



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Shannon Valentine
Chairperson

1401 East Broad Street
Richmond, Virginia 23219

(804) 786-2701
Fax: (804) 786-2940

Agenda item # 1

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

June 17, 2020

MOTION

Made By: Ms. Hynes, Seconded By: Mr. Rucker
Action: Motion Carried, Unanimously

Title: Approval of the Modified Project and Revised Transform 66 Outside the Beltway Concession Payment Account Project Allocation for the Route 234 at Balls Ford Road Interchange Project.

WHEREAS, the Transform 66 Outside the Beltway Project (Project) entails multimodal transportation improvements on the approximately 22-mile corridor on I-66 between U.S. Route 29 near Gainesville in Prince William County and the I-495 Capital Beltway in Fairfax County (Outside the Beltway Component) and is designed to address existing and future transportation challenges in the I-66 Corridor in a cost-effective and timely manner, to improve multimodal mobility by providing diverse travel choices through an efficient network of park-and-ride, HOV, transit, and Express Lane opportunities, and to enhance transportation safety and travel reliability for the public; and

WHEREAS, the Project is designed, built, and financed; and will be maintained and operated by I-66 Express Mobility Partners LLC (the Concessionaire), pursuant to a Comprehensive Agreement developed under the Public Private Transportation Act of 1995 (PPTA) and entered into on December 8, 2016; and

WHEREAS, upon financial close of the Project on November 9, 2017, in accord with the terms of the Comprehensive Agreement, the Concessionaire paid the Virginia Department of Transportation (VDOT), a Concession Fee/Payment of \$578,919,450, and

WHEREAS, pursuant to §33.2-1528 of the *Code of Virginia*, Concession Payments to the Commonwealth from qualifying transportation facilities developed and/or operated pursuant to the PPTA must be held in a separate subaccount to be designated the Concession Payments Account, together with all interest, dividends, and appreciation that accrue to the Account, and said sums may only be used for the purposes specified; and

WHEREAS, §33.2-1528 specifies that allocations from the Concession Payments Account may be used to pay or finance all or part of the costs of programs or projects, but that (i) the allocations must be limited to programs and projects that are reasonably related to or benefit the users of the qualifying transportation facility that was the subject of a concession pursuant to the PPTA; and (ii) the priorities of metropolitan planning organizations, planning district commissions, local governments, and transportation corridors shall be considered by the Commonwealth Transportation Board (Board) in making project allocations from moneys in the Account; and

WHEREAS, VDOT has been advised by the Federal Highway Administration that projects funded with the Concession Payment must be “federal-aid eligible” pursuant to Title 23 of the U.S. Code and if federal funds are used on any such project, federal-aid requirements must be met; and

WHEREAS, on January 10, 2018, the Board approved the allocation of funds from the Transform 66 Outside the Beltway Concession Payment Account (I-66 Concession Payment Account) for a list of previously endorsed Projects meeting the federal and state requirements noted herein, which included the allocation of \$145 Million in funding for the Route 234 at Balls Ford Road Interchange Project; and

WHEREAS, award for the original Project was made by Prince William County in March, 2020, resulting in a total project cost of \$103.5 Million and the reduced cost prompted Prince William County to request that the Northern Virginia Transportation Authority (NVTa) consider extending the project limits of the Route 234 and Balls Ford Road Interchange Project approximately 0.57 miles and reducing the allocation of Concession Funds from \$145 Million to \$130 Million, which request the NVTa approved on May 14, 2020; and

WHEREAS, VDOT has determined and documented that the Project, if modified as proposed, would continue to satisfy all applicable requirements set forth in federal and state law, including but not limited to being federal-aid eligible and satisfying the requirements set forth in §33.2-1528; and

WHEREAS, based on the foregoing, VDOT has recommended that a reduced allocation from the I-66 Concession Payment Account be made for the modified Route 234 at Balls Ford Road Interchange Project, as requested by Prince William County and recommended for approval by NVTa, such that the total allocation for the Project is \$130 Million.

NOW THEREFORE, BE IT RESOLVED, that the Board hereby approves extending the project limits of the Route 234 and Balls Ford Road Interchange Project by approximately 0.57 miles and adjusting the allocation for the Project from the I-66 Concession Payment Account from \$145 Million to \$130 Million.

###

CTB Decision Brief

Approval of the Modified Project and Revised Transform 66 Outside the Beltway Concession Payment Account Project Allocation for the Route 234 at Balls Ford Road Interchange Project.

Issue: It has been determined that total project costs for the Route 234 at Balls Ford Road Interchange Project (Project), previously allocated funding from the Transform 66 Outside the Beltway Concession Payment Account (I-66 Concession Payment Account) by the Commonwealth Transportation Board (CTB), will be less than originally estimated. As a result of the cost savings, extension of the Project limits by 0.57 miles is being proposed and approval of the CTB is sought for the modified project and adjustments to the I-66 Concession Payment Account allocation for the Project from \$145 Million to \$130 Million, based on the modified Project and the resulting cost estimates.

Facts: I-66 Outside the Beltway is being financed, designed, and built and will be maintained and operated by I-66 Express Mobility Partners LLC (the Concessionaire) pursuant to a Comprehensive Agreement developed under the Public Private Transportation Act of 1995 (PPTA) and entered into on December 8, 2017. In accord with the Comprehensive Agreement, the Concessionaire paid VDOT a concession fee of \$578,919,450.

Pursuant to §33.2-1528 of the *Code of Virginia*, Concession Payments to the Commonwealth from qualifying transportation facilities developed and/or operated pursuant to the PPTA must be held in a separate subaccount to be designated the Concession Payments Account, together with all interest, dividends, and appreciation that accrue to the Account, and said sums may only be used for the purposes specified. The funds in the I-66 Concession Payment Account may be used to fund additional transportation improvements in the I-66 Outside the Beltway Corridor provided that (i) allocations from the Account are limited to programs and projects that are reasonably related to or benefit the users of the qualifying transportation facility that was the subject of the concession payment and (ii) the priorities of metropolitan planning organizations, planning district commissions, local governments, and transportation corridors are considered by the Board in making project allocations from moneys in the Account.

On January 10, 2018, the CTB approved the allocation of funds from the I-66 Concession Payment Account for a list of previously endorsed Projects, which included the allocation of \$145 Million in funding for the Route 234 at Balls Ford Road Interchange Project. Award for the original Project was made by Prince William County in March, 2020, resulting in a total project cost of \$103.5 Million. The reduced cost prompted Prince William County to request Northern Virginia Transportation Authority's approval of extension of the Project limits by 0.57 miles with a resulting total Project cost estimate of \$130 Million, which is \$15 Million less than the CTB allocation for the original Project in January of 2018. NVRTA approved the request on May 14, 2020 and VDOT has determined and documented that the Project if modified as proposed, would continue to satisfy all applicable requirements set forth in federal and state law, including but not limited to being federal-aid eligible and satisfying the requirements set forth in §33.2-1528.

Recommendations: Approve a Resolution providing for the proposed Project modification and a reduced allocation from the I-66 Concession Payment Account for the Route 234 at Balls Ford

Road Interchange Project as modified, such that the total allocation for the Project would be \$130 Million.

Action Required by CTB: Approve the Resolution

Results if Approved: If the Resolution is approved, the Project description will be revised in the FY 20-25 Six Year Program and the I-66 Concession Payment Account allocation to the Project will be reduced to \$130 Million.