

# Issue Analysis Form



**Date:** January 12, 2020  
**Item:** VDOT Agreement for Koolwood Lane  
**Lead Department(s):** Comm. Dev. & Code Compl.  
**Contact Person(s):** Julie Walton

## Description and Current Status

Koolwood Lane is a partially completed road that serves nine lots off Fairwood Road. The development was platted in 2004, and included the provision that Koolwood Lane would be constructed as a public road by the developer. The County's Planning department at that time required a performance bond be posted by the developer for the road work.

The developer did not complete the road per VDOT's requirements for acceptance into the state system, and the residents on Koolwood Lane do not have the benefits of an accepted public road. County records show that attempts were made by the County to have the developer complete the road in 2009, 2011, 2016 and 2019. In 2019, the then County Attorney and Planning Manager were able to verify that a performance bond was still active and initiated the process to file a claim. Bond proceeds of \$45,000 were received and deposited into a "performance bond" account, and the balance at the last statement date of October 28, 2020 with accrued interest was \$45,074.14. Once the funds were received, estimates were obtained to complete the work.

The initial estimates from contractors to complete the items listed by VDOT on their punch list far exceeded the bond proceeds of \$45,000. County staff has worked with VDOT to identify cost savings measures and to develop an agreement similar to our Stormwater Utility Fund agreements where VDOT performs the work and invoices the County. The residents of Koolwood Lane also have met with VDOT, and have/will complete smaller items at their own expense. This combined effort has reduced the estimated costs by almost 40%.

The County has received an agreement from VDOT to complete the construction items and final paving of Koolwood Lane necessary for acceptance by VDOT into the state-maintained secondary road system. Staff recommends approval of this agreement with VDOT.

### Board Action Requested:

- Authorize the County Administrator to send a certified letter to Bank of Southside Virginia requesting the transfer of performance bond funds to the County's Main Bank Account (letter included in packet)
- Approve resolution authorizing County Administrator to enter into an agreement with VDOT for completion of work at \$48,635.76
- Approve resolution appropriating bond proceeds (\$45,074.14) and a transfer from General Fund Contingency of \$3,561.62 to the Capital Improvement Fund

## Government Path

Does this require IDA action?

Yes  No

- Does this require BZA action?**  Yes  No
- Does This require Planning Commission Action?**  Yes  No
- Does this require Board of Supervisors action?**  Yes  No
- Does this require a public hearing?**  Yes  No
- If so, before what date?**  Yes  No

### **Fiscal Impact Statement**

The VDOT agreement will be funded through the bond proceeds posted by the original developer. Bond proceeds are \$45,000, and have been deposited into the County's performance bond account. The current balance, with accrued interest is \$45,074.14. The attached project cost estimate from VDOT is \$40,529.80 with a contingency recommendation of 20% (\$8,105.96), for a total estimate of \$48,635.76. If costs exceed estimates and contingency funds are necessary above the \$45,074.14 of bond proceeds, it is recommended to use General Fund Contingency for any overages, not to exceed \$3,561.62. Any unused amount of General Fund Contingency appropriated will be returned to the General Fund upon completion and payout of the project.

### **County Impact**

The property owners on Koolwood Lane will begin to see benefits such as road maintenance by VDOT, snow removal and school bus stops.

### **Notes**

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Board of Supervisors  
County of Prince George, Virginia

Resolution

At a regular meeting of the Board of Supervisors of the County of Prince George held in the Boardroom, Third Floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia this 12<sup>th</sup> day of January, 2021:

<u>Present:</u> Floyd M. Brown, Jr., Chairman Marlene J. Waymack, Vice Chair Alan R. Carmichael Donald R. Hunter T. J. Webb	<u>Vote:</u>
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On motion of \_\_\_\_\_, seconded by \_\_\_\_\_, which carried \_\_\_\_\_, the following Resolution was adopted:

RESOLUTION; AUTHORIZATION FOR THE COUNTY ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH THE VIRGINIA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION, CONSTRUCTION MANAGEMENT, AND INSPECTION SERVICES RELATED TO THE COMPLETION OF KOOLWOOD LANE FOR ACCEPTANCE INTO THE STATE-MAINTAINED SECONDARY SYSTEM OF ROADS.

WHEREAS, The Prince George County Board of Supervisors has determined that it is in the best interest of the County of Prince George and its citizens to complete construction of Koolwood Lane for acceptance by VDOT; and,

WHEREAS, The County has received Bond Proceeds in the amount of \$45,000 from the original developer of Koolwood Lane, and the balance with accrued interest is \$45,074.14 as of the most recent statement date; and,

WHEREAS, The associated cost for the Scope of Work as detailed by VDOT is \$48,635.76;

NOW THEREFORE, BE IT RESOLVED That the Board of Supervisors of the County of Prince George this 12th day of January, 2021, hereby authorizes the County Administrator to enter into an agreement with VDOT for the amount of \$48,635.76 to perform work as outlined in the Scope of Work, and authorizes the funding for such services to be provided under the amount deposited in the Performance Bond Fund for the Koolwood Lane project.

A Copy Teste:

\_\_\_\_\_  
Percy C. Ashcraft  
County Administrator

Board of Supervisors  
County of Prince George, Virginia

Resolution

At a regular meeting of the Board of Supervisors of the County of Prince George held in the Boardroom, Third Floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia this 12<sup>th</sup> day of January, 2021:

<u>Present:</u>	<u>Vote:</u>
Floyd M. Brown, Jr., Chairman	
Marlene J. Waymack, Vice-Chair	
Alan R. Carmichael	
Donald R. Hunter	
T. J. Webb	

A-2

On motion of \_\_\_\_\_, seconded by \_\_\_\_\_, which carried unanimously, the following Resolution was adopted:

RESOLUTION; APPROPRIATION OF PERFORMANCE BOND FUNDS AND TRANSFER FROM GENERAL FUND CONTINGENCY FOR COMPLETION OF KOOLWOOD LANE (VDOT AGREEMENT - \$48,635.76)

BE IT RESOLVED That the Board of Supervisors of the County of Prince George this 12<sup>th</sup> day of January, 2021, does hereby authorize the following adjustment of funds within the 2020-2021 Budget, such line items increased as follows, which monies shall be expended for purposes authorized and approved by the Board of Supervisors of the County of Prince George:

<u>FUND/ORGANIZATION</u>	<u>AMOUNT</u>
<b>GENERAL FUND</b>	
<u>Expenditure:</u>	
0100-09-401-0917-49199    General Fund Contingency	(\$3,561.62)
0100-09-401-0917-49172    Transfer to Capital Project Fund	\$ 3,561.62
<b>CAPITAL IMPROVEMENT FUND</b>	
<u>Revenue:</u>	
0311-90-901-8207-399100    Transfer from General Fund	\$3,561.62
0311-10-507-8115-318956    Performance Bond Revocation Revenue	\$45,074.14
<b>TOTAL</b>	<b>\$48,635.76</b>
<u>Expenditure:</u>	
0311-08-301-3213-48130    Koolwood Lane Road Improvements	\$48,635.76
<b>TOTAL</b>	<b>\$48,635.76</b>

A Copy Teste:

\_\_\_\_\_  
Percy C. Ashcraft  
County Administrator

**VDOT ADMINISTERED – LOCALLY FUNDED  
PROJECT ADMINISTRATION AGREEMENT**

PRINCE GEORGE COUNTY  
UPC \_\_\_\_\_

THIS AGREEMENT, made and executed in triplicate on this the \_\_\_\_ day of \_\_\_\_\_, 2021, between the COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT" and the COUNTY OF PRINCE GEORGE, hereinafter referred to as the "COUNTY."

**WITNESSETH**

WHEREAS, the COUNTY has expressed its desire to have the DEPARTMENT administer the work as described in Appendix B, and such work for each improvement shown is hereinafter referred to as the Project; and

WHEREAS, the funds as shown in Appendix A have all been allocated by the COUNTY to finance the project; and

WHEREAS, the COUNTY has requested that the DEPARTMENT design and construct this project in accordance with the scope of work described in Appendix B, and the DEPARTMENT has agreed to perform such work; and

WHEREAS, both parties have concurred in the DEPARTMENT's administration of the project identified in this Agreement and its associated Appendices A and B in accordance with applicable federal, state, and local law and regulations; and

WHEREAS, the County's governing body has, by resolution, a certified copy which is attached hereto, authorized its designee to execute this Agreement; and

WHEREAS, Section 33.2-338 of the Code of Virginia authorizes both the DEPARTMENT and the COUNTY to enter into this Agreement;

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

- A. The DEPARTMENT shall:
1. Complete said work as identified in Appendix B, advancing such diligently, and all work shall be completed in accordance with the schedule established by both parties.
  2. Perform or have performed, and remit all payments for, all preliminary engineering, right-of-way acquisition, construction, contract administration, and inspection services activities for the project(s) as required.

3. Provide a summary of project expenditures to the COUNTY for charges of actual DEPARTMENT cost.
4. Notify the COUNTY of additional project expenses resulting from unanticipated circumstances and provide detailed estimates of additional costs associated with those circumstances. The DEPARTMENT will make all efforts to contact the COUNTY prior to performing those activities.
5. Return any unexpended funds to the COUNTY no later than 90 days after the project(s) have been completed and final expenses have been paid in full.

B. The COUNTY shall:

1. Provide funds to the DEPARTMENT for Preliminary Engineering (PE) and Right-of-Way (ROW) upon execution of this Agreement and for Construction (CN) no less than 90 days prior to advertisement in the amounts shown in Appendix A
2. Accept responsibility for any additional project costs resulting from unforeseeable circumstances, but only after concurrence of the COUNTY.
3. Acquire all temporary and permanent easements from the property owner(s) as shown in the attached sketch.

C. Funding by the COUNTY shall be subject to annual appropriation or other lawful appropriation by the Board of Supervisors.

D. The Parties mutually agree and acknowledge, in entering this Agreement, that the individuals acting on behalf of the Parties are acting within the scope of their official authority and the Parties agree that neither Party will bring a suit or assert a claim against any official, officer, or employee of either party, in their individual or personal capacity for a breach or violation of the terms of this Agreement or to otherwise enforce the terms and conditions of this Agreement. The foregoing notwithstanding, nothing in this subparagraph shall prevent the enforcement of the terms and conditions of this Agreement by or against either Party in a competent court of law.

E. The Parties mutually agree that no provision of this Agreement shall create in the public, or in any person or entity other than the Parties, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for, without limitation, personal injury, property damage, breach of contract, or return of money, or property, deposit(s), cancellation or forfeiture of bonds, financial instruments, pursuant to the terms of this Agreement or otherwise. Notwithstanding any other provision of this Agreement to the contrary, unless

otherwise provided, the Parties agree that the County or the Department shall not be bound by any agreements between either party and other persons or entities concerning any matter which is the subject of this Agreement, unless and until the County or the Department has, in writing, received a true copy of such agreement(s) and has affirmatively agreed, in writing, to be bound by such Agreement.

- F. Nothing in this Agreement shall be construed as a waiver of the LOCALITY's or the Commonwealth of Virginia's sovereign immunity.
- G. Should funding be insufficient and county funds be unavailable, both parties will review all available options for moving the project forward, including but not limited to, halting work until additional funds are allocated, revising the project scope to conform to available funds, or cancelling the project.
- H. Should the project be cancelled as a result of the lack of funding by the COUNTY, the COUNTY shall be responsible for any costs, claims and liabilities associated with the early termination of any construction contract(s) issued pursuant to this agreement.
- I. This Agreement may be terminated by either party upon 60 days advance written notice. Eligible expenses incurred through the date of termination shall be reimbursed to the DEPARTMENT subject to the limitations established in this Agreement.

THE COUNTY and DEPARTMENT acknowledge and agree that this Agreement has been prepared jointly by the parties and shall be construed simply and in accordance with its fair meaning and not strictly for or against any party.

THIS AGREEMENT, when properly executed, shall be binding upon both parties, their successors and assigns.

THIS AGREEMENT may be modified in writing upon mutual agreement of both parties.

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

**COUNTY OF PRINCE GEORGE, VIRGINIA:**

_____	_____
	Date
_____	_____
Typed or Printed Name of Signatory	Date
_____	_____
Signature of Witness	Date

NOTE: The official signing for the LOCALITY must attach a certified copy of his or her authority to execute this Agreement.

**APPROVED AS TO FORM:**

_____	_____
County Attorney	Date

**COMMONWEALTH OF VIRGINIA, DEPARTMENT OF TRANSPORTATION:**

_____	_____
Shane Mann, P. E. Commonwealth of Virginia Department of Transportation	Date

_____	_____
Signature of Witness	Date



**Appendix B**

**Project Number:** (UPC \_\_\_\_\_) **Locality:** Prince George County

<b>Project Scope</b>	
<b>Work Description:</b>	<b>Remove and replace surface asphalt on Koolwood Lane, cleanout driveway pipes, add stone to outfall drain</b>
<b>From:</b>	<b>Intersection at Fairwood Rd</b>
<b>To:</b>	<b>End of street approximately 1450ft</b>
Locality Project Manager Contact Info: Julie Walton – <a href="mailto:jwalton@princegeorgecountyva.gov">jwalton@princegeorgecountyva.gov</a> Department Project Coordinator Contact Info: Crystal Smith – <a href="mailto:crystal.smith@vdot.virginia.gov">crystal.smith@vdot.virginia.gov</a>	

<b>Detailed Scope of Services</b>
<ul style="list-style-type: none"><li>- VDOT will utilize contract forces to remove and replace asphalt surface on Koolwood lane</li><li>- Prince George county will provide all required permits prior to VDOT proceeding with work</li><li>- Prince George county will obtain the required permanent easements and temporary construction easements from the property owners prior to commencement of work.</li><li>- All as more precisely described in Appendix B, entitled "Attachment A"</li></ul>

This attachment is certified and made an official attachment to this document by the parties of this agreement

\_\_\_\_\_  
Authorized Locality Official and date  
  
\_\_\_\_\_  
Typed or printed name of person signing

\_\_\_\_\_  
Residency Administrator/PE Manager/District Construction Engineer  
Recommendation and date  
  
\_\_\_\_\_  
Typed or printed name of person signing

## Attachment A – Koolwood Lane Prince George County

Prepared By:

Date:

<b>Category</b>	<b>Item Description</b>	<b>Quantities</b>
<u>Labor</u>	4-man crew with Backhoe and Skidsteer	5
<u>Excavation</u>	Imported Structural Fill	40
	Imported Topsoil	20
<u>Erosion and Sedimentation Control</u>	Silt Fence	600
	Rock Check Dams	2
	Permanent Seeding	600
<u>Pavement repair</u>	Ashpalt SM-12.5A	285
	1.5' Mill & overlay (Labor) based on Asphalt amt	285
<u>Drainage cleanup</u>	VDOT pipe cleaning contractor	8

<b>Units</b>	<b>Unit Cost</b>	<b>Totals</b>
Day	\$ 2,240.00	\$ 11,200.00
C.Y.	\$ 30.00	\$ 1,200.00
C.Y.	\$ 50.00	\$ 1,000.00
L.F.	\$ 4.00	\$ 2,400.00
Ea.	\$ 40.00	\$ 80.00
S.Y.	\$ 3.00	\$ 1,800.00
ton	\$57.48	\$16,381.80
ton	\$60.00	\$17,100.00
hour	\$71.00	\$ 568.00
	<b>SUBTOTAL</b>	<b>\$ 40,529.80</b>
	<b>20% CONTINGENCY</b>	<b>\$ 8,105.96</b>
	<b>TOTAL</b>	<b>\$ 48,635.76</b>

**VDOT Administered, Locally Funded Appendix A**

Date: Prince George County

Project Number:	UPC:	CFDA#	Locality: <u>Prince George County</u>
Project Location ZIP+4: Koolwood Lane, Prince George, VA 23842		Locality Address (incl ZIP+4): 6602 Courts Drive, Prince George, VA 23842	
Project Narrative			
Scope: Complete road repairs and drainage repairs on Koolwood lane to bring road up to standards for acceptance into maintenance system			
From:		Intersection at Fairwood Rd	
To:		EOP approximately 1450'	
Locality Project Manager Contact info: :		Julie Walton - jwalton@princegeorgecountyva.gov	
Department Project Coordinator Contact Info:		Crystal Smith - crystal.smith@vdot.virginia.gov	

Project Estimates	
Phase	Estimated Project Costs
Preliminary Engineering	-
Right of Way & Utilities	\$ -
Construction	\$ 48,636.00
<b>Total Estimated Cost</b>	<b>\$48,636</b>
<b>Estimate for Current Billing</b>	

Project Cost				
Phase	Project Allocations	Funds type <i>(Choose from drop down box)</i>	Local % Participation for Funds Type	Local Share Amount
Preliminary Engineering	\$0	Local Funds	100.00%	\$0
				\$0
Total PE	\$0			\$0
Right of Way & Utilities	\$0			\$0
				\$0
Total RW				\$0
Construction	\$48,636	Local Funds	100.00%	\$48,636
				\$0
				\$0
Total CN	\$48,636			\$48,636
<b>Total Estimated Cost</b>	<b>\$48,636</b>			<b>\$48,636</b>

<b>Total Maximum Reimbursement / Payment by Locality to VDOT</b>	<b>\$48,636</b>
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Project Financing					
Local Funds					Aggregate Allocations
\$48,636	\$0	\$0	\$0	\$0	\$48,636

Payment Schedule			
FY21	FY 20__	FY 20__	FY 20__
\$48,636			

Program and project Specific Funding Requirements	
<ul style="list-style-type: none"> <li>• This is a limited funds project. The locality shall be responsible for any additional funding in excess of <u>\$0</u> (if applicable)</li> <li>• The locality will be billed the locality share above beginning at the project scoping phase for the estimated PE and RW costs. The billing will be adjusted to include the</li> <li>• This Appendix A supersedes any previously listed funding schedule.</li> <li>• VDOT has billed <u>\$0.00</u> (dollar amount) the locality for this project as of _____ (date)</li> <li>• VDOT has received <u>\$0.00</u> (dollar amount) from the locality for this project as of _____ (date)</li> <li>• The locality shall make equal payments to VDOT as follow: <u>\$48,636</u> over <u>1</u> months.</li> </ul>	

This attachment is certified and made an official attachment to this document by the parties to this agreement

\_\_\_\_\_  
Authorized Locality Official and Date

\_\_\_\_\_  
Authorized VDOT Official and Date

\_\_\_\_\_  
Typed or printed name of person signing

\_\_\_\_\_  
Typed or printed name of person signing

# County of Prince George, Virginia

Percy C. Ashcraft  
County Administrator



January 12, 2021

**VIA Certified Mail and Electronic Mail (mike.taylor@bsvnet.com)**

Mike Taylor  
Branch Manager for Prince George Branch  
Bank of Southside Virginia  
6401 Courthouse Road  
Prince George, Virginia 23875

Dear Mr. Taylor:

There exists a residential development located off Koolwood Lane in Prince George, Virginia. Certain aspects of the development were secured by an irrevocable letter of credit; in particular, an irrevocable letter of credit for road paving and erosion and sediment control. Letter of Credit No. 234, effective May 15, 2003, was held by the Bank of Southside Virginia for the benefit of Prince George County in the amount of \$45,000 (attached hereto). Despite the completion of the development and repeated demands upon the Principal, Robert S. Kvasnicka, the roads in the development were not completed or accepted by the Virginia Department of Transportation (VDOT). In addition, deficiencies existed related to the erosion and sediment control structures.

Accordingly, the County was left with no other option than to initiate demand for the proceeds of the irrevocable letter of credit on February 22, 2019. The proceeds from the irrevocable letter of credit were set up by the County Treasurer, Susan Vargo, on March 6, 2019 in an account number 3087867 at Bank of Southside Virginia (attached hereto is the account agreement). The County is requesting that you transfer the total funds in account 3087867, including accrued interest, to the County's main account which is account number 20753 at the Bank of Southside Virginia. Attached is a signed Resolution by the Prince George County Board of Supervisors approving the execution of an agreement with VDOT to complete the road improvements on Koolwood Lane utilizing such proceeds.

Thank you for assistance and cooperation.

Sincerely,

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Percy C. Ashcraft  
County Administrator

Attachments