

**A G E N D A**

**JAMES CITY COUNTY BOARD OF SUPERVISORS**

**READING FILE**

**September 9, 2008**

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**FOR YOUR INFORMATION**

1. Debris Removal, Reduction, and Disposal Services for Hurricanes and Other Disasters Service Agreement  
For Agenda Item No. F-7, Virginia Peninsulas Public Service Authority (VPPSA) Service Agreement for Hurricanes and Other Disasters
2. Right-of-Way Agreement - Dominion Virginia Power

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**Debris Removal, Reduction, and Disposal Services  
For  
Hurricanes and Other Disasters  
Service Agreement**

This Service Agreement for Debris Removal, Reduction, and Disposal Services for Hurricanes and other Disasters is made this \_\_\_\_ day of \_\_\_\_\_, 2008, between the VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY, a political subdivision of the Commonwealth of Virginia formed under the Virginia Water and Waste Authorities Act, VA. Code §15.2-5100 et seq. (the "Authority"), and the COUNTY OF JAMES CITY, a political subdivision of the Commonwealth of Virginia (the "Community").

**RECITALS**

- A. The Authority was formed for the purpose of developing regional refuse collection, waste reduction, and disposal alternatives with the ultimate goal of acquiring, financing, constructing and/or operating and maintaining a regional residential, commercial and industrial garbage and refuse collection and disposal system or systems.
- B. The member jurisdictions of the Authority are the cities of Hampton, Poquoson and Williamsburg and the counties of Essex, James City, King and Queen, King William, Mathews, Middlesex and York.
- C. The Authority desires to make debris removal, reduction and disposal services for hurricanes and other disasters available to the member jurisdictions, the City of Newport News, the County of Gloucester and the Virginia Department of Transportation.
- D. The Authority has entered into agreements dated April 4, 2008 with AshBritt, Inc.; Crowder Gulf, Inc.; and Phillips and Jordan, Inc.; (the "Contractor" or "Contractors") to provide debris removal, reduction, and disposal services for hurricanes and other disasters.
- E. The Community desires to retain the Authority as an independent contractor to provide debris removal, reduction, and disposal services for hurricanes and other disasters for the Community through its Agreements with the Contractors. The Community and the Authority are entering into this Agreement to set forth the rights, duties, and obligations of the parties with respect to the services.

## **AGREEMENT**

NOW, THEREFORE, the parties hereto hereby agree as follows:

### **ARTICLE I**

#### **TERM**

The term of this Agreement shall coincide with the Term of the Agreements for Debris Removal, Reduction, and Disposal Services for Hurricanes and Other Disasters dated April 4, 2008 between the Authority and the Contractors.

### **ARTICLE II**

#### **SERVICES**

**Section 2.1. Authority as Service Provider:** The Community hereby retains the Authority to provide debris removal, reduction and disposal services for hurricanes and other disasters, and the Authority hereby agrees to provide said services in accordance with and subject to the terms and conditions of this Agreement and the Agreements for Debris Removal, Reduction and Disposal Services for Hurricanes and Other Disasters and any amendments to the Agreements approved by the Authority's Board of Directors.

**Section 2.2. Use of Contractor:** The Community and the Authority hereby agree that the Authority will use one or more of the Contractors, as selected by the Community, to provide the services.

**Section 2.3. Authorization to Provide Services:** When services are required, the Authority will notify the Contractor or Contractors of the intent to use the services of the Contractor(s). The Contractor or Contractors will receive authorization to provide services through task orders issued and executed by the Community. Each task order shall set forth a specific scope of services, amount of compensation, and completion date for the authorized service.

### **ARTICLE III**

#### **Responsibilities of the Community**

The Community shall be responsible to identify sites that can be used for the temporary storage and reduction of debris that is collected by the Contractor or

Contractors. Sites may be within the borders of the Community or in adjacent communities.

#### **ARTICLE IV**

**Section 4.1. Payment for Services:** Payment will be made by the Community directly to the Contractor or Contractors for any work performed by the Contractor or Contractors as a result of issuance of a task order. Payment by the Community shall not be contingent upon reimbursement by the Federal Emergency Management Agency (FEMA) or any other state or federal agency. The Community shall be responsible for compiling all information and preparing all documentation for reimbursement from any state or federal agency.

**Section 4.2. Administrative Fees:** The Community agrees to pay an administrative fee for the services provided by the Authority whenever the Authority activates an Agreement with a Contractor or Contractors on behalf of the Community as described in Section 2.3 . The administrative fee payable to the Authority will be \$2,000 for each event in which Agreements are activated plus a share of direct costs incurred by the Authority for each event as determined by the Authority's Board of Directors. The direct costs shall include but not be limited to overtime pay, advertising, printing, postage, and office supplies.

#### **ARTICLE V**

##### **ADDITIONAL AGREEMENTS**

**Section 5.1. Records:** The Authority shall maintain its books and records related to the performance of this Agreement in accordance with the following minimum requirements.

The Authority shall maintain any and all ledgers, books of account, invoices, vouchers, and cancelled checks, as well as all other records or documents evidencing or relating to charges for services, expenditures or disbursements borne by the Authority for a minimum period of five (5) years, or for any longer period required by law, from the date of final payment to the Contractor or Contractors pursuant to this Agreement.

The Authority shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of five (5) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time, during regular business hours, upon written request by the Community. The records shall be available at the Authority's address indicated for receipt of notices in this Agreement or at such other location as designated in writing by the Authority.

**Section 5.2. Equal Opportunity:** During the performance of this contract, the Authority agrees as follows:

A. The Authority will not discriminate against any employee or applicant for employment because of age, disability, race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Authority. The Authority agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

B. The Authority, all solicitations or advertisements for employees placed by or on behalf of the Authority, will state that such Authority is an equal opportunity employer.

C. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The Authority will include the provisions of the foregoing paragraphs A, B, and C in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

**Section 5.3. Drug Free Workplace:** During the performance of this contract, the Authority agrees as follows:

During the performance of this contract, the Authority agrees to (i) provide a drug-free workplace for the Authority's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Authority's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Authority that the Authority maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every contract or purchase order of over \$10,000, so that the provisions will be binding upon each contractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with this Service Agreement awarded to a Authority, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

## ARTICLE VI

### TERMINATION AND DEFAULTS

**Section 6.1. Termination:** This Agreement may be terminated by either party hereto upon one years prior written notice to the other.

**Section 6.2. Defaults:** Each of the following shall constitute an Event of Default hereunder:

- A. Failure by the Community to pay any amount due hereunder when due;
- B. Breach by either party of any other term or condition hereof which breach is not remedied within thirty (30) days the giving of notice of such breach by the non-defaulting party; provided, however, that if the defaulting party has commenced action to cure such default within such thirty-day (30) period and thereafter diligently pursues such cure to completion, such party shall not be deemed to have defaulted hereunder.

**Section 6.3. Remedies:** If an Event of Default by either party has occurred and is continuing, the non-defaulting party, in addition to any other remedies it may have at law or in equity, may immediately terminate this Agreement

## ARTICLE VII

### MISCELLANEOUS

**Section 7.1. Entire Agreement; Amendments:** This Agreement represents the entire and integrated agreement between the Authority and the Community and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written agreement signed by the Authority and the Community.

**Section 7.2. Assignment:** No assignment of this Agreement, or any right occurring under this Agreement, shall be made in whole or partly by either party without the other party's express written consent.

**Section 7.3. Partnership:** Nothing herein shall be construed to constitute a joint venture between the Authority and any Community or the formation of a partnership.

**Section 7.4. Severability of Invalid Provisions:** If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect any of the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section had not been contained in it.

**Section 7.5. Notices:** All notices, invoices, certificates, requests or other communications under this Agreement must be in writing and will be deemed given, unless otherwise required, when mailed by first-class mail, postage prepaid, to the address set forth below:

If to the Authority:

Virginia Peninsulas Public Service Authority  
Attention: Executive Director  
475 McLaws Circle Suite 3B  
Williamsburg, Virginia 23185

If to the Community:

County of James City  
Attention County Administrator  
P.O. Box 8784  
Williamsburg, Virginia 23187

The parties may by notice given under this Section, designate such other addresses as they may deem appropriate for the receipt of notices under this Agreement. If, by reason of the suspension of or irregularities in regular mail service, it is impractical to mail notice of any event when notice is required to be given, then any manner of giving notice which is satisfactory to the intended recipient will be deemed to be sufficient.

**Section 7.6. Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have each caused this Agreement to be signed as of the date above written.

**ATTEST:** **VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY**

By: Lisa Polidori

By: [Signature]

Title: Admin Asst

Title: Executive Director

**ATTEST:** **COUNTY OF JAMES CITY**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



MEMORANDUM

DATE: September 9, 2008

TO: The Board of Supervisors

FROM: Needham S. Cheely, III Director of Parks and Recreation  
Darryl E. Cook, County Engineer

SUBJECT: Right-of-Way Agreement – Dominion Virginia Power

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Dominion Virginia Power (Dominion) has requested a right-of-way and utility easement (Easement) across a portion of the James City County Freedom Park (Park) in order to improve electrical service to customers in the Jolly Pond Road area. Dominion has conducted a reliability study of the Jolly Pond Road area of its power system and determined that the reliability of its service to those citizens could be significantly improved by connecting the two radial ends of the existing power lines serving that area thereby creating a looped power system. The requested Easement is 30 feet in width directly adjacent to the Jolly Pond Road right-of-way extending roughly from the James City County transfer station/landfill property to the site of the new combined schools. The line will connect two existing overhead line segments.

The Board considered Dominion’s request at the July 22, 2008, Board meeting. Following a public hearing, the Board deferred action on the request pending further discussion with Dominion regarding placement of the new electric lines underground.

It was anticipated that a meeting with Dominion would occur prior to the September 9 Board meeting but it has not been possible to meet with it yet to discuss this matter. Therefore, staff is recommending that no action be taken on this item at this meeting.

  
Needham S. Cheely, III

CONCUR:

  
Darryl E. Cook

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