



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Shannon Valentine
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Agenda item # 8

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

May 19, 2021

MOTION

Made By: Mr. Malbon, Seconded By: Mr. Yates

Action: Motion Carried, Unanimously

Title: Interstate 64 Hampton Roads Express Lanes Network Tolling System and Services Contract Award and TFRA Funding Authorizations

WHEREAS, the Virginia Department of Transportation (VDOT) has made briefings to the Commonwealth Transportation Board (CTB), Hampton Roads Transportation Accountability Commission (HRTAC), and Hampton Roads Transportation Planning Organization (HRTPO), demonstrating the operational benefits of the Hampton Roads Express Lane (HREL) Network providing for continuous HOT lanes travel on Interstate 64 in Hampton Roads between the interchange of Interstate 64 and Jefferson Avenue in Newport News and the interchange of Interstates 64, 264, and 664 in the Bowers Hill section of Chesapeake; and

WHEREAS, on May 21, 2020, the HRTPO identified and adopted the Regional Express Lanes Network, consistent with the HREL Network concept, “as a component of the Regional Priority Projects... identified by the HRTPO in its 2040 Long Range Transportation Plan to collectively provide the greatest impact on reducing congestion for the greatest number of citizens residing in Hampton Roads”, recommending the HRTAC pursue funding, development, and implementation for the network; and

WHEREAS, on May 28, 2020, HRTAC voted to endorse inclusion of the HREL Network in the FY21-FY26 Plan of Finance – Six Year Operating and Capital Program and at their June 18, 2020 meeting approved the HRTAC Debt Management Plan to fund the HREL Network; and

WHEREAS, the CTB and HRTAC developed and adopted the HREL Network concept of operation and VDOT, the CTB and HRTAC have entered into the Master Agreement for

Development and Tolling of Hampton Roads Express Lanes Network (MTA), dated August 18, 2020, to address both development and tolling of the HREL Network; and

WHEREAS, pursuant to Article 4 of the MTA, VDOT is responsible to perform certain tolling duties and functions before the Transition Date (the date after which HRTAC will be responsible for tolling operation and maintenance duties) and among those duties, VDOT may contract for the provision of such services in a manner consistent with its past practice, subject to certain conditions; and

WHEREAS, in accord with the MTA, VDOT issued a request for proposals (RFP) on October 6, 2020 seeking proposals from qualified firms for the purpose of establishing a contract to provide for design, integration, implementation, on-going maintenance and operation of a system for the dynamic tolling on, and that meets VDOT's business and system requirements for, the I-64 Hampton Roads Express Lanes (HREL Tolling System and Services) and in response, received three proposals; and

WHEREAS, after evaluating the proposals and engaging in negotiations, VDOT has determined, based on the evaluation factors included in the RFP, that one offeror, who is fully qualified to deliver the HREL Tolling System and Services and whose proposal provides good value, should be awarded the contract for the HREL Tolling System and Services (Contract); and

WHEREAS, VDOT, after completion of mandatory reviews by the Virginia Information Technologies Agency and the Office of the Attorney General, issued a Notice of Intent to Award the Contract on May 17, 2021; and

WHEREAS, pursuant to § 33.2-209 of the *Code of Virginia*, the CTB has authority to award contracts for "...construction, maintenance, and improvement of the highways comprising systems of state highways...in excess of \$5 million..."; and

WHEREAS, in order to ensure the timely delivery of the HREL Tolling System and Services necessary for operation and tolling of all or a portion of the HREL Network on the intended commencement date, it is necessary that the Contract be awarded and executed without delay and prior to the June 2021 CTB meeting; and

WHEREAS, on September 20, 2017, the CTB advanced an amount of up to \$10,000,000 from the Toll Facility Revolving Account (TFRA) and allocated the same to pay the costs associated with work necessary to begin the engineering, analysis and construction of the needed tolling infrastructure and related services on Segment 2 of what is now the HREL Network, and directed that requests for additional funding from the TFRA or other sources for tolling infrastructure and related services be presented to the CTB for its approval; and

WHEREAS, on January 15, 2020, the CTB authorized an additional amount of up to \$28,000,000 to be advanced from the TFRA and allocated to support the construction and tolling integration on Interstate 64 from the I-664/I-264 Interchange to Interstate 264, including tolling integration costs for the High Rise Bridge, and related efforts for a regional Express Lanes Network in Hampton Roads; and

WHEREAS, VDOT has determined that of the \$10,000,000 allocated pursuant to the September 20, 2017 TFRA Allocation, and the \$28,000,000 allocated in the January 15, 2020 TFRA Allocation, \$12,786,320 has not been expended and remains available to fund the work for the design, construction, installation, implementation, operation and/or maintenance of the HREL Tolling System and Services.

NOW, THEREFORE BE IT RESOLVED, by the CTB that, due to the potential delay in operation and tolling of all or a portion of the HREL Network if award of the Contract for the HREL Tolling System and Services is delayed until the June 2021 CTB meeting, the Commissioner of Highways is hereby authorized and delegated the CTB's authority to award the Contract and to execute the Contract, as well as all other documents necessary to effectuate award of the Contract, provided the necessary tasks and activities related to award of the Contract are appropriately completed.

BE IT FURTHER RESOLVED, that the Commissioner of Highways is further authorized to exercise any and all options under the Contract.

BE IT FURTHER RESOLVED, that the Commissioner of Highways shall present the final Contract at the next CTB meeting for the CTB's affirmation.

BE IT FURTHER RESOLVED by the CTB, pursuant to 33.2-1529, that the unexpended portion of the \$10,000,000 allocated pursuant to the September 20, 2017 TFRA Allocation, and the unexpended portion of the \$28,000,000 allocated pursuant to the January 15, 2020 TFRA Allocation, (collectively, \$12,786,320), is authorized and allocated to pay costs of the work performed pursuant to the HREL Tolling System and Services Contract.

BE IT FURTHER RESOLVED by the CTB that the toll revenues collected from the HREL Network will be used in accord with § 33.2-309, including the reimbursement of funding advanced from the Toll Facilities Revolving Account authorized herein in accord with § 33.2-1529 of the *Code of Virginia*.

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CTB Decision Brief

Interstate 64 Hampton Roads Express Lanes Network Tolling System and Services Contract Award and TFRA Funding Authorizations

Issue: The Virginia Department of Transportation (VDOT) has initiated steps to develop and implement a dynamic tolling system for the Hampton Roads Express Lane Network in accord with the Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network (MTA), dated August 18, 2020 and entered into by VDOT, the Commonwealth Transportation Board (CTB) and the Hampton Roads Transportation Accountability Commission (HRTAC). Delegation of CTB authority is sought pursuant to §33.2-209 of the *Code of Virginia* for the Commissioner of Highways to award and execute a contract with a private entity for development and implementation of the tolling system for the HREL Network. In addition, VDOT seeks authorization to use previously allocated Toll Facilities Revolving Account funds to pay the costs of developing and implementing the tolling system pursuant to said contract.

Facts:

HREL Tolling System and Services Contract

- VDOT has made briefings to the CTB, HRTAC, and Hampton Roads Transportation Planning Organization (HRTPO), demonstrating the operational benefits of the HREL Network providing for continuous HOT lanes travel on Interstate 64 in Hampton Roads between the interchange of Interstate 64 and Jefferson Avenue in Newport News and the interchange of Interstates 64, 264, and 664 in the Bowers Hill section of Chesapeake.
- On May 21, 2020, the HRTPO identified and adopted the Regional Express Lanes Network, consistent with the HREL Network concept, “as a component of the Regional Priority Projects... identified by the HRTPO in its 2040 Long Range Transportation Plan to collectively provide the greatest impact on reducing congestion for the greatest number of citizens residing in Hampton Roads”, recommending the HRTAC pursue funding, development, and implementation for the network.
- On May 28, 2020, HRTAC voted to endorse inclusion of the HREL Network in the FY21-FY26 Plan of Finance – Six Year Operating and Capital Program and at their June 18, 2020 meeting approved the HRTAC Debt Management Plan to fund the HREL Network.
- The CTB and HRTAC developed and adopted the HREL Network concept of operation and VDOT, the CTB and HRTAC have entered into the MTA to address both development and tolling of the HREL Network.
- Pursuant to Article 4 of the MTA, VDOT is responsible to perform certain tolling duties and functions before the Transition Date (the date upon which HRTAC will assume tolling responsibilities for all or a portion of the HREL Network). Among those duties, the MTA provides that VDOT may contract for the provision of such services in a manner consistent with its past practice, provided that VDOT:
 - consults with HRTAC
 - provides HRTAC the opportunity to review and comment on solicitation documents and contracts prior to execution, and

- uses commercially reasonable efforts to ensure such contracts contain: (i) provisions that allow VDOT to unilaterally assign the contract to HRTAC, and (ii) commercially reasonable termination provisions including, without limitation, VDOT's right to terminate for convenience without undue termination compensation payable to the contractor.
- In accord with the MTA and the Virginia Public Procurement Act, VDOT issued a request for proposals (RFP) on October 6, 2020 seeking proposals from qualified firms for the purpose of establishing a contract to provide for design, integration, implementation, on-going maintenance and operations of a system for the dynamic tolling on, and that meets VDOT's business and system requirements for, the I-64 Hampton Roads Express Lanes (HREL Tolling System and Services).
- In response to the RFP, VDOT received three proposals and after evaluating the proposals and engaging in negotiations, VDOT has determined, based on the evaluation factors included in the RFP, that there is an offeror fully qualified to deliver the HREL Tolling System and Services, that the offeror's proposal provides good value, and that the offeror should be awarded the contract for the HREL Tolling System and Services (Contract).
- The proposed Contract would be for an initial 3-year period with the opportunity for three successive three-year renewals for a total of nine years and would provide for initial implementation of the HREL Tolling System and Services on Segment 2, with options for certain enhancements as well as implementation of the HREL Tolling System and Services on additional segments.
- VDOT, upon completion of mandatory reviews by the Virginia Information Technologies Agency and the Office of the Attorney General, issued a Notice of Intent to Award the Contract on May 17, 2021.
- Pursuant to § 33.2-209 of the *Code of Virginia*, the CTB has authority to award contracts for "...construction, maintenance, and improvement of the highways comprising systems of state highways...in excess of \$5 million...".
- To ensure that tolling will be implemented when Segment 2 of the HREL commences operation, it is imperative for work under the Contract to commence promptly, and for the Contract to be awarded and executed prior to the June 2021 CTB meeting. Thus, VDOT is requesting that the Commissioner be delegated the CTB's authority to award the HREL Tolling System and Services Contract, and to execute said Contract, provided all necessary tasks and activities related to award of the Contract are appropriately completed.

Toll Facilities Revolving Account Allocation

- On September 20, 2017, the CTB advanced an amount of up to \$10,000,000 from the Toll Facility Revolving Account (TFRA) and allocated the same to pay the costs associated with work necessary to begin the engineering, analysis and construction of the needed tolling infrastructure and related services on Segment 2 of what is now the HREL Network, and directed that requests for additional funding from the TFRA or other

sources for tolling infrastructure and related services be presented to the CTB for its approval.

- On January 15, 2020, the CTB authorized an additional amount of up to \$28,000,000 to be advanced from the TFRA and allocated to support the construction and tolling integration on Interstate 64 from the I-664/I-264 Interchange to Interstate 264, including tolling integration costs for the High Rise Bridge, and related efforts for a regional Express Lanes Network in Hampton Roads, and directed that the advance funding provided by the TFRA be repaid with toll revenues from the network of Express Lanes contemplated, or any portion thereof, or such other funds as may be identified and made available by the CTB.
- VDOT has determined that, of the \$10,000,000 allocated pursuant to the September 20, 2017 TFRA Allocation, and the \$28,000,000 allocated in the January 15, 2020 TFRA Allocation, \$12,786,320 has not been expended and remains available to fund work performed under the Contract to design, construct, install, implement, operate and/or maintain the HREL Tolling System and Services. Accordingly, VDOT is requesting authorization to use funds remaining from the September 20, 2017 and the January 15, 2020 TFRA Allocations to fund the HREL Tolling System and Services Contract.
- It is anticipated that once tolling commences on Segment 2, tolling revenues will be used to pay the costs associated with operation and maintenance of the Tolling System and repay the TFRA funding.

Recommendations: VDOT recommends that the Commissioner of Highways be delegated the CTB's authority to award the Contract and to execute the Contract and all other documents necessary to effectuate the award of the Contract, with a requirement to report to the CTB on the Contract for the CTB's affirmation of the award at its June 2021 meeting. VDOT also recommends that the Commissioner be authorized to exercise any and all options pursuant to the Contract, including but not limited to options for development and implementation of tolling on additional segments of the HREL Network. Finally, VDOT recommends that, pursuant to §33.2-1529, the CTB authorize use of remaining TFRA funds from the September 20, 2017 TFRA Allocation and the January 15, 2020 TFRA Allocation (\$12,786,320) to fund the HREL Tolling System and Services Contract.

Action Required by the CTB: The CTB will be presented with a resolution for a formal vote to (i) authorize the Commissioner of Highways to award and execute the HREL Tolling System and Services Contract, to execute all other documents necessary to effectuate the award of the Contract, (provided all necessary tasks and activities related to award of the Contract are appropriately completed), and to exercise any and all options under the Contract, including options to develop and implement tolling on additional segments of the HREL Network, (ii) direct the Commissioner to report back to the CTB in June regarding the Contract and for CTB affirmation of the award, and (iii) authorize use of previously allocated but unexpended TFRA funding from the September 20, 2017 and January 15, 2020 TFRA Allocations to pay for work performed pursuant to the HREL Tolling System and Services Contract.

Result, if Approved: The Contract will be awarded and VDOT will begin work related to design, construction, installation, implementation, operation and/or maintenance of the HREL Tolling System and Services.

Options: Approve, Deny or Defer

Public Comments/Reactions: N/A