



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

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Agenda item # 5

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

July 16, 2009

MOTION

Made By: Mr. McCarthy, Seconded By: Mr. White, Motion Carried, Unanimously

**Title: Economic Development Access Fund Policy
(Revision)**

WHEREAS, The General Assembly has, from time to time, amended Section 33.1-221 of the Code of Virginia (1950) relating to the fund for construction of economic development access roads; and

WHEREAS, this Board has also, from time to time, revised its policy for the administration of the Economic Development Access Program; and

WHEREAS, it is the sense of this Board that its present policy should be revised and restated to be more compatible with present conditions.

NOW, THEREFORE, BE IT RESOLVED that the Commonwealth Transportation Board hereby adopts the following policy to govern the use of economic development access funds pursuant to Section 33.1-221, as amended, of the *Code of Virginia* (1950):

1. The use of economic development access funds shall be limited to: (1) providing adequate access to economic development sites on which new or substantially expanding manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Business Assistance; and (2)

improving existing roads that may not be adequate to serve the establishments as described in (1).

2. Economic development access funds shall not be used for the acquisition of rights of way or adjustment of utilities. These funds are to be used only for the actual construction and engineering of a road facility adequate to serve the traffic generated by the new or expanding eligible establishments.

3. Economic development access funds may not be used for the construction of access roads to schools, hospitals, libraries, airports, armories, speculative office buildings, shopping centers, apartment buildings, professional offices, residential developments, churches, hotels, motels, government installations, or similar facilities, whether public or private. (Access roads to licensed, public-use airports, while provided for in Section 33.1-221, are funded and administered separately).

4. No cost incurred prior to this Board's approval of an allocation from the economic development access fund may be reimbursed by such funds. Economic development access funds shall be authorized only after certification that the economic development establishment as listed or meeting the criteria as described will be built under firm contract, or is already constructed, or upon presentation of acceptable surety in accordance with paragraph (a) of Section 33.1-221, as amended, of the *Code of Virginia* (1950).

5. When an eligible establishment is not yet constructed or under firm contract and a local governing body guarantees by bond or other acceptable surety that such will occur, the maximum time limit for such bond shall be five years, beginning on the date of the allocation of the economic development access funds by the Commonwealth Transportation Board. At the end of the five-year period the amount of economic development access funds expended on the project and not justified by eligible capital outlay of one or more eligible establishments acceptable to the Board shall be reimbursed to the Department of Transportation voluntarily by the locality or by forfeiture of the surety. In the event that, after the Department of Transportation has been reimbursed, but still within 24 months immediately following the end of the five-year period, the access funds expended come to be justified by eligible capital outlay of one or more eligible establishments, then the locality may request a refund of one-half of the sum reimbursed to the Department of Transportation, which request may be granted if funds are available, on a first-come, first-served basis in competition with applications for access funds from other localities.

6. Economic development access funds shall not be used to construct or improve roads on a privately owned economic development site. Nor shall the construction of a new access road to serve any economic development site on a parcel of land which abuts a road constituting a part of the systems of state highways or the road system of the locality in which it is located be eligible for economic development access funds, unless the existing road is a limited access highway and no other access exists. Further, where the existing road is part of the road system of the locality in which it is located, or the secondary system of state highways, economic development funds may be used to upgrade the existing road only to the extent required to meet the needs of traffic generated by new or expanding eligible establishment.

In the event an economic development site has access according to the foregoing provisions of this policy, but it can be determined that such access is not adequate in that it does not provide for safe and efficient movement of the traffic generated by the eligible establishment on the site or that the site's traffic conflicts with the surrounding road network to the extent that it poses a safety hazard to the general public, consideration will be given to funding additional improvements. Such projects shall be evaluated on a case-by-case basis upon request, by resolution, from the local governing body. Localities are encouraged to establish planning policies which will discourage incompatible mixes such as industrial and residential traffic.

7. Not more than **\$500,000** of unmatched economic development access funds may be allocated in any fiscal year for use in any county, city or town which receives highway maintenance payments under Section 33.1-41.1, *Code of Virginia*. A town whose streets are maintained under either Section 33.1-79 or 33.1-82, *Code of Virginia*, shall be considered as part of the county in which it is located. The maximum eligibility of unmatched funds shall be limited to **20%** of the capital outlay of the designated eligible establishments. The unmatched eligibility may be supplemented with additional economic development access funds, in which case the supplemental access funds shall not be more than \$150,000, to be matched dollar-for-dollar from funds other than those administered by this Board. The supplemental economic development access funds over and above the unmatched eligibility shall be limited to **20%** of the capital outlay of eligible establishments as previously described. Such supplemental funds shall be considered only if the total estimated cost of eligible items for the economic development access improvement exceeds **\$500,000**.

If an eligible site is owned by a regional industrial facility authority, as defined in §15.2-6400 et seq. of the *Code of Virginia*, funds may be allocated for construction of an access road project to that site without penalty to the jurisdiction in which the site is located. This provision may be applied to one regional project per fiscal year in any jurisdiction, with the same funding limitations as prescribed for other individual projects.

8. Eligible items of construction and engineering shall be limited to those which are essential to providing an adequate facility to serve the anticipated traffic while meeting

all appropriate CTB and state policies and standards. However, additional pavement width or other features may be eligible where necessary to qualify the road facility in a city or town for maintenance payments under Section 33.1-41.1, as amended, of the Code of Virginia.

9. It is the intent of the Board that economic development access funds not be anticipated from year to year. Unused eligibility cannot be allowed to accumulate and be carried forward from one fiscal year to another.

10. The Commonwealth Transportation Board will consult and work closely with the Virginia Economic Development Partnership (VEDP) and the Department of Business Assistance (DBA) in determining the use of economic development access funds and will rely on the recommendations of the VEDP and the DBA in making decisions as to the allocation of these funds. In making its recommendations to this Board, the VEDP and the DBA will take into consideration the impact of the proposed facility on the employment and tax base of both the area in which the facility is to be located and the Commonwealth of Virginia.

11. Prior to the formal request for the use of economic development access funds to provide access to new or expanding eligible establishments, the location of the access road shall be submitted for approval by the Virginia Department of Transportation. VDOT shall take into consideration the cost of the facility as it relates to the location and as it relates to the possibility of the future extension of the road to serve other possible eligible establishments, as well as the future development of the area traversed.

12. Prior to this Board's allocation of funds for such construction or road improvements to an eligible economic development establishment proposing to locate or expand in a county, city or town, the governing body shall by resolution request the access funds and shall be responsible for the preliminary negotiations with the eligible establishment and others interested. Engineers of the Virginia Department of Transportation will be available for consultation with the governing bodies and others, and may prepare surveys, plans, engineering studies, and cost estimates.

13. The Commonwealth Transportation Commissioner is directed to establish administrative procedures to assure the provisions of this policy and legislative directives are adhered to and complied with.

BE IT FURTHER RESOLVED that the above policy shall become effective immediately, and all policies heretofore adopted by this Board governing the use of industrial access funds shall be rescinded simultaneously.

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