



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Aubrey L. Layne, Jr.  
Chairman

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*Agenda item # 7*

### RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

April 19, 2017

**Made By: Mr. Malbon, Seconded By: Mr. Williams**

**Action: Motion Carried, Unanimously**

#### **Title: Authorization for the Commissioner of Highways to Enter into a Memorandum of Understanding with the Federal Highway Administration Relating to Tolling of the Interstate 64 HOT (Express) Lanes**

**WHEREAS**, on October 19, 2016, pursuant to § 33.2-502 and § 33.2- 309 of the *Code of Virginia* and 23 USC §166, the Commonwealth Transportation Board (CTB) authorized dynamic tolling of vehicles utilizing the HOV reversible lanes on Interstate 64 from Interstate 564 to Interstate 264, during specified times on weekdays for vehicles carrying less than two occupants (collectively, HOT Lanes-2 designation), to be implemented at such time that the infrastructure and improvements necessary to commence tolling on said portion of I-64 are determined by the Commissioner of Highways to be completed and ready for operation; and

**WHEREAS**, on March 21, 2017, in furtherance of the I-64 HOT Lanes-2 designation, the Virginia Department of Transportation (the Department) and TransCore, LP, a Tennessee Corporation, entered into a contract (hereinafter Contract) to provide for design, integration, implementation, on-going maintenance and operation of the tolling system for the dynamic tolling of the HOT lanes on Interstate 64 (I-64 "HOT Lanes" or "Express Lanes") pursuant to the CTB's action under § 33.2-209 of the *Code of Virginia* on March 15, 2017, awarding and authorizing the Commissioner to execute the Contract; and

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**WHEREAS**, 23 U.S.C. §166(b)(4), provides that a public authority/state agency may allow vehicles not otherwise exempt from HOV requirements pursuant to 23 U.S.C. §166(b) to use an HOV facility by paying a toll; and

**WHEREAS**, the Federal Highway Administration (“FHWA”) requires the Department to enter into a tolling memorandum of understanding relating to tolling for the Interstate 64 Express Lanes (Tolling MOU); and

**WHEREAS**, the CTB is authorized under Va. Code § 33.2-221(A) to enter into contracts and agreements with the United States government.

**NOW, THEREFORE BE IT RESOLVED**, that the CTB hereby approves, and authorizes the Commissioner of Highways to execute, the Tolling MOU between the Department and FHWA, relating to the tolling of the I-64 Express Lanes, as set out in Attachment A, with such changes as the Commissioner deems necessary or appropriate.

###

**CTB Decision Brief**  
**Authorization for the Commissioner of Highways to Enter into a Memorandum of Understanding with the Federal Highway Administration Relating to Tolling of the Interstate 64 HOT (Express) Lanes**

**Issue:** In order for the Virginia Department of Transportation (“Department”) to implement dynamic tolling along the Interstate 64 reversible lanes from Interstate 564 to Interstate 264 (Segment I) (the “Project”) in Norfolk, Virginia, a Memorandum of Understanding with the Federal Highway Administration (FHWA) concerning tolling for the Project (“Tolling MOU”) must be executed. Pursuant to Va. Code § 33.2-221(A) the Commonwealth Transportation Board (CTB) has the power and duty to enter into contracts and agreements with the U.S. government. Accordingly, approval of, and authorization for the Commissioner of Highways to execute the Tolling MOU with FHWA is sought.

**Facts:**

- On October 19, 2016, pursuant to § 33.2-502 and § 33.2- 309 of the *Code of Virginia* and 23 USC §166, the CTB authorized dynamic tolling of vehicles utilizing the HOV reversible lanes on Interstate 64 from Interstate 564 to Interstate 264, during specified times on weekdays for vehicles carrying less than two occupants (collectively, “HOT Lanes-2 designation”), to be implemented at such time that the infrastructure and improvements necessary to commence tolling on said portion of I-64 are determined by the Commissioner of Highways to be completed and ready for operation.
- 23 USC §166 (b)(4) provides that a public authority/state agency may allow vehicles not otherwise exempt from HOV requirements pursuant to 23 U.S.C. §166(b) to use an HOV facility by paying a toll.
- On March 15, 2017, in furtherance of the I-64 HOT Lanes-2 designation and pursuant to § 33.2-209 of the *Code of Virginia* the CTB awarded a contract to TransCore, LP, a Tennessee Corporation, (“Contract”) to provide for design, integration, implementation, on-going maintenance and operation of the tolling system for the dynamic tolling of the HOT lanes on Interstate 64 (I-64 “HOT Lanes” or “Express Lanes”) and authorized the Commissioner or his designee to execute the Contract and all other documents necessary to effectuate the Contract.
- On March 21, 2017, the Department and TransCore executed the Contract.
- The FHWA requires the Department to enter into a Tolling MOU relating to tolling for the I-64 Express Lanes.

**Recommendations:** That the CTB approve and authorize the Commissioner to execute a Tolling MOU with FHWA relating to the tolling of the I-64 Express Lanes, as set out in Attachment A, with such changes as the Commissioner deems necessary or appropriate.

**Action Required by CTB:** Va. Code § 33.2-221(A) requires a majority vote of the CTB to approve, and authorize the Commissioner to execute a Tolling MOU with FHWA relating to the tolling of the I-64 Express Lanes, as set out in Attachment A, with such changes as the Commissioner deems necessary or appropriate.

**Results, if Approved:** The Commissioner of Highways will be authorized to execute the Tolling MOU with FHWA relating to the tolling of the I-64 Express Lanes, as set out in Attachment A, with such changes as the Commissioner deems necessary or appropriate.

**Options:** Approve, Deny, or Defer.

**Public Comments/Reaction:** None

**ATTACHMENT A**

**MEMORANDUM OF UNDERSTANDING (MOU)**  
**BETWEEN THE FHWA VIRGINIA DIVISION**  
**OFFICE (Division) AND THE VIRGINIA**  
**DEPARTMENT OF TRANSPORTATION (VDOT)**

WHEREAS, VDOT desires to convert the existing Interstate 64 High Occupancy Vehicle (HOV) reversible lanes from Interstate 564 to Interstate 264 to High occupancy Toll (HOT) lanes in Norfolk, Virginia (hereinafter referred to as the "Toll Project"); and

WHEREAS, VDOT desires to implement tolls using dynamic tolling of vehicles on I-64 from Interstate 564 to Interstate 264 in Norfolk, Virginia (hereinafter referred to as the "Toll Facility"); and

WHEREAS, the Division and VDOT desire to enter into this MOU in order to reflect the mutual understanding that 23 U.S.C. 129(a) and 23 U.S.C. 166 apply to the Toll Project; and

WHEREAS, 23 U.S.C. 166(b)(4), as amended by the FAST Act, provides that a public authority may allow vehicles not otherwise exempt pursuant to 23 U.S.C. 166(b) to use an HOV facility by paying a toll:

NOW THEREFORE, the Division and the VDOT hereby agree as follows:

1. The Toll Project meets the relevant toll eligibility requirements of 23 U.S.C. 129(a)(1) and 23 U.S.C. 166.
2. VDOT shall comply with all requirements of 23 U.S.C. 129(a) and 23 U.S.C. 166, as amended by the FAST Act or as may be amended from time to time, with respect to the Toll Project and the operation of the Toll Facility.

IN WITNESS THEREOF, the parties hereto have caused this MOU to be duly executed, on the date of the last signature below. (Signatures on following page).

COMMONWEALTH OF VIRGINIA  
VIRGINIA DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_,  
Charles A. Kilpatrick, PE  
Commissioner of Highways

DATE: \_\_\_\_\_

FEDERAL HIGHWAY ADMINISTRATION  
VIRGINIA DIVISION

BY: \_\_\_\_\_,  
Jessie Yung  
Division Administrator

DATE: \_\_\_\_\_