

MEMORANDUM OF AGREEMENT
BETWEEN
HENRICO COUNTY
AND
THE VIRGINIA DEPARTMENT OF TRANSPORTATION
RELATING TO
MAINTENANCE OF THE REGIONAL MULTI-USE FALL LINE TRAIL

THIS MEMORANDUM OF AGREEMENT (MOA), is made and entered into as of the last date of execution below, between Henrico County, Virginia, hereinafter referred to as Henrico, and the Commonwealth of Virginia, Department of Transportation, hereinafter referred to as the Department. The Department and Henrico are collectively referred to as the “Parties”.

WHEREAS, the Department initiated the Ashland to Petersburg (ATP) Trail Study (Study) to identify a preferred corridor for this regional multi-use trail (Trail) that would extend between the Town of Ashland and the City of Petersburg, a distance of approximately 40 miles; and

WHEREAS, the ATP Trail Study evaluated existing conditions and identified a corridor least impactful to environmental resources with feedback from state and federal agencies, affected localities, special interest groups, and the general public; and

WHEREAS, the preferred corridor for this Trail, now officially named the Fall Line Trail, would be located within the counties of Chesterfield, Hanover and Henrico, cities of Colonial Heights, Petersburg and Richmond, and the Town of Ashland; and

WHEREAS, throughout the Study, stakeholders and the public noted the importance of Trail maintenance and aesthetic considerations, including Trail continuity, feel and signage and it was further noted that future Trail maintenance will be determined based on the funding source and location of the Trail segment of the preferred corridor; and

WHEREAS, the varying location and ownership of the property or right of way on which the Trail will ultimately be situated raises issues as to maintenance responsibilities for the Trail, once it has been constructed and becomes operational, and in Henrico, specifically, the Trail may be located or situated on right of way or property owned by the Department in certain instances, Henrico in other instances, and private entities in yet other instances; and

WHEREAS, the Department and Henrico recognize the need for and are agreeable to establishing the general maintenance responsibilities for each of the Parties prior to construction of the Trail and seek to memorialize their understanding in a written document in order to

facilitate planning and preparation well in advance of the need for maintenance activities on the Trail.

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

A. Division of Maintenance Responsibilities

The Parties agree that, as the Trail or portions thereof become operational, each will bear responsibility for maintenance of the Trail as follows:

1. For portions of the Trail that are situated on right of way or property owned by the Department prior to commencement of the Trail project, the Department shall bear responsibility for performing or causing to be performed all maintenance of said portions of the Trail.
 2. For portions of the Trail that will be located on easements granted by Henrico to the Department for placement or construction of the Trail, whether the Trail is at-grade or situated on a structure, the Department will bear responsibility for performing or causing to be performed all maintenance on said portions of the Trail, and any structures upon which it is situated.
 3. For portions of the Trail that will be located on right of way or property owned by Henrico that will not be the subject of easements to the Department for placement or construction of the Trail, Henrico will bear responsibility for performing or causing to be performed all maintenance on said portions of the Trail.
 4. For portions of the Trail located on structures owned or maintained by Henrico and for which Henrico receives maintenance funding pursuant to 33.2-366, Henrico will bear responsibility for performing or causing to be performed all maintenance of said portions of the Trail.
 5. For portions of the Trail that will be located on easements granted by a private entity to the Department for placement or construction of the Trail, whether the Trail is at-grade or situated on a structure, the Department will bear responsibility for performing or causing to be performed all maintenance on said portions of the Trail, and any trail-related structures upon which it is situated, pursuant to a separate agreement with the private entity.
- B. It is the intent of the Parties that financial responsibility for the costs of maintaining the portions of the Trail as noted in Section A will be borne by the Parties as follows:
1. For portions of the Trail for which the Department bears responsibility for performing or causing to be performed maintenance as set out in subsections A.1., and A.2., the Department will bear all costs of maintenance and in subsection A.5., the Department will bear all costs of maintenance unless otherwise agreed in a separate agreement with the private entity.

2. For portions of the Trail for which Henrico bears responsibility for performing or causing to be performed maintenance as set out in subsections A.3. and A.4., Henrico will bear all costs of maintenance. However, to the extent permitted by law and subject to Section E, it is the intent of the Parties that, to the extent that the Trail has been located on right of way for which Henrico receives maintenance payments pursuant to §33.2-366 of the *Code of Virginia*, Henrico will continue to receive maintenance payments for said right of way.
- C. The Parties agree that this MOA establishes general expectations regarding maintenance of the Fall Line Trail, acknowledge that subsequent agreements setting forth more detailed terms and conditions relating to maintenance of the Trail may be necessary prior to or after completion of the Trail's construction, and herein are stating their intent to cooperate in the development of future agreements as may be necessary.
- D. To the extent that Henrico has granted easements to the Department for purposes of the Trail as set forth in subsection A.2, the Parties agree that Henrico shall retain the right to perform maintenance and repairs on locality-owned facilities within or adjacent to the easements for the Trail. Subject to a minimum of ten days notice to the Department and provided a Department-approved detour is provided, Henrico shall have the right to close the impacted portion of the Trail, as necessary, for maintenance and repair activities associated with Henrico-owned facilities. In the event that Henrico exercises closure of a portion of the Trail pursuant to this Section (D), Henrico shall be responsible for posting public notices and signage in the vicinity of the affected portion of the Trail advising of the closure, at least five days in advance of closure.
- E. The Parties agree that this MOA and its provisions are subject to state and federal law and regulations as well as policies of the Commonwealth Transportation Board (Policies) and that to the extent laws, regulations or said Policies may require modification of the terms of this MOA or to the extent laws, regulations or said Policies may require modification to effectuate the intentions of the Parties, the Parties will cooperate to modify this MOA or to use their best efforts to effectuate changes in the law, regulations and/or Policies.
- F. Nothing in this MOA shall obligate the Parties hereto to expend or provide any funds except those as shall have been included in an annual or other lawful appropriation for the purposes herein.
- G. The Parties mutually agree and acknowledge, in entering this MOA, that the individuals acting on behalf of the Parties are acting within the scope of their official authority 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 MOA or to otherwise enforce the terms and conditions of this MOA.

- H. Nothing in this MOA shall be construed as a waiver of the sovereign immunity of the Commonwealth of Virginia.
- I. This MOA may only be modified in writing as agreed to by both Parties.
- J. This MOA may be terminated at any time by either Party, at its discretion upon no less than 120 days advance written notice.
- K. Notices: all notices under this MOA to either Party shall be in writing and forwarded to the other party by U.S. Mail and email, care of the following authorized representatives:

Henrico

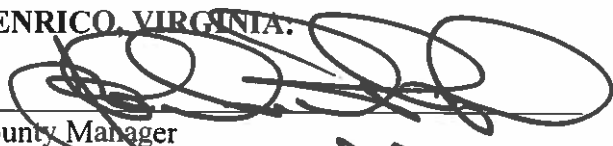
Department

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 County Manager
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Stephen C. Brich, P.E.
 Commissioner of Highways
 1401 East Broad Street
 Richmond, VA 23219
 stephen.brich@vdot.virginia.gov

IN WITNESSETH WHEREOF, the Parties sign and cause this MOA to be executed by their duly authorized officers on the dates set forth below.


HENRICO, VIRGINIA:



 County Manager

1/25/2022

 Date



 John A. Vithoukas

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:



 Commissioner of Highways

2/28/2022

 Date

Stephen C. Brich

 Typed or Printed Name of Signatory