



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

W. Sheppard Miller, III
Chairperson

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Agenda item # 5

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

June 21, 2023

MOTION

Made By: Ms. Sellers, **Seconded By:** Mr. Lawson

Action: Motion Carried, Unanimously

Title: Authorization for the Commissioner of Highways to enter into a Program Coordination Agreement and Project Specific Special Interagency Agreements with the Virginia Passenger Rail Authority for the Transforming Rail in Virginia Program

WHEREAS, in 2020, pursuant to Chapters 1230 and 1275, the Virginia General Assembly enacted the Virginia Passenger Rail Authority Act pursuant to Va. Code § 33.2-287 et seq. (the Act); and

WHEREAS, the Act established the Virginia Passenger Rail Authority (VPRA) for the purposes of promoting, sustaining, and expanding the availability of passenger and commuter rail service in the Commonwealth and for purposes of increasing ridership and availability of such service throughout the Commonwealth; and

WHEREAS, pursuant to the Act, VPRA is specifically authorized to, among other things, make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including agreements with any person, federal agency, other state, or political subdivision of the Commonwealth; and

WHEREAS, Va. Code § 33.2-293(C) authorizes the Commonwealth and any of its

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agencies to provide services to VPRA for the design, acquisition, construction, equipping, maintenance, and operation of rail facilities; and

WHEREAS, VPRA is leading a program of capital projects known as Transforming Rail in Virginia (TRV Program), which will expand railroad capacity and increase and improve passenger rail service throughout the Commonwealth, reducing congestion on many of the Commonwealth's highways operated by VDOT; and

WHEREAS, VPRA is currently standing up the TRV Program to include acquisition of resources and development of processes necessary for VPRA to deliver the program; and

WHEREAS, until VPRA has had reasonable time to become fully operational in delivery of the TRV Program, it furthers the public interest for VDOT to provide VPRA with certain services and assistance in support of projects or work necessary for the Program pursuant to an overall program coordination agreement, and

WHEREAS, VPRA has further advised, with VDOT's concurrence, that it desires to administer certain highway projects necessary for a more efficient and consistent delivery of the TRV Program, having staff capable of performing a majority of the work necessary for project planning, design, construction, and management but noting that it intends to consult with VDOT for that work performed by VPRA and may also require certain services from VDOT, which services VDOT is able to provide; and

WHEREAS, Item 453 of the Appropriations Act authorizes VDOT, notwithstanding any other provision of law, to assess and collect the costs of providing services to other entities, public and private, requiring VDOT to take all actions necessary to ensure that all such costs are reasonable and appropriate, recovered, and understood as a condition to providing such service; and

WHEREAS, VPRA has agreed to provide all funding necessary to reimburse VDOT for the services provided by VDOT pursuant to an overall program coordination agreement and to pay all project costs for the highway projects administered by VPRA; and

WHEREAS, VDOT and VPRA have developed the Program Coordination Agreement for Transforming Rail in Virginia to address their responsibilities and duties in coordinating delivery of the TRV Program, a draft of which is attached hereto as Exhibit A; and

WHEREAS, VDOT and VPRA have also developed a template for a Special Interagency Agreement for Project Administration and Funding to address VPRA's administration of the Leeland Road Bridge Project (in Stafford County) and Washington Highway Bridge Project (in Hanover County), a draft of which is attached hereto as Exhibit B; and

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WHEREAS, §33.2-214 C of the Code of Virginia empowers the CTB to enter into contracts with local districts, commissions, agencies, or other entities, such as the VPRA created for transportation purposes; and

WHEREAS, the CTB received a briefing on this matter on April 18, 2023, being advised that VDOT recommends that the CTB approve the Project Coordination Agreement and the Special Interagency Agreement for Project Administration and Funding template to facilitate delivery of the TRV Program.

NOW, THEREFORE, BE IT RESOLVED, that the Commonwealth Transportation Board hereby approves and authorizes the Commissioner of Highways or his designee to enter into the Program Coordination Agreement for Transforming Rail in Virginia, between VDOT and VPRA, substantively similar to Exhibit A, with such changes and additions, as well as any addenda, the Commissioner deems necessary.

BE IT FURTHER RESOLVED, that the Commonwealth Transportation Board hereby approves and authorizes the Commissioner of Highways or his designee to enter into Special Interagency Agreements with VPRA for the administration of the Leeland Road Bridge and Washington Highway Bridge projects necessitated by the TRV Program, using a template substantively similar to Exhibit B, with such changes and additions as the Commissioner deems necessary.

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CTB Decision Brief

Issue: Pursuant to §33.2-214 C of the *Code of Virginia*, the Commonwealth Transportation Board (CTB) is given the power and duty to enter into contracts with local districts, commissions, agencies, or other entities, such as the Virginia Passenger Rail Authority (VPRA), created for transportation purposes. Accordingly, the Virginia Department of Transportation (VDOT) is requesting that the CTB approve and authorize the Commissioner of Highways (Commissioner) to enter into (i) the Program Coordination Agreement between VDOT and VPRA for the Transforming Rail in Virginia (TRV) Program; and (ii) Special Interagency Agreements with VPRA for the administration of the Leeland Road Bridge and Washington Highway Bridge projects necessitated by the TRV Program.

Facts:

- In 2020, pursuant to Chapters 1230 and 1275, the Virginia General Assembly enacted the Virginia Passenger Rail Authority Act pursuant to Va. Code § 33.2-287 et seq. (the Act) and established the VPRA for the purposes of promoting, sustaining, and expanding the availability of passenger and commuter rail service in the Commonwealth and for purposes of increasing ridership and availability of such service throughout the Commonwealth.
- VPRA is specifically authorized to, among other things, make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including agreements with any person, federal agency, other state, or political subdivision of the Commonwealth.
- Va. Code § 33.2-293(C) authorizes the Commonwealth and any of its agencies to provide services to VPRA for the design, acquisition, construction, equipping, maintenance, and operation of rail facilities.
- VPRA is leading an ambitious program of capital projects known as Transforming Rail in Virginia (TRV Program), which will expand railroad capacity and increase and improve passenger rail service throughout the Commonwealth, reducing congestion on many of the Commonwealth's highways operated by VDOT.
- VPRA is currently standing up the TRV Program to include acquisition of resources and development of processes necessary for VPRA to deliver the program and until VPRA has had reasonable time to become fully operational in delivery of the TRV Program, VPRA has requested that VDOT provide VPRA with certain services and assistance in support of projects or work necessary for the Program pursuant to an overall program coordination agreement.
- VPRA has further advised that it desires to administer certain highway projects necessary for a more efficient and consistent delivery of the TRV Program, having staff capable of performing a majority of the work necessary for project planning, design, construction, and management but noting that it intends to consult with VDOT for that work performed by VPRA and may also require certain services from VDOT, which services VDOT is able to provide.

- Item 453 of the Appropriations Act authorizes VDOT, notwithstanding any other provision of law, to assess and collect the costs of providing services to other entities, public and private, requiring VDOT to take all actions necessary to ensure that all such costs are reasonable and appropriate, recovered, and understood as a condition to providing such service.
- VPRA has agreed to provide all funding necessary to reimburse VDOT for the services provided by VDOT pursuant to an overall program coordination agreement and to pay all project costs for the highway projects administered by VPRA.
- VDOT and VPRA have developed the Program Coordination Agreement for Transforming Rail in Virginia to address their responsibilities and duties in coordinating delivery of the TRV Program, a draft of which is attached hereto as Exhibit A.
- VDOT and VPRA have also developed a template for a Special Interagency Agreement for Project Administration and Funding to address VPRA's administration of the Leeland Road Bridge Project (in Stafford County) and Washington Highway Bridge Project (in Hanover County), a draft of which is attached hereto as Exhibit B.
- §33.2-214 C of the Code of Virginia empowers the CTB to enter into contracts with local districts, commissions, agencies, or other entities, such as the VPRA, created for transportation purposes.
- The CTB was briefed on this matter on April 18, 2023, and received the following information regarding the agreements:
 - Program Coordination Agreement
 - Master agreement for coordination of entire TRV Program
 - Covers key points of necessary coordination and VDOT support including:
 - ~ VDOT design review rights
 - ~ Permits needed from VDOT
 - ~ Information sharing
 - ~ Utility coordination
 - ~ Right of Way (ROW) acquisition support
 - ~ Other scope added by mutually-executed addenda on case-by-case basis
 - Special Interagency Agreements for Leeland Road Bridge Replacement (Stafford County) and Washington Highway Bridge Replacement (Hanover County)
 - In each case, VPRA is to add a third track which impacts bridge piers and necessitates replacement of the roadway bridge
 - VPRA will fund each project Project
 - VPRA will lead design and construction with VDOT oversight
 - VDOT will lead/engage in ROW acquisition

Recommendation: VDOT recommends that the CTB approve and delegate to the Commissioner or his designee the authority to enter into (i) the Program Coordination Agreement for Transforming Rail in Virginia, between VDOT and VPRA, substantively similar to Exhibit A,

with such changes and additions as well as any addenda the Commissioner deems necessary; and (ii) the Special Interagency Agreements for Project Administration and Funding for the Leeland Road and Washington Highway Bridge Projects, using a template substantively similar to Exhibit B, with such changes and additions as the Commissioner deems necessary.

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

Result, if Approved: The Commissioner or his designee will be authorized to enter into (i) the Program Coordination Agreement for Transforming Rail in Virginia, between VDOT and VPRA, substantively similar to Exhibit A, with such changes and additions as well as any addenda the Commissioner deems necessary; and (ii) the Special Interagency Agreements for Project Administration and Funding for the Leeland Road and Washington Highway Bridge Projects, using a template substantively similar to Exhibit B, with such changes and additions as the Commissioner deems necessary.

Options: Approve, Deny or Defer

Public Comments/Reactions: N/A