

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	November 15, 2021
Action Required:	Appropriation
Presenter:	Chris Gensic, Parks and Recreation
Staff Contacts:	Chris Gensic, Parks and Recreation Krisy Hammill, Budget and Management Analyst
Title:	Department of Conservation and Recreation Recreational Trail Grant for Construction of Meadow Creek Bridges - \$222,511.21

Background:

The City of Charlottesville, through Parks and Recreation, has received an additional funding allotment from the Virginia Department of Conservation and Recreation (DCR) in the amount of \$178,008.97 to assist with efforts to construct a bicycle and pedestrian bridge over Meadow Creek. In order to accept the additional funding, The City will need to add additional 20% match this project in the amount of \$44,502.24 from the Trail CIP Fund for a total additional appropriation of \$222,511.21.

Discussion:

The City of Charlottesville has completed a bicycle, pedestrian and trail master plan that includes a bike/pedestrian commuter trail along Meadow Creek between Greenbrier Park and Meadow Creek Gardens. The portion near Brandywine Drive and the Senior Center requires construction of two bridges. The City applied for and was awarded funding from DCR to assist with design and construction of one of the bridges. The design work is now nearly complete and ready for construction. DCR has extra funding in the same grant year that the original grant was awarded out of and has offered it to Charlottesville. The current bridge and trail construction cost estimate is \$350,000, which requires additional funding. Acceptance of the additional funding from DCR will provide the needed funding and require the City to only fund 20% of the cost rather than 100%.

Alignment with City Council's Vision and Strategic Plan:

Construction of this trail bridge will further council goals of being a Connected City and a Green City by providing a critical bicycle and pedestrian trail portion of the developing greenway system, which will reduce dependence on automotive travel and associated pollution. Additionally, this project supports Strategic Plan Goal 2: Be a safe, equitable, thriving and beautiful community.

Community Engagement:

The bicycle, pedestrian and trail master plan and the Meadow Creek Valley Park Master Plan were developed with multiple public meetings and were both approved by City Council.

Budgetary Impact:

There is no impact on the General Fund. The required local match of \$44,502.24 will come previously appropriated funds in the City's Capital Projects Fund (PR-001 – Trails Lump Sum).

Recommendation:

Staff recommends appropriation of grant funds.

Alternatives:

The project could be postponed or funded with 100% local funds.

Attachments:

Resolution of Appropriation
Grant award letter from Virginia Department of Conservation and Recreation

RESOLUTION APPROPRIATING
Department of Conservation and Recreation Recreational Trails Grant for Construction of
Trail bridges over Meadow Creek - \$222,511.21

WHEREAS, the City of Charlottesville, through Parks and Recreation, has been awarded an additional \$178,008.97 from the Virginia Department of Conservation and Recreation to construct a bicycle and pedestrian bridge along Meadow Creek; and

WHEREAS, the City will fund the required local match to this grant in the amount of \$44,502.24 using previously appropriated fund in the Trails CIP fund (PR-001) account.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$222,511.21 is hereby appropriated in the following manner:

Revenue

\$178,008.97 Fund: 426 WBS: P-00905 G/L Account: 430120

Transfer From

\$44,502.24 Fund: 426 WBS: PR-001 G/L Account: 599999

Expenditure

\$222,511.21 Fund: 426 WBS: P-00905 G/L Account: 599999

BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$178,008.97 from the Virginia Department of Conservation and Recreation.

Molly Joseph Ward
Secretary of Natural Resources

Clyde E. Cristman
Director



Rochelle Altholz
Deputy Director of
Administration and Finance

David C. Dowling
Deputy Director of
Soil and Water Conservation
and Dam Safety

Thomas L. Smith
Deputy Director of Operations

COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

Recreational Trails Program
Federal Highway Administration - CFDA 20.219
Project Agreement (Amended)

Recipient: City of Charlottesville

Project Title: Meadow Creek Trail Bridge

State Project Number: NRT-15FY(001)-VRT-302

Project Period: 02/12/2018 to 12/31/2021 12/31/2023 (\$51,697.78 of unexpended RTP funding as of 10/1/21 must be expended by 12/31/21)

Project Scope: Construction of a bridge over Meadow Creek to connect trail segments. Project costs include costs associated with the trail approaches and bridge construction and installation.

\$397,511.21

Total Project Cost: ~~\$175,000.00~~ (minimum amount to claim authorized RTP funding assistance)

Authorized RTP Funding Amount: ~~\$140,000.00~~ **\$318,008.97** (\$51,697.78 of unexpended RTP funding as of 10/1/21 must be expended by 12/31/21)

Upon signature of both parties below, the **Virginia Department of Conservation and Recreation (DCR)** and the **City of Charlottesville** 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 Title 2, 23 and 49 CFR.

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

Project Execution:

1. 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. The Recipient agrees to contact both the appropriate state and/or federal agency and DCR if any unexpected environmental or other concerns are encountered during project construction.
2. Submission of Quarterly Progress Reports on status of grant implementation. First report due no later than **06/30/2018**. All correspondence pertaining to this project must reference State Project Number **NRT-15FY(001)-VRT-302**.

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Natural Heritage • Dam Safety and Floodplain Management • Land Conservation*

3. The recipient agrees to comply with the Virginia Seed Law to ensure no noxious weed seeds are introduced into the project area.
4. The project period shall begin with the date of approval 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. The Recipient shall secure completion of the work in accordance with approved plans (construction, erosion and sediment control, stormwater management, etc.) and specifications and shall secure compliance with all applicable Federal, State, and local laws and regulations.
10. 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 Archaeological 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.

11. The Recipient will comply with Executive Order 12432, "Minority Business Enterprise Development and the DBE Policy and Procedure as outlined in the attached 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. The Recipient must provide documentation to support compliance with the DBE policy before any reimbursement can be authorized.
12. The Recipient must adhere to 23 U. S.C. 206; 2 CFR 200; the Commonwealth of Virginia's construction procurement requirements; the Buy America Act; Presidential Executive Order: Buy American and Hire American 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.
13. The Recipient understands that the Buy America Act (23 U.S.C. 313; 23 CFR 635.410) applies to all iron and steel products permanently incorporated into Federal-aid funded projects regardless of how they were procured or if the costs will not be requested for Federal reimbursement. The entire project as defined in the NEPA document is required to comply with Buy America. The Recipient has the following options for complying with Buy America:
 - Option 1: FHWA would accept any obvious branding on the beams (i.e. Heat number) that demonstrate they were manufactured in the USA and date back to the original casting.
 - Option 2: The city could use the "Minimal Use" clause; FHWA's regulations permit a minimal use of foreign steel and iron in the amount of \$2,500 or one-tenth of one percent, whichever is greater, to be used in a Federal-aid project. For a \$175,000.00 project the beams cost could not exceed \$2,500 (which is greater than 1/tenth of 1% of \$175,000= \$175) and no additional foreign steel could be used on the project.
 - Option 3: The city could track down the Material Certificates for the beams that demonstrates they were manufactured in the US.
 - Option 4: Under 23 CFR 635.410 (c)(1)(i), the city could be granted a waiver of Buy America requirements. This waiver may be granted on a project-by-project basis if:
 - The application of Buy America provisions would be inconsistent with the public interest.

14. Bid documentation must contain notice that partial funding for the project is being provided by the Recreational Trails Program of the Federal Highway Administration administered in Virginia by DCR and must be undertaken in accordance with the Recreational Trails Program guidance of the FHWA and the with 2, 23 and 49 CFR.
15. Invitation for Bids must physically incorporate form FHWA 1273 and the Buy America Act provisions. Invitation for Bids must outline the documentation requirements needed by the Recipient for obtaining reimbursement through the Recreational Trails Program including a provision for retaining all documents associated with the project for up to 3 years after completion of the job.
16. Plans and bid documentation must be administratively reviewed by DCR prior to the start of work on the project. Administrative review is defined as a review of bidding documents, construction plans, specifications and/or contractual documents to determine consistency with the approved Recreational Trail Program project agreement. DCR's administrative review and permission to proceed shall not be considered a professional architectural, engineering or legal review, or an endorsement of design practices and standards.
17. Contracts must be awarded to the lowest responsive and responsible bidder. 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.
18. Federal procurement laws prohibit negotiation with the lowest bidder. If only one bid response is received then the project must be re-bid.
19. All contracts must include form FHWA-1273 and the Buy America Act.
20. Recipients are responsible for ensuring that all contracts are in compliance with federal and state laws concerning the solicitation of supplies, equipment and services.
21. In the event the project covered by the project agreement cannot be completed in accordance with the plans and specifications for the project, the Recipient shall contact DCR to discuss changes in scope of work that will bring the project to a point of recreational usefulness agreed upon by the Recipient, DCR and FHWA, or his designee.
22. Copies of all permits (land disturber, stormwater management, erosion and sediment control, Virginia Department of Transportation right of way permit for ingress/egress, use of ATVS across public road right of way, water quality, local building, etc.) issued for the project must be submitted to DCR for the grant file. Failure to submit these documents can result in the inability to receive any reimbursement on the project.

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.

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. DCR retains the right to disallow costs and recover funds from the Recipient on the basis of later audit or other review within the record retention period.
3. 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. Termination by the Recipient either for cause or for convenience requires that the project in question be brought to a state of recreational usefulness agreed upon by DCR, the Recipient and the FHWA.

Reimbursement Documentation:

1. 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 grant award amount provided adequate documentation is submitted by the Recipient to justify expenditures incurred and paid.

2. 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.
3. Each reimbursement request must include:
 - a) Receipts, delivery tickets and packing slips for materials and supplies purchased. This is required for all projects including contractor performed work.
 - b) 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.
 - c) All invoice/SOV expenditures must have an explanation for how the material, supply or service relates to the RTP authorized work.
 - d) 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.
 - e) 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.
 - f) Holiday, Annual, Sick leave and Overtime may not be charged to the RTP project.
 - g) Work logs indicating daily tasks completed for the RTP project. Daily work logs are needed for force account, volunteer and contract built projects.
 - h) 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.
 - i) Buy America documentation to support iron or steel products used in the RTP project.
 - j) Documentation describing 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 final Invitation For Bid, Project Manual, bid spreadsheet showing lowest, responsive and responsible bidder and executed contract.

4. The Recipient understands that both DCR and the FHWA verify reimbursement requests before FHWA authorizes payment. DCR verifies first, then the FHWA. Due to the volume of information required the Recipient may be requested to submit 2 paper copies (one for DCR files and one for FHWA files) to help expedite processing. Electronic reimbursement request sent via email is acceptable when feasible.
5. The Recipient understands that RTP program requires documentation to justify all expenditures associated with the project before reimbursement can be authorized. The Recipient understands that each project is situation specific and additional information to what is listed in this grant agreement may be requested to receive reimbursement. The Recipient understands that 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.
6. The Recipient understands that if any ambiguity exists in determining how an expense relates to the RTP authorized work it may not be honored in which case no reimbursement will be made to the Recipient.
7. Request for reimbursement must be submitted no less than once per year during the grant life on completed work that has been incurred and paid for by the Recipient for the project.

Special Conditions

1. 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 programs rules and regulations would prohibit the multiple federal funding sources.
2. The Recipient understands that the project is to be undertaken in accordance with the recommendations from the Virginia Department of Game and Inland Fisheries by minimizing the amount of vegetation and tree clearing. If tree removal becomes necessary adherence to DGIF's standard tree removal – T&E bat guidance is to be followed. This involves coordination with USFWS and reviewing DGIF online bat tools:
<http://www.dgif.virginia.gov/environmental-programs/>;
<http://www.dgif.virginia.gov/wildlife/bats/northern-long-eared-bat-application/> ; and
<http://www.dgif.virginia.gov/wildlife/bats/little-brown-bat-tri-colored-bat-winter-habitat-roosts-application/>.

3. Twenty percent (20%) of the grant award amount is held in retainage until the work described in the scope of work is completed and satisfactorily inspected by DCR.
4. The Facility Life assigned to this project is 20 years beginning with the date of final reimbursement.

Project Extensions

Extensions of the grant expiration date will only be considered when there are documented circumstances beyond the control of the Recipient (severe weather events, etc.). Extensions are not a right and may be denied on the constraints of the grant program guidelines, source of funding, insufficient progress or poor project administration. Requests for extensions must be submitted in writing no less than 90 days prior to project expiration.

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


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

Amended 10/6/21 (indicated in red)

By: 
Danette Poole
Planning and Recreation Resources
Division Director

 e-signature
10/13/2021
Kristal McKelvey
Recreation Grants Manager


Date: 2/12/18

 10/14/21
Kelly McClary
Planning and Recreation Resources Division Director

City of Charlottesville

 10/14/21
Rauslyn Smith
DCR Finance Grant Fund Manager

By: 
Signature

 10/15/2021
Clyde Cristman
Department of Conservation and Recreation Director

BRIAN DALY
Printed Name

DIRECTOR, PARKS & RECREATION, CITY OF CHARLOTTESVILLE, VIRGINIA
Title

Date: APRIL 18, 2018