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**COMMONWEALTH of VIRGINIA**  
DEPARTMENT OF CONSERVATION AND RECREATION

**RECREATIONAL TRAILS PROGRAM (RTP)**  
**FEDERAL HIGHWAY ADMINISTRATION - FHWA**  
**VIRGINIA DEPARTMENT OF CONSERVATION AND RECREATION**  
**Project Agreement – Preliminary Engineering**

**Recipient:** Isle of Wight County

**Project Title:** Heritage Park ATV Training Park and Trails

**Project Number:** VRT-323-M-190

**Project Period:** Date of DCR Approval to May 30, 2021

*The applicant is encouraged to complete the Preliminary Engineering Phase of this project by August 1, 2020.*

**Project Scope of Work:** Isle of Wight County will complete an environmental analysis, final design, surveying, administration, and erosion and sediment control measures for the Isle of Wight Heritage Park ATV Training Park trails and facilities

**Grant Award Amount:** \$78,200.00 (total project cost of \$97,750.00)

*Pending successful completion of PE \$264,918.60 of RTP Funding will be obligated to this project for the Construction Phase.*

**Funding Sources:** FY15 – FMIS Code M94E = \$78,200.00

Upon signature of both parties below, the Department of Conservation and Recreation (DCR) and the Isle of Wight County hereinafter referred to as the “Recipient” mutually agree to perform this agreement in accordance with the Recreational Trails Program as codified at 23 U.S.C. 206, the provisions and conditions of the FHWA Interim Guidance dated April 1, 1999, as amended, and with the regulations and requirements governing federal grants as stipulated in 2 CFR Parts 175, 200, 215, 225 and Federal Highway Administration regulations as outlined in 49 CFR Parts 18, 20, 29 and 32 (<http://www.whitehouse.gov>)

**In accepting this grant, evidenced by the signature below, the Recipient agrees to comply, adhere and abide with the following conditions of this grant agreement:**

**Project Execution:**

1. Fiscal Procedures, Procurement and Bidding Procedures of the Recreational Trails Program as outlined in the 2019 Recreational Trails Program Manual  
<https://www.dcr.virginia.gov/form/DCR199-123.pdf> .
2. Specific project application and amendments submitted for funding assistance under the Recreational Trails Program.
3. All applicable state, federal and local laws, regulations and ordinances including but not limited to compliance with the Virginia Erosion & Sediment Control and Virginia Stormwater Management Laws & Regulations.
4. The recipient is expected to have a project manager assigned to the project as the primary contact and a designated backup for communicating project status.
5. Submission of Quarterly Progress Reports on status of grant implementation. First report due no later than **January 5, 2020**. All correspondence pertaining to this project must reference State Project Number **VRT-323-M-190**.
6. The Recipient agrees to contact both the appropriate state and/or federal agency and DCR if any unexpected environmental concerns are encountered during project construction.
7. The recipient agrees to comply with the Virginia Seed Law to ensure no noxious weed seeds are introduced into the project area.

8. The project period shall begin with the date of approval of the project agreement and shall terminate at the end of the stated or amended project period unless the project is completed or terminated sooner; in which event, the project shall end on the date of completion or termination.
9. The Recipient will cause work on the project to be commenced within a reasonable time after receipt of notification that funds have been approved and assure that the project will be pursued to completion with reasonable diligence.
10. The Recipient will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities, pursuant to 40 CFR, Part 15.20 and that it will notify DCR of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be utilized in the project is under consideration for listing by the EPA.
11. The Recipient will comply with the terms of Title II and Title III, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), 94 Stat. 1894 (1970), and the applicable regulations and procedures implementing such Act for all real property acquisitions and where applicable shall assure that the Act has been complied with for property to be developed with assistance under the project agreement.
12. The Recipient will comply with the provisions of: Executive Order 11988, relating to evaluation of flood hazards; Executive Order 11288, relating to the prevention, control, and abatement of water pollution, and Executive Order 11990 relating to the protection of wetlands.
13. The Recipient will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires the purchase of flood insurance in communities where such insurance is available, as a condition for the receipt of any federal financial assistance for construction or acquisition purposes, for use in any area that has been identified as an area having special flood hazards by the Flood Insurance Administration of the Federal Emergency Management Agency. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
14. The recipient will take necessary actions to ensure compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to effects (see CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
15. The Recipient shall secure completion of the work in accordance with approved construction plans and specifications, and shall secure compliance with all applicable Federal, State, and local laws and regulations.
16. The Recipient will comply with Executive Order 12432, "Minority Business Enterprise Development as follows (a) place minority business firms on bidder's mailing lists, (b) solicit these firms whenever they are potential sources of supplies, equipment, construction, or services, (c) where feasible, divide total requirements into smaller needs, and set delivery schedules that will encourage participation by these firms. The recipient will comply with the Disadvantaged Business Enterprise (DBE) Program policy and procedures as outlined in the attached RTP DBE policy. DCR and the Federal Highway Administration are committed to the objectives of this policy and encourage all Recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness.
17. Purchase of supplies, equipment or services must be in accordance with the Virginia Public Procurement Act and all applicable state, local and federal laws.
18. Bid documentation must contain notice that the purchase or service is being offered or performed in accordance with the Recreational Trails Program and the Compliance Guidance in the United States Department of Transportation regulations in 49 CFR and applicable parts 18.19 and 26, as amended.
19. Bid documentation must be administratively reviewed by DCR prior to awarding and signing of contracts. Prior to any land disturbances associated with the project, a copy of the advertisement for bid, the bid spreadsheet showing the lowest bidder, evidence of the good faith effort for

including DBEs in the bid process and a copy of the executed contract must be submitted to DCR. The expectation is that the award will go to the lowest bidder. Federal procurement laws prohibit negotiation with the lowest bidder. If only one bid response is received then the project must be re-bid. Project work shall not be awarded to any vendor which is debarred or suspended or is otherwise excluded for or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension." All vendors and contractors providing supplies, materials, goods, equipment, services, etc. for the project must be licensed in Virginia as required.

20. Recipient must adhere to 23 U.S.C. 206; 2 CFR 200; the Commonwealth of Virginia's construction procurement requirements; the Buy America Act; and the federal requirements outlined in form FHWA 1273. If contradictions occur the Recipient must communicate them to DCR for consultation with FHWA for instructions on how to proceed. Architectural and engineering firms are to be informed that all projects are to be constructed in compliance with all applicable state and local laws and regulations, FHWA 1273, and Buy America Executive Order 13788.
21. The recipient bears sole responsibility for ensuring that all contracts are in compliance with federal and state laws concerning the solicitation of supplies, equipment and services.
22. Copies of the National Environmental Policy Act (NEPA) document (categorical exclusion, environmental assessment, or environmental impact statement), the National Historic Preservation Act section 106 determination, the Endangered Species Act section 7 determination, all permits (land disturber, stormwater management, erosion and sediment control, Virginia Department of Transportation right of way permit for ingress/egress and travel of ATVs across public road right of way, COE permits, local building, etc.) issued for the project are required to be submitted to DCR for the grant file.
23. The Recipient agrees that DCR's waiver or failure to enforce or require performance of any term or conditions of this project agreement or DCR's waiver of any particular breach of this project agreement by the Recipient extends to that instance only. Such a waiver or failure to enforce is not and shall not be a waiver of any of the terms or condition of this project agreement or a waiver of any other breaches of the project agreement by the Recipient and does not bar DCR from asserting any and all rights and/or remedies it has or might have against the Recipient under this project agreement or by law.
24. The Recipient understands that the Recreational Trails Program is a federally funded program subject to actions by congress and regulatory changes which may impact the execution of this project by the Recipient. DCR will work with the Recipient in adjusting to any changes that occur during the life of this project as soon as any changes are made known to us.

#### **Record Retention:**

1. Financial records, supporting documents, statistical records, and all other records pertinent to this grant shall be retained in accordance with 49 CFR for a period of three years; except the records shall be retained beyond the three-year period if audit findings have not been resolved. The retention period starts from the date of the final expenditure report for the project.
2. The Federal Highway Administration, Comptroller of the United States of America, DCR or any of their authorized representatives shall have access to any books, documents, papers, and records of the recipient which are pertinent to this Recreational Trails Program grant project for the purpose of making audit, examination, excerpts and transcripts.

#### **Project Termination:**

1. DCR may terminate the project in whole, or in part, at any time before the date of completion, whenever it is determined that the Recipient has failed to comply with the conditions of the project agreement. DCR will promptly notify the Recipient in writing of the determination and the reasons for the termination, together with the effective date.
2. The recipient understands that terminated projects must return any RTP funding received to DCR for return to the FHWA.
3. Termination by the Recipient either for cause or for convenience requires that any and all RTP reimbursement payments must be returned to DCR for return to the FHWA.

### **Reimbursement Documentation:**

1. The recipient understands all funding associated with the Recreational Trails Program is federal funding made possible from the Federal Highway Administration. Reimbursements are paid on an 80% matching reimbursement basis not to exceed the actual out of pocket expense or the approved total award amount provided adequate documentation is submitted by the Recipient to justify expenditures incurred and paid. The Recipient understands that no Commonwealth of Virginia funding is associated with this project and no Commonwealth of Virginia funding will be made available for this project under any circumstances.
2. The recipients understands that reimbursement by the Recreational Trails Program is not a right. Reimbursements are contingent upon satisfactorily completing the authorized scope of work within the approved performance period and submitting required documentation for reimbursement.
3. Each reimbursement request must include:
  - a) A transmittal letter/performance report describing the work completed, challenges, amount of DBE participation in the project (if any), a breakdown by percentage of the total cash, donation, volunteer or in-kind work involved. The transmittal should include the reimbursement amount being requested.
  - b) Receipts, delivery tickets and packing slips for materials and supplies purchased. This is required for all projects including contractor performed work.
  - c) Invoices/Schedule of Values (SOV) itemizing charges. All invoices/SOV should reference the RTP project. Invoices/Schedule of Values must be detailed with an explanation for how the purchases relate to the RTP authorized work. Invoices/Schedule of Values with expenses for materials and supplies without corresponding delivery tickets, packing slips, etc. will not be honored and will be ineligible for reimbursement. When invoices contain other purchases not related to the RTP project, the purchases applying to the RTP project must be clearly identified.
  - d) All invoice/SOV expenditures must have an explanation for how the material, supply or service relates to the RTP authorized work.
  - e) Time cards signed by both the employee and supervisor are required. Time cards are needed for contract labor performed work, force account performed work and volunteer performed work. A description indicating how the work performed by the employee ties to the RTP authorized work is needed. "Trail work" is not acceptable. Unsigned timecards by either the employee or supervisor are ineligible for seeking reimbursement. Incomplete timecards are ineligible for seeking reimbursement. Unsigned and/or incomplete volunteer time cards and/or logs are ineligible for seeking reimbursement. Timecards/volunteer logs for multiple individuals that appear to be in the same handwriting will be deemed ineligible.
  - f) All expenditures must have an accompanying proof of payment in the form of image of cleared check (front and back of check), credit card receipt, payroll ledger or pay stub copies, etc. Internal source documents are not sufficient to prove an outlay of funds.
  - g) Holiday, Annual, Sick leave and Overtime may not be charged to the RTP project.
  - h) Work logs indicating daily tasks completed for the RTP project are required. Daily work logs are required for engineering services, force account, volunteer and contract built projects.
  - i) Materials notebook. The materials used on any project must be documented as approved materials meeting specifications and documented as to the quantities used. The materials notebook must contain the total quantities of materials incorporated into the project including a description of the material, the material supplier and manufacturer. Supporting documentation such as delivery tickets, test reports and certifications demonstrating conformance to specifications is required to demonstrate compliance with Presidential Order 13788 and the Buy America Act. The Contractor's quality control manager and the local project manager must sign the materials notebook. Self-built projects require material books and should be signed by the project manager.

- j) Equipment records must clearly identify machinery, date, time, name of operator, rate of the equipment and description how the equipment was used in accordance with the authorized RTP scope of work. If discrepancies exist between the hours on the operator's time sheets and the equipment records explanations are required to determine eligibility for reimbursement purposes.
  - k) Buy America documentation must be submitted to support iron or steel products used in the RTP project. Documentation includes, but is not limited to, certification by the manufacturer, mill paperwork, etc. Reimbursement documentation must identify all iron, steel, and aluminum parts incorporated into the project with the dollar value of each item as delivered to the project site. Failure to demonstrate compliance with the Buy America Act and Executive Order 13788 will result in no reimbursement being made to the recipient.
  - l) Documentation providing a summary of the procurement on the RTP project including the Recipient's effort to including DBEs in the project. This documentation includes but is not limited to the request for proposal for engineering services, the A/E contract, other contracts, final Invitation For Bid, Project Manual, bid spreadsheet showing lowest, responsive and responsible bidder and executed contract.
  - m) Each reimbursement request must be accompanied by a signed Virginia Recreational Trails Program Reimbursement Certification Form.
4. The recipient understands the RTP program requires documentation to justify all expenditures associated with the project before reimbursement can be authorized. Each RTP project is situation specific and additional information to what is listed in this project agreement above may be requested to receive reimbursement. The failure to provide suitable documentation for authorization from the FHWA for payment can result in the inability to be reimbursed for work performed, either in whole or in part. In situations where ambiguity exists in determining how an expense related to the authorized RTP scope of work no reimbursement will be possible. In situations where ambiguity exists regarding the eligibility of an expense no reimbursement will be allowed.
  5. A partial or final reimbursement must be submitted by **July 15, 2020**. A final reimbursement must be submitted by the grant agreement deadline. Failure to adhere to this requirement renders the project "inactive" which can result in de-obligation and loss of funding.
  6. Reimbursements are normally processed in thirty (30) days once documentation has been received and verified by both DCR and the FHWA.
  7. Projects utilizing other federal funds in addition to the Recreational Trails Program funding must demonstrate adherence to the 95% rule which states that the total federal dollars on a project cannot exceed 95%. **Each reimbursement request must adhere to this rule.** Other federal funding added to the project after RTP approval will not be allowed as a match for the RTP project and expenditures associated with the other federal funding will be ineligible for reimbursement. Federal funds from other sources added after RTP approval could result in rescission of the RTP award when the program's rules and regulations would prohibit the multiple federal funding sources.
  8. The final reimbursement request is held in retainage until the work described in the scope of work is completed and satisfactorily inspected by DCR.
  9. RTP recipients with PE projects unable to go to construction within two years of the completion of this PE grant are required to return all funding to DCR for return to the FHWA.

### **Special Conditions**

1. The Facility Life assigned to this project scope of work after construction funding has been added to the project is 25 years beginning with the date of final reimbursement.

### **Performance Period**

1. The scope of work for this project agreement is expected to be complete, site inspected, and financially closed out by **May 30, 2021**. Recipients unable to meet this deadline must contact DCR no less than 90 days prior to project expiration.
2. Extensions are not a right and will only be considered in accordance with the extension policy as outlined in the 2019 Recreational Trails Program grant application manual. An extension will only be considered due to documented severe weather conditions, unexpected staff turnover during the project performance period and delays due to unexpected environmental concerns.

### **Provision of a Drug-Free Workplace**

In compliance with the Drug-Free Workplace Act of 1988 (43 CFR Part 12, Subpart D), upon signing the Recreational Trails Program project agreement, the Recipient certifies that it must:

- A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- B. Establishing a drug-free awareness program to inform employees about:
  - (1) The dangers of drug abuse in the workplace.
  - (2) The grantee's policy of maintaining a drug-free workplace.
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs.
  - (4) The penalties that may be imposed upon employees for drug violations occurring in the workplace.
  - (5) Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (A)
- C. Notifying the employee in the statement required by paragraph (A) that, as a condition of employment under the grant, the employee will –
  - (1) Abide by the terms of the statement.
  - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- D. Notifying the agency within ten days after receiving notice under subparagraph (C)(2) from an employee or otherwise receiving actual notice of such conviction.
- E. Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted –
  - (1) Taking appropriate personnel action against such an employee, up to and including termination.
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- F. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

### **Non-Discrimination**

- 1. All activities pursuant to this Agreement shall be in compliance with the requirements of Executive Order 11246, as amended; Title VI of the Civil Rights Act of 1964, as amended, (78 Stat. 252; 42 U.S.C. §§2000d et seq.); Title V, Section 504 of the Rehabilitation Act of 1973, as amended, (87 Stat. 394; 29 U.S.C. §794); the Age Discrimination Act of 1975 (89 Stat. 728; 42 U.S.C. §§6101 et seq.); and with all other federal laws and regulations prohibiting discrimination on grounds of race, color, sexual orientation, national origin, disabilities, religion, age, or sex.

### **Lobbying Prohibition**

- 1. 18 U.S.C. §1913, Lobbying with Appropriated Moneys, as amended by Public Law 107–273, Nov. 2, 2002 – No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Members or official, at his request, or to Congress or such official, through the proper official channels, requests for legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31.

In witness whereof, the parties hereto have executed this agreement as of the date entered below.

**Commonwealth of Virginia**  
**The Department of Conservation and Recreation**

By\_\_\_\_\_ Date\_\_\_\_\_

Planning and Recreation Resources Division Director

**Isle of Wight County**

By\_\_\_\_\_

Print Name

\_\_\_\_\_ Date\_\_\_\_\_

Signature

\_\_\_\_\_

Title