



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Aubrey L. Layne, Jr.
Chairman

1401 East Broad Street
Richmond, Virginia 23219

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

Agenda item # 10

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

December 6, 2017

MOTION

Made By: Mr. Connors, Seconded By: Mr. Kasproicz

Action: Motion Carried, Unanimously

Title: Delegation of Authority for Commissioner of Highways to Enter into and Execute Agreements with the Maryland Transportation Authority and Other Entities Relating to the Governor Harry W. Nice Memorial Bridge Improvement Project

WHEREAS, the Governor Harry W. Nice Memorial Bridge (Nice Bridge), which spans the Potomac River between Charles County, Maryland and King George County, Virginia is owned by the Maryland Transportation Authority (MDTA) and serves as a trade and commerce highway route between Maryland and Virginia via US301; and

WHEREAS, MDTA has been pursuing a project to replace the Nice Bridge (Nice Bridge Improvement Project), and has collaborated with the Virginia Department of Transportation (VDOT) regarding various issues associated with the portion of the project that is located in Virginia; and

WHEREAS, on February 15, 2007, the Commonwealth Transportation Board (Board) approved a Memorandum of Understanding for a NEPA study regarding the Nice Bridge Improvement Project, which set forth the roles of the MDTA and VDOT with regard to the study, and on February 16, 2011, the Board approved a resolution of support for the location and preferred alternative for the project; and

WHEREAS, a portion of the roadway approach work for the Nice Bridge Improvement Project involves preliminary engineering, right of way and construction activities in Virginia and as project development activities for the project progress, additional coordination and participation with and by VDOT will be needed for the portion of the project in Virginia, which

Resolution of the Commonwealth Transportation Board
Delegation of Authority for Commissioner of Highways to Enter into and Execute Agreements
with the Maryland Transportation Authority and Other Entities Relating to the Governor Harry
W. Nice Memorial Bridge Improvement Project
December 6, 2017
Page Two

in turn will require development of new or amendment of existing agreements with the MDTA and other entities, including the U.S. Government, relating to right of way work, engineering, mitigation of effects to parklands and/or construction; and

WHEREAS, advance authorization for the Commissioner of Highways to enter into and execute new agreements or amendments with the MDTA and/or other entities, including the U.S. Government, relating to the Nice Bridge Improvement Project, will facilitate timely completion of the project.

WHEREAS, § 33.2-221 (B) of the *Code of Virginia* provides that the Board shall have the power and duty to enter into agreements with other states necessary for the proper coordination of the location, construction, maintenance, improvement, and operation of transportation systems, including the systems of state highways with the highways of such other states and pursuant to § 33.2-221 (A), the CTB has authority to enter into agreements with the U.S. Government.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby delegates to the Commissioner of Highways the authority to enter into and to execute agreements with the MDTA and/or the U.S. Government and amendments thereto, relating to the Nice Bridge Improvement Project, provided the Board has previously allocated necessary funding relating to the agreement to be executed.

BE IT FURTHER RESOLVED, that the Commissioner shall report back to the Board any agreement executed pursuant to the authority granted herein at the next regularly scheduled meeting of the Board.

####

CTB Decision Brief

Delegation of Authority for Commissioner of Highways to Enter into and Execute Agreements with the Maryland Transportation Authority and Other Entities Relating to the Governor Harry W. Nice Memorial Bridge Improvement Project

Issue: The Maryland Transportation Authority (MDTA) has been pursuing a project to replace the Governor Harry W. Nice Memorial Bridge (Nice Bridge) that is owned by the MDTA and spans the Potomac River between Charles County, Maryland and King George County, Virginia (Nice Bridge Improvement Project) for several years. The MDTA has collaborated with the Virginia Department of Transportation (VDOT) regarding various issues associated with the Virginia portion of the project. As the project advances, there will be a need to amend previously executed memoranda of agreement between the MDTA and/or other entities including the U.S. Government, as well as enter into new agreements for project development activities. Pursuant to § 33.2-221 (B) of the *Code of Virginia*, the Commonwealth Transportation Board (CTB) has the power and duty to enter into all contracts with other states necessary for the proper coordination of the location, construction, maintenance, improvement, and operation of transportation systems, including the systems of state highways with the highways of such other states. And pursuant to § 33.2-221 (A), the CTB has authority to enter into agreements with the U.S. Government. Thus, CTB authorization for the Commissioner of Highways to enter into and execute agreements and amendments to agreements with the MDTA and/or the U.S. Government is sought.

Facts: On November 21, 2016, Maryland Governor Larry Hogan announced \$765 million in funding to replace the Nice Bridge after years of the project being stalled due to lack of full project funding. The MDTA has been working to finalize the National Environmental Policy Act (NEPA) Re-evaluation in early 2018 and anticipates advertising a design-build contract for the new bridge in 2018. Construction on the new structure is anticipated to begin in 2020 with an opening date in 2023. MDTA was able to fund the project by adopting a practical design approach and reducing the cost by nearly \$200 million.

The new structure will be built to the north of and parallel to the existing 1.7-mile bridge and will include two-lanes of traffic in each direction. A barrier-separated bicycle and pedestrian path will be included as a bid option in the design-build procurement. A portion of the roadway approach work for the new bridge involves preliminary engineering, right of way and construction activities in Virginia.

On February 15, 2007, the Commonwealth Transportation Board (CTB) approved a Memorandum of Understanding for a NEPA study regarding the Nice Bridge Improvement Project, which set forth the roles of the MDTA and VDOT with regard to the study. On February 16, 2011, the CTB approved a resolution of support for the location and preferred alternative for the project. Additionally, on July 12, 2011, VDOT entered into a Memorandum of Agreement (MOA) with MDTA, the Federal Highway Administration, the National Park Service, the Virginia Tourism Corporation, the Virginia Department of Conservation and Recreation and the King George County Board of Supervisors which set forth responsibilities relating to the mitigation of effect to public parks from the project.

CTB Decision Brief

Delegation of Authority for Commissioner of Highways to Enter into and Execute Agreements with the Maryland Transportation Authority and Other Entities Relating to the Governor Harry W. Nice Memorial Bridge Improvement Project

Page Two

As project development activities for the Nice Bridge Improvement Project continue, additional coordination and participation with and by VDOT will be needed for the portion of the project in Virginia, which in turn will require development of new or amendment of existing agreements with the MDTA and other entities, including the U.S. Government, relating to right of way work, engineering, mitigation of effects to parklands and/or construction. Advance authorization for the Commissioner of Highways to enter into and execute new agreements or amendments thereto with the MDTA and/or other entities, including the U.S. Government, will facilitate timely completion of the project. As one or more agreements may involve the expenditure of Commonwealth (Virginia) funds, it is recommended that the delegation sought from the CTB be made subject to prior allocation of any funding necessary for the agreement.

Pursuant to § 33.2-221 (A) and (B), the CTB must delegate to the Commissioner of Highways the authority to enter into and execute Agreements with the MDTA and/or the U.S. Government and amendments thereto.

Recommendations: VDOT recommends that the CTB delegate to the Commissioner of Highways the authority to enter into and execute agreements with the MDTA and/or the U.S. Government and amendments thereto, relating to the Nice Bridge Improvement Project, provided the CTB has previously allocated necessary funding relating to the agreement to be executed. If granted, VDOT also recommends that that the Commissioner be required to report back to the CTB any agreement executed pursuant to the authority so granted at the next regularly scheduled meeting of the CTB.

Action Required by CTB: The CTB will be presented with a resolution for a formal vote (i) that delegates authority to the Commissioner to enter into and execute agreements with the MDTA and/or the U.S. Government and amendments thereto, for the Nice Bridge Improvement Project, provided the CTB has previously allocated necessary funding relating to the agreement to be executed; and (ii) that requires the Commissioner to report back to the CTB any agreement so executed at the next regularly scheduled meeting of the CTB.

Result, if approved: The Commissioner will be authorized to execute agreements with the MDTA and/or the U.S. Government and amendments thereto, relating to the Nice Bridge Improvement Project, provided the CTB has previously allocated funding relating to the agreement to be executed and will report said agreements back to the CTB at its next regularly scheduled meeting.

Options: Approve, Deny or Defer.

Public Comments/Reactions: All project development activities requiring public notice or involvement will meet such requirements prior to commencement.