



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

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Chairman

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Agenda item # 9

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

April 19, 2017

MOTION

Made By: Ms. Hynes, 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 I-66 HOT Lanes, Outside the Beltway

WHEREAS, the Commonwealth Transportation Board (“CTB”), on June 14, 2016, pursuant to § 33.2-502 of the *Code of Virginia*, designated two lanes in each direction on I-66 from University Boulevard in [Gainesville]/Prince William County to I-495 in Fairfax County as HOT lanes with such designation to be implemented upon the issuance of a “Service Commencement Notice to Proceed” pursuant to any fully executed Comprehensive Agreement with a selected private developer to design, finance, construct, maintain, and operate the I-66 HOV/HOT Lanes Project, but no earlier than January 2, 2020, and on July 28, 2016, reiterated and made certain technical clarifications to the June 14, 2016 designation; and

WHEREAS, by resolution dated December 7, 2016, the CTB endorsed the Commissioner’s final Finding of Public Interest and supported the Commissioner’s execution of a Comprehensive Agreement with I-66 Express Mobility Partners, LLC pursuant to the Public-Private Transportation Act of 1995 (Virginia Code §§ 33.2-1800 *et seq.*), for design, finance, construction, maintenance, and operation, to include dynamic or congestion priced tolling, of High Occupancy Toll Lanes (or Express Lanes) on Interstate 66, Outside the Beltway between U.S. Route 29 (near Gainesville) in Prince William County and Interstate 495 in Fairfax County, (the “Transform 66 Outside the Beltway Express Lanes Project”) and on December 8, 2016, the Virginia Department of Transportation (“Department”) and I-66 Express Mobility Partners, LLC entered into the Comprehensive Agreement; and

Resolution of the Board

Authorization for the Commissioner of Highways to Enter into a Memorandum of Understanding with the FHWA Relating to Tolling of the I-66 /HOT Lanes, Outside the Beltway

April 19, 2017

Page Two

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 memorandum of understanding relating to tolling on the High Occupancy Toll Lanes (or Express Lanes) on Interstate 66, Outside the Beltway for the Transform 66 Outside the Beltway Express Lanes Project (“Tolling MOU”); and

WHEREAS, the CTB is authorized under Virginia 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 High Occupancy Toll Lanes (or Express Lanes) on Interstate 66, Outside the Beltway in furtherance of the Transform 66 Outside the Beltway Express Lanes Project, as set out in Attachment A, with such changes as the Commissioner deems necessary or appropriate.

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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 I-66 HOT Lanes, Outside the Beltway

Issue: In order for the Virginia Department of Transportation to implement tolling of the I-66 HOV/HOT Lanes Outside the Beltway, a memorandum of understanding between the Federal Highway Administration (“FHWA”) and the Virginia Department of Transportation (the “Department” or “VDOT”) regarding tolling for the project (“Tolling MOU”) must be executed. Pursuant to Va. Code §33.2-221 (A) the Commonwealth Transportation Board (the “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:

- The CTB, on June 14, 2016, pursuant to § 33.2-502 of the *Code of Virginia*, designated two lanes in each direction on I-66 from University Boulevard in [Gainesville]/Prince William County to I-495 in Fairfax County as HOT lanes with such designation to be implemented upon the issuance of a “Service Commencement Notice to Proceed” pursuant to any fully executed Comprehensive Agreement with a selected private developer to design, finance, construct, maintain, and operate the I-66 HOV/HOT Lanes Project, but no earlier than January 2, 2020, and on July 28, 2016, reiterated and made certain technical clarifications to the June 14, 2016 designation.
- By resolution dated December 7, 2016, the CTB endorsed the Commissioner’s final Finding of Public Interest and supported the Commissioner’s execution of a Comprehensive Agreement with I-66 Express Mobility Partners, LLC pursuant to the Public-Private Transportation Act of 1995 (Virginia Code §§ 33.2-1800 *et seq.*), for design, finance, construction, maintenance, and operation, to include dynamic or congestion priced tolling, of High Occupancy Toll Lanes (or Express Lanes) on Interstate 66, Outside the Beltway between U.S. Route 29 (near Gainesville) in Prince William County and Interstate 495 in Fairfax County (the “Transform 66 Outside the Beltway Express Lanes Project”) and on December 8, 2016, the Department and I-66 Express Mobility Partners, LLC entered into the Comprehensive Agreement (titled *Comprehensive Agreement Relating to the Transform 66 P3 Project*).
- 23 U.S.C. §166(b)(4), provides that a public authority 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.
- The FHWA requires the Department to enter into a memorandum of understanding with FHWA relating to tolling on High Occupancy Toll Lanes (or Express Lanes) on Interstate 66, Outside the Beltway for the Transform 66 Outside the Beltway Express Lanes Project (Tolling MOU).

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

Recommendation: That the CTB approve and authorize the Commissioner to execute a Tolling MOU with FHWA relating to tolling on the High Occupancy Toll Lanes (or Express Lanes) on Interstate 66, Outside the Beltway in furtherance of the Transform 66 Outside the Beltway Express Lanes Project, as set out in Attachment A, with such changes as the Commissioner deems appropriate/necessary.

Action Required by CTB: Virginia 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 tolling on the High Occupancy Toll Lanes (or Express Lanes) on Interstate 66, Outside the Beltway, as set out in Attachment A, with such changes as the Commissioner deems appropriate/necessary. The CTB will be presented with a resolution for a formal vote.

Result, if Approved: The Commissioner of Highways will be authorized to execute the Tolling MOU with FHWA relating to tolling on High Occupancy Toll Lanes (or Express Lanes) on Interstate 66, Outside the Beltway, with such changes as the Commissioner deems appropriate/necessary.

Options: Approve, Deny, or Defer.

Public Comments/Reactions: None