



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Aubrey L. Layne, Jr.  
Chairman

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*Agenda item #13*

### **RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD**

**July 19, 2017**

#### **MOTION**

**Made By: Mr. Malbon, Seconded By: Ms. Valentine.**

**Action: Motion Carried, Unanimously**

**Title: Delegation of Authority for the Commissioner of Highways to Enter into a Memorandum of Understanding (MOU) between the Virginia Department of Transportation (VDOT) and the Virginia Port Authority (VPA) to provide berth availability to the Jamestown-Scotland Ferry (Ferry) at Richmond Marine Terminal during significant weather events.**

**WHEREAS**, the VPA is a body corporate and political subdivision of the Commonwealth of Virginia vested with certain powers set forth in Title 62.1, Chapter 10 of the Code of Virginia (1950) as amended; and

**WHEREAS**, the VPA, through its operating subsidiary, Virginia International Terminals, LLC (VIT), operates the port facilities known as Richmond Marine Terminal located at 5000 Deepwater Terminal Road in the City of Richmond, Virginia; and

**WHEREAS**, VDOT operates the Ferry, an automobile and bus ferry service crossing the James River in the Commonwealth of Virginia; and

**WHEREAS**, VDOT wishes to secure berth space for the Ferry in the event of significant weather events; and

**WHEREAS**, VDOT and VPA have developed an MOU which sets forth the responsibilities of the parties relating to berth availability at the Richmond Marine

Resolution of the Board

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Terminal, and to VDOT's ability to access and use the available berths in a significant weather event; and

**WHEREAS**, § 33.2-214(C) of the *Code of Virginia* authorizes the Commonwealth Transportation Board to enter into agreements with local districts, commissions, agencies, and other entities created for transportation purposes.

**NOW, THEREFORE, BE IT RESOLVED**, that pursuant to § 33.2-214(C) of the *Code of Virginia*, the Commonwealth Transportation Board hereby authorizes the Commissioner of Highways to enter into a Memorandum of Understanding with the VPA (attached hereto as Exhibit A), relating to berth availability for the Ferry during significant weather events, in substantially the same form as Exhibit A, with such changes and additions as the Commissioner deems necessary.

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## Commonwealth Transportation Board (CTB) Decision Brief

Delegation of Authority for the Commissioner of Highways to Enter into a Memorandum of Understanding (MOU) between the Virginia Department of Transportation (VDOT) and the Virginia Port Authority (VPA) to provide berth availability to the Jamestown-Scotland Ferry (Ferry) at Richmond Marine Terminal during significant weather events.

**Issue:** VDOT seeks from the Commonwealth Transportation Board (Board) approval of and authority for the Commissioner to enter into an MOU between VDOT and VPA in which VPA will provide berth availability to the Ferry at Richmond Marine Terminal during significant weather events such as hurricanes, blizzards or other storms in which sustained wind speeds equal or exceed fifty (50) miles-per-hour or in which other conditions could result in severe damage to ferry facilities and vessels if vessels remained at Scotland Wharf.

**Facts:** VPA, through its operating subsidiary, Virginia International Terminals, LLC (“VIT”), operates the port facilities known as Richmond Marine Terminal located at 5000 Deepwater Terminal Road in the City of Richmond, Virginia. VDOT operates the Ferry, an automobile and bus ferry service crossing the James River in the Commonwealth of Virginia.

VDOT wishes to secure berth space for the Ferry in the event of significant weather events.

VDOT and VPA have developed an MOU which sets forth the responsibilities of the parties relating to berth availability at the Richmond Marine Terminal and to VDOT’s ability to access and use the available berths in a significant weather event.

Section 33.2-214(C) of the *Code of Virginia* empowers the CTB to enter into agreements with local districts, commissions, agencies or other entities created for transportation purposes.

**Recommendation:** VDOT recommends that the Board delegate to the Commissioner the authority to execute the MOU with VPA, attached hereto as Exhibit A, relating to berth availability for the Ferry during significant weather events, in substantially the same form as Exhibit A, with such changes and additions as the Commissioner deems necessary.

**Action Required by CTB:** Approve by majority vote the resolution providing the authorization recommended herein.

**Result, if Approved:** The Commissioner will be authorized to execute an MOU between VDOT and VPA as described above, in substantially the same form as Exhibit A, with such changes and additions as the Commissioner deems necessary.

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

**Public Comment/Reaction:** N/A

Exhibit A

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE VIRGINIA PORT AUTHORITY  
AND  
THE VIRGINIA DEPARTMENT OF TRANSPORTATION**

This Memorandum of Understanding (“MOU”) entered into this \_\_\_\_\_ day of July, 2017, between the Virginia Port Authority, a body corporate and political subdivision of the Commonwealth of Virginia (“VPA”), and the Virginia Department of Transportation, an agency of the Commonwealth of Virginia, (“VDOT”) (collectively referred to as the “Parties”) provides as follows:

**WHEREAS**, the VPA is a body corporate and political subdivision of the Commonwealth of Virginia vested with certain powers set forth in Title 62.1, Chapter 10 of the Code of Virginia (1950) as amended; and

**WHEREAS**, the VPA, through its operating subsidiary, Virginia International Terminals, LLC (“VIT”), operates the port facilities known as the Richmond Marine Terminal (“Terminal”) located at 5000 Deepwater Terminal Road in the City of Richmond, Virginia (“Premises”);

**WHEREAS**, VDOT operates the Jamestown-Scotland Ferries, an automobile and bus ferry service utilizing four ferry boats, the Pocahontas, Williamsburg, Surry and Virginia, crossing the James River in the Commonwealth of Virginia (the “Ferries”);

**WHEREAS**, VDOT wishes to secure protected alternate berth space for the Ferries in the event of significant weather events;

**WHEREAS**, the Commonwealth Transportation Board, by a duly enacted resolution dated July 19, 2017, has, pursuant to its authority under section 33.2-214 (C) of the Code of Virginia, approved VDOT entering into this MOU designating the Commissioner of Highways to execute the same; and

**WHEREAS**, the VPA is willing to provide such berth space to VDOT according to the terms and conditions of this MOU.

**NOW THEREFORE WITNESSETH**, that for the sum of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The VPA agrees to provide berth availability to the Ferries at Richmond Marine Terminal during significant weather events such as hurricanes, blizzards, or other storms in which sustained wind speeds equal or exceed fifty (50) miles-per-hour or in the event of other conditions the severity of which would result in severe damage to ferry facilities and vessels if vessels remained at Scotland Wharf.

2. In the event that significant weather events triggering the obligations herein can be anticipated, VDOT shall coordinate with Ferry employees and VPA/VIT employees to ensure adequate berth space be made readily available for the Ferries.

3. VDOT’s use of said Premises shall be limited to the Terminal area specified in this MOU and no materials, equipment or supplies may be placed or stored adjacent to or outside the Premises above described. VDOT may not enter, use, or occupy any other portion of the Terminal except as permitted by this MOU or by any other written agreement between VDOT and VPA. Notwithstanding the foregoing, VPA shall provide parking for up to two (2) VDOT/Ferry employee vehicles a reasonable distance from the berth.

4. VDOT shall hire, at its own expense, properly credentialed employee escorts with their own Transportation Worker Identification Credential (“TWIC Card”) in the event that individuals attempting to gain ingress onto the Terminal do not possess a proper TWIC credential required for entry onto marine terminals such as RMT.

5. VDOT shall observe, comply with, and be subject to the rules, regulations, policies, and procedures set by the Terminal or VPA, as the same may be amended from time to time. These include, without limitation, those governing access, safety, reporting, traffic, security, handling and use of Hazardous Materials, and general operations. VDOT further covenants that it will comply, at its own cost and expense, with all federal, state and/or municipal laws, ordinances, rules, and regulations relating to the business conducted in the Terminal and Premises and by VDOT on its vessel(s) including, but not limited to, compliance with OSHA, the Americans with Disabilities Act, and those imposed by the U.S. Coast Guard, the local fire department, and the Department of Homeland Security and its constituent agencies.

6. VDOT agrees not to permit or do any act which interferes with the rights or operations of VPA or other users or occupants of the Terminals, or which in any way will injure or annoy them.

**IN WITNESS WHEREOF**, the Parties to this Memorandum of Understanding have caused it to be executed pursuant to their express authority this \_\_\_\_ day of July, 2017.

**Virginia Port Authority**

By: \_\_\_\_\_(SEAL)  
John F. Reinhart, Executive Director

**Virginia Department of Transportation**

By: \_\_\_\_\_(SEAL)  
Charles A. Kilpatrick, P.E.,  
Commissioner of Highways