regulations;
 21. When required by the issuer of the permit, and in conjunction with the FHWA, to fulfill the obligations as “owner” of the property on Army-FL for obtaining any environmental permits, regulatory clearances or approvals necessary under applicable Federal, State, or local law or regulation for construction of the Project on Army-FL property; and
 22. To seek and obtain VDOT approval, which will not be unreasonably withheld, of all security devices and appurtenances within the VDOT right-of-way or easements prior to installation on any portion of the Project. Construction of the Project that contains the security features, including security barriers, shall be performed by the Army;
- B. The VDOT agrees to:**
1. VDOT agrees to be the lead agency in performing all roadway and traffic design activities; provide post design services including responses to contractors’ Request for Information (RFIs), minor redesign and minor plan revisions that may be required due to differing site conditions or contractor error;
 2. Act as a cooperating agency and be responsible for guiding the decisions associated with improvements to VDOT-owned or maintained roadways, or where VDOT interests are involved;

3. “Cooperatively participate” in NEPA environmental studies and documentation activities including any public involvement and meetings to review final plans; and any other Project activities during preliminary engineering and construction as applicable;
4. Design the Project in accordance with applicable AASHTO and VDOT standards, guides, and regulations including, but not limited to, the VDOT Road and Bridge Specifications, current edition, as amended. Obtain written comments and concurrence from the Parties for the following activities and/or products:
 - a. Preliminary Field Inspection (PFI) plans (20 percent complete);
 - b. Public Hearing (PH) plans (40 percent complete);
 - c. Field Inspection (FI) plans (75 percent complete);
 - d. Right-of-way plans;
 - e. Pre-advertisement Conference (PAC) plans, specifications, and estimates (100 percent complete).
5. Assign and designate a Project Manager for the Project so that all communication regarding NEPA, design and construction of the Project will be coordinated and managed through that identified person;
6. Pay or reimburse for all necessary costs and expenses of property maintenance and management prior to acceptance of the Project into the system of state highways, utility relocation and development of easement plats for recordation or permitting, NEPA and Environmental investigations and development of reports, advertisement, contractor selection and award, and construction of the Project;
7. “Cooperatively participate” in all design and construction field reviews (including pre-construction and progress meetings) and other Project development activities and milestones as applicable;
8. “Cooperatively participate” in the administrative settlement or adjudication of claims arising from any design issues caused by VDOT during construction, from contracts awarded by the FHWA and covered by this Agreement in accordance with the FAR and TAM, and subject to the availability of Project funds;
9. VDOT will obtain the required VPDES permit for the Project. This will include any purchase of Nutrient Credits required for SWM compliance;
10. Prepare right-of-way plans, as required for permitted easements;
11. If MEC or hazardous materials are discovered during NEPA or construction, coordinate with the appropriate State and Federal agencies to determine when hazardous materials and MEC investigations and remediation conducted by the Army and/or the FHWA (for all lands to be jurisdictionally transferred for VDOT maintenance and operations) have been completed to the satisfaction of the Commonwealth in accordance with the requirements contained in §1-405 of the Code of Virginia (1950), as amended;
12. “Cooperatively participate” with FHWA and the Army, if required, for utility relocation

by attending any meetings for coordinating with utility owners and for obtaining utilities agreements between utility owners and FHWA for preparing utility relocation plans, and the construction of the relocated utilities;

13. While the Army agrees that, in accordance with the requirements of CERCLA and other applicable Federal and State laws, it shall make every reasonable effort to provide timely responses, including, but not limited to, identification, remediation, and/or disposal related to MEC or Army releases of petroleum or any hazardous substances discovered on the property after the date of conveyance of the interest in the property to the Commonwealth, VDOT shall make every attempt to:
 - a. After any discovery of MEC, Army release of petroleum or any hazardous substance, immediately notify the Army and FHWA if the condition poses a potential risk to human health or the environment;
 - b. In any event after learning of a potential risk due to MEC, Army release of petroleum or any hazardous substance, notify the Army and FHWA of the discovery within seventy-two (72) hours, or as soon as possible thereafter;
 - c. If known, the notification shall include whether the contamination was present on the property prior to the conveyance of the interest in the property to the Commonwealth, and if the response needed is due to the fault of the Commonwealth or its agents, assigns, or parties in possession;
 - d. VDOT shall have the right, but not the obligation, to take all appropriate response action related to MEC, Army release of petroleum or any hazardous substance existing on the property at the time of conveyance where:
 - i. Notification cannot practicably be provided to the Army before an action needs to be taken and there is an imminent threat to human health and/or the environment; or
 - ii. Notification is provided to the Army before such action needs to be taken and the Army agrees to permit VDOT to take such action under terms agreed to by the Parties. Any reimbursement must be based on an auditable accounting;

If the release at issue was caused by VDOT, then VDOT shall have the obligation to take appropriate responsive action and will owe reimbursement, in accordance with CERCLA, to the Army for any required and appropriate response and remediation costs incurred by the Army for responding to the release;

14. Develop the final plans and specifications and other pertinent documents for advertisement of the Project;
15. Conduct required processes and activities in accordance with the Project schedule and cooperate to maintain the Project schedule and funding established for the Project;

16. Provide land-use permits for construction in VDOT right-of-way, if required;
17. “Cooperatively participate” in the final inspection of the constructed facility, including periodic inspections of the Project construction work, as it proceeds, upon notification by FHWA for said inspection;
18. Approve and accept for maintenance the completed roadways within existing or proposed easements intended for VDOT’s maintenance and operations responsibility, as well as other improvements related to the roadway facility, provided that: (1) the improvements meet VDOT standards and requirements; (2) any hazardous materials and MEC remediation activities are complete and meet with Commonwealth approval; (3) all easements depicted on plan sheets or plats are in locations acceptable to VDOT and the Army; and (4) the improvements meet the requirements of §1-405 of the Code of Virginia (1950), as amended;
19. Upon confirmation that the Project improvements has been completed in accordance with the approved plans and specifications, and regulations set forth in paragraph 1.C.(8) below, initiate the acceptance of the reconfigured roads as part of the Secondary System of State Highways to be maintained by VDOT when appropriate;
20. Control and regulate access to these roadways through review and approval of future connections, modifications, and improvements to ensure that this facility continues to operate in a manner acceptable to the Commonwealth; and
21. Be responsible for obtaining Fort Lee access pass for VDOT staff and contractors who require physical access to Fort Lee.

C. **The FHWA agrees to:**

1. “Cooperatively participate” in the review of VDOT design submittals; be the lead agency for NEPA, utility coordination and relocation, and construction advertisement and oversight of the construction work; and designate a Project Manager to coordinate these activities, including the design review, between VDOT and the Army;
2. Coordinate a Project Schedule with the parties of the Agreement;
3. Serve as the lead agency and conduct all necessary work for the coordination, preparation, and approval of the environmental documentation required pursuant to the NEPA and 49 U.S.C. §303 (including environmental documentation and Section 4(f) Evaluation), including public involvement and obtaining all necessary clearances and permits;
4. Serve as the lead agency for compliance with Section 106 of the National Historic Preservation Act (16 U.S.C 470s) in accordance with 36 CFR 800.2(a)(2) and be responsible for treatment of post-review discoveries of potentially affected historic properties in accordance with 36 CFR 800.13(b);

5. Request that the U.S. Army Corps of Engineers (Corps) designate the FHWA as the lead agency for compliance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470s) in accordance with 36 CFR 800.2(a)(2) should permits from the Corps be necessary for the Project;
6. Provide VDOT and the Army with copies of all reports, agency correspondence, and other documentation resulting from studies and consultation conducted for compliance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470s);
7. Select and procure consulting services, as appropriate, for NEPA environmental studies and documentation, utility relocation, construction assistance, and construction using procurement procedures in accordance with the Federal Acquisition Regulation (FAR), and the Transportation Acquisition Manual (TAM). The FHWA will be the contracting office;
8. Construct the Project in accordance with applicable AASHTO and VDOT standards, guides, and regulations including, but not limited to, the VDOT Road and Bridge Specifications, current edition, and the Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, current edition, as amended. Obtain written concurrence from the Parties for the completed construction Project that the Project has been completed in accordance with the approved plans and specifications, and regulations set forth in this subparagraph 1.C.(8);
9. Prior to any VDOT acceptance of additional easement for maintenance and operation purposes perform all environmental investigations, or studies for releases of petroleum or any hazardous substance on any Federal properties as otherwise agreed to with Army-FL, that are necessary to complete the Project as specified in the plans, as required under applicable Federal and State laws and regulations, and as appropriate under the standards of environmental due diligence;
10. Prior to, or concurrent with construction, perform environmental response to releases of petroleum or any hazardous substances, as required under applicable Federal and State laws and regulations for Federal properties as otherwise agreed to with Army-FL, that are required for the completion of the design and construction of the Project. The affirmative obligation does not apply if a release of petroleum or any hazardous substance on off-Army-FL property has been caused by Army-FL;
11. Provide the reports of Army-FL and the FHWA hazardous materials and MEC investigations, and remediation plans on-Army-FL to VDOT for Commonwealth review and approval/concurrence prior to VDOT's acceptance of the roadway for maintenance and operations;
12. Complete any remediation activities on Army-FL properties, as otherwise agreed to with the Army, and any hazardous materials clearance studies and any approved hazardous materials remediation plans;

13. Apply for and obtain all required environmental permits and approvals, excluding permits required for Storm Water Management (SWM), and Erosion and Sediment Control (E&SC);
14. Assemble the final contract plans, specifications, and estimates provided by VDOT for advertisement, and modify appropriate contract specification sections for Federal advertisement in conformance with the Federal Acquisition Regulations (FAR);
15. Provide plans for any hazardous materials and MEC remediation activities to VDOT for review and approval by the Commonwealth;
16. Advertise, evaluate bids, and award construction contracts;
17. Administer any construction contracts, including construction inspection; Cooperate with any VDOT inspector comments or concerns in bringing any unacceptable work to VDOT standards and specifications;
18. Conduct and document the final inspection, with the Army-FL and VDOT attending;
19. Be responsible for the administrative settlement or adjudication of claims arising from contracts awarded by the FHWA and covered by this Agreement in accordance with the FAR and TAM, and subject to the availability of Project funds;
20. Prepare periodic written status reports not less than monthly during construction on the Project for all parties as appropriate; and
21. Be responsible for obtaining Army-FL access pass for FHWA staff and contractors who require physical access to Army-FL.

ARTICLE II: DISBURSEMENT OF FUNDS

- A. Project funds will be provided by VDOT to the FHWA for use on the Project. All funds and activities are subject to the requirements of Title 23 of the United States Code and Title 23 of the Code of Federal Regulations and standard Federal-aid procedures.
- B. It is understood that VDOT has available \$3,000,000.00 in the Commonwealth Transportation Board's "2016-20122 Six-Year Improvement Program" for design, utility relocation and construction of the Project. Costs shall include, but are not limited to, planning; preliminary engineering; preparation of the environmental documentation, permits, and other clearances; investigations of hazardous materials (defined, for the purposes of this Agreement, as hazardous substances, pollutants, and contaminants) and munitions or explosives of concern (MEC) ; utility easement plat development and recordation; relocation of utilities; and construction and contract administration. As of June 19, 2015 VDOT has expended \$99,252.00 of these funds on preliminary engineering, environmental activities, and administrative costs leaving a balance of \$2,900,748.00. Some of this remaining balance will need to be expended by VDOT to directly pay costs for completing the design and administrative costs. Of the

\$3,000,000.00, \$410,000.00 will remain with VDOT to cover cost incurred to date and future direct costs VDOT will incur. \$2,590,000.00 will be available for EFLHD for its costs.

- C. Upon execution of this Agreement, VDOT will provide funds in advance of obligation and expenditure by EFLHD based on EFLHD's estimated costs of \$400,000.00 to cover EFLHD's tasks of Project management, plan reviews, NEPA and required environmental permits, utility relocation coordination, advertisement and award, and construction oversight and inspection. Upon VDOT's approval of the PS&E (plans, specifications and estimates) package, VDOT will promptly provide construction funds to EFLHD in the amount of PS&E approval by VDOT, less the amount of \$400,000.00 provided by VDOT to EFLHD to pay EFLHD's costs as stated in this Article II.C above. EFLHD will obtain VDOT's concurrence before award of the construction contract for this Project. All costs associated, directly or indirectly, with any and all Project responsibilities listed in Item B above shall be paid for by VDOT, subject to available funding.
- D. The transfer of funds to EFLHD will be in accordance with FHWA Order 4551.1: "Funds Transfers to Other Agencies and Among Title 23 Programs" dated August 12, 2013 and the June 2010 Federal Lands Highway document "Funds Transfer Guide."
- E. EFLHD and VDOT will enter into a reimbursable agreement to cover the associated match for the transferred Federal funds. After execution of the reimbursable agreement, EFLHD will obtain authority to expend reimbursable funds on the Project. EFLHD will submit monthly invoices to VDOT which include all necessary documentation as agreed to by the parties to reimburse EFLHD for eligible project expenditures as outlined in this Agreement. Within 30 days of receipt of the monthly invoices, VDOT will review and, if acceptable, VDOT will make payment. The EFLHD will not perform the Work until the reimbursable agreement is executed.
- F. The schedule for this Project is hereto attached, marked as Exhibit A, and made a part of this Agreement.
- G. Before any expenses are incurred or expended by EFLHD on the Project, EFLHD will forward a funding request to the VDOT for review and approval. Upon approval, VDOT will initiate the transfer of the funds by the process outlined in the FHWA Order 4551.1. EFLHD will not undertake any work on the Project until funds are received or allocated.
- H. EFLHD will maintain separate financial records for this Project and will track and monitor all funds transferred to it.
- I. If EFLHD's costs are anticipated to exceed the funds received by or allocated to the EFLHD, additional funds will be requested by EFLHD in time to have the additional funds in place before funds are exhausted. All work on the Project will cease until additional funds are received by EFLHD.
- J. VDOT must approve the contractor low bid amount received prior to issuing an award letter to the contractor, to ensure VDOT will have the funds to cover the construction cost.

- K. Upon completion of the construction of the Project or as soon as the financial records for the Project are closed, EFLHD will return all unexpended funds to the VDOT.
- L. Notwithstanding any language in this MOA to the contrary, VDOT shall have no obligation to pay Project costs in excess of total Project expenditures authorized by the Commonwealth Transportation Board.

ARTICLE III: GENERAL TERMS AND CONDITIONS

- A. This Agreement contains the entire agreement and understanding of the Parties, and may not be amended, modified, or discharged nor may any of its terms be waived except by an instrument in writing signed by all of the Parties.
- B. The failure of a Party to insist in any instance upon strict performance of any of the terms, conditions, or covenants contained, referenced, or incorporated into this Agreement shall not be construed as a waiver or a relinquishment of the Party's rights to the future performance of such terms, conditions, or covenants.
- C. The headings and captions herein are inserted for convenient reference only and the same shall not limit or construe the Articles, paragraphs, sections, or subsections to which they apply or otherwise affect the interpretation thereof.
- D. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of the Agreement shall be valid and be enforced to the fullest extent permitted by applicable law.
- E. Nothing set out in this Agreement shall constitute a waiver of the Parties' rights to seek any and all damages to the extent authorized by law, nor shall anything in this Agreement limit any defenses that the Parties may have with respect to such claims for damages.
- F. Nothing in this Agreement shall be construed as creating any rights of enforcement by any person or entity that is not a Party hereto, nor any rights, interest, or third party beneficiary status for any entity or person other than the Parties hereto.
- G. This Agreement has been drafted jointly by the Parties hereto. As a result, the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent and no rule of strict construction shall be applied against any Party.
- H. All parties to the Agreement will be afforded the opportunity to inspect, review and comment on, at any time, work in progress, the financial records, and any other supporting documentation related to this Agreement; and to participate in all meetings and field reviews.

- I. This Agreement is assignable; however, no transfer or assignment of this Agreement, or any part thereof or interest therein, directly or indirectly, voluntarily or involuntarily, shall be made unless such transfer or assignment is first approved in writing by all Parties, which approval shall not be unreasonably withheld.
- J. The Parties accept full responsibility for any property damage, injury, or death caused by the acts or omissions of their respective employees, acting within the scope of their employment, or their contractors' scope of work, to the extent allowed by the law. All claims shall be processed pursuant to applicable governing law.
- K. Any claim filed alleging an injury during the performance of this Agreement, which may be traced to a party, shall be received and processed by the party having responsibility for the particular injury-causing condition, under the law that governs such party.
- L. Nothing in this Agreement shall be construed as limiting or affecting the legal authorities of the Parties, or as requiring the Parties to perform beyond their respective authorities. Nothing in this Agreement shall be deemed to bind any Party to expend funds in excess of available appropriations.
- M. The Parties shall not discriminate in the selection of employees or participants for any employment or other activities undertaken pursuant to this Agreement on the grounds of race, creed, color, sex, or national origin, and shall observe all of the provisions of Titles VI and VII of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. §2000(d) et. seq.). The Parties shall take positive action to ensure that all applicants for employment or participation in any activities pursuant to this Agreement shall be employed or involved without regard to race, creed, color, sex, or national origin.
- N. No member of, or Delegate to, or Resident Commissioner in Congress shall be admitted to any share or part of this Agreement, or to any benefits that may arise therefrom, unless the share or part or benefit is for the general benefit of a corporation or company.
- O. The Parties will abide by the provisions of 18 U.S.C. §1913 (Lobbying with Appropriated Monies).
- P. Contracts entered into by any Federal Agency pursuant to this Agreement are subject to all laws governing federal procurement and to all regulations and rules promulgated there under, whether now in force or hereafter enacted or promulgated, except as specified in this Agreement.
- Q. Nothing in this Agreement shall be construed as in any way impairing the general powers of the parties for supervision, regulation, and control of its property under all applicable laws, regulations, and rules.
- R. This Agreement shall be in force and effect and shall remain in effect until the work, including payment, has been completed to the mutual satisfaction of all Parties. This Agreement will terminate when all transfers of funds are completed and all work

associated with this Agreement has been approved by the Parties in writing.

ARTICLE IV: KEY OFFICIALS AND CONTACTS

Designated points of contact for the coordination of this Project are as follows:

Key Official

Point of Contact

A. For the ARMY-FL:

Mr. Gregory Williams
Director, DPW
19th Street, Building
Fort Lee, VA 23801
Phone: (804) 734-4015
Email: Gregory.a.williams18.civ@mail.mil

Mr. John Royster
Chief Master Planning DPW
19th Street, Building 6005
Fort Lee, VA 23801
Phone: (804) 734-5039
Email: John.g.royster.civ@mail.mil

B. For the VDOT:

Mr. Charlie A. Kilpatrick, P.E.
Commissioner
Virginia Department of Transportation
1401 East Broad Street
Richmond, VA 23219
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Email: Charlie.Kilpatrick@vdot.virginia.gov

Mr. Xuesong Zhang, P.E.
Project Manager - Richmond District L&D
Virginia Department of Transportation
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C. For the FHWA:

Ms. Karen Schmidt
Director of Program Administration
Department of Transportation
Federal Highway Administration
Eastern Federal Lands Highway Division
21400 Ridgetop Circle
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Mr. Jack Van Dop
Senior Technical Specialist
Federal Highway Administration

Eastern Federal Lands Highway
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Sterling, VA 20166
Phone: (703) 404-6282
Fax: (571) 434-1577
Email: jack.vandop@dot.gov

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**UNITED STATES OF AMERICA
DEPARTMENT OF THE ARMY**

By: _____
Paul K. Brooks
Colonel, US Army
Garrison Commander

_____ Date

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION**

By: _____
Charlie A. Kilpatrick, P.E.
Commissioner, VDOT

_____ Date

**UNITED STATES OF AMERICA
FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION**

By: _____
Karen A. Schmidt
Director of Program Administration

Date

Attachment A

Project Schedule (Actual dates subject to availability of funds)

1. Project MOA approval by VA Commonwealth Transportation Board Approval (CTB)	TBD (assuming August 2015)
2. First Funding Transfer from VDOT to FHWA EFLHD.	Scheduled for completion – 2 months after execution of MOA (October 2015)
3. National Environmental Policy Act Documentation (Programmatic Categorical Exclusion (PCE)) & Public Hearing Plans (40% Plan)	Scheduled for completion – January 2016
4. Post of Willingness to hold a Public Hearing on NEPA	January 2016
5. Field Inspection Design Plans Complete (75% Plan)	April 2016
6. RW Plans Complete	September 2016
7. Obtain Construction License	January 2017
8. Pre-Advertisement Conference (PAC) Plans (100% Plan)	December 2016
9. Utility Relocation	February to August, 2017
10 Final Design Approval/Submission to EFLHD for Advertisement	February 2017
11. Advertise Project	June/July 2017
12 Start Construction	August 2017
13. Complete Construction	June 2018