



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Shannon Valentine
Chairperson

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Agenda item # 8

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

July 14, 2020

MOTION

Made By: Mr. Dodson, Seconded By: Dr. Smoot
Action: Motion Carried, Unanimously

Title: Economic Development Access to
Xpress Natural Gas, LLC (deallocation)
Project ECON-006-646, N501, Appomattox County

WHEREAS, § 33.2-1509 of the *Code of Virginia* provides a fund to “be expended by the Board for constructing, reconstructing, maintaining or improving access roads within localities to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity will be built under firm contract or are already constructed[;]” and

WHEREAS, on March 16, 2016, the Commonwealth Transportation Board allocated \$303,000 from the Economic Development, Airport and Rail Access Fund to provide access to the planned development of Xpress Natural Gas, LLC in Appomattox County, Project ECON-006-646, N501, subject to certain contingencies; and

WHEREAS, Appomattox County has provided notice of cancellation of this project, by letter dated April 28, 2020, and acknowledgement that the allocation may be returned to the statewide account for the Economic Development Access Program; and

WHEREAS, it is deemed that administration of the Economic Development Access Program can best be served by the return of the approved allocation to the Economic Development, Airport and Rail Access Fund.

Resolution of the Board

Economic Development Access Program – Xpress Natural Gas, LLC. – Appomattox County

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NOW, THEREFORE, BE IT RESOLVED, that the action of the Commonwealth Transportation Board on March 16, 2016, allocating Economic Development, Airport and Rail Access funds for the access Project ECON-006-646, N501, is hereby rescinded and the \$303,000 project allocation shall be returned to the Economic Development, Airport, and Rail Access Fund.

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CTB Decision Brief

Economic Development Access – Appomattox County Xpress Natural Gas, LLC. – De-allocation of Funds

Issue: Economic Development Access Program funds previously allocated to provide access to the planned Xpress Natural Gas, LLC. (XNG) development in Appomattox County is no longer needed because the company's plans did not proceed as anticipated and the County has been unable to attract other qualifying business. The County has stated to the Virginia Department of Transportation (VDOT) by letter dated April 28, 2020, that XNG will not be locating on property within the Appomattox Center for Business and Commerce (formerly Appomattox Industrial Park) and acknowledges that the previously approved access road project may be cancelled and the funding allocation removed.

Facts: Section 33.2-1509 of the *Code of Virginia*, 24 VAC 30-271-20, and the Economic Development Access Fund Policy of the Commonwealth Transportation Board (CTB) provide for the CTB to expend funds set aside for constructing access roads to economic development sites on which certain establishments that meet the basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity will be built under firm contract or are already constructed.

The Appomattox County Board of Supervisors requested funding from the Economic Development Access Program to assist in providing road access to the planned XNG facility on property within the Appomattox Center for Business and Commerce. The access road project was neither constructed nor initiated, and there have been no charges against the project's Economic Development Access Program allocation.

Recommendations: VDOT staff recommends that Project ECON-006-646, N501 be cancelled and the \$303,000 allocation for this project be returned to the Economic Development, Airport and Rail Access Fund in order that the funds may be made available for new projects.

Action Required by the CTB: Section 33.2-1509 of the *Code of Virginia*, 24 VAC 30-271-20, and the CTB's Economic Development Access Policy specify that the CTB shall approve the allocation of funds for the construction of access road projects. Having established the access road project to assist in the development of the XNG facility and operation and allocated funding by resolution, it is now recommended that the CTB rescind its original action for this project. The March 16, 2016 resolution is also attached for reference.

Result, if Approved: The \$303,000 total allocated to this project will be returned to the Economic Development, Airport and Rail Access Fund and made available for allocation to new projects.

Options: Approve, Deny, or Defer.

Public Comments/Reactions: None



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Aubrey L. Layne, Jr.
Chairman

1401 East Broad Street
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Agenda item # 3

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

March 16, 2016

MOTION

**Made By: Ms. Valentine, Seconded By: Mr. Dyke
Action: Motion Carried, Unanimously**

**Title: Economic Development Access to
Xpress Natural Gas, LLC.
Project ECON-006-646, N501, Appomattox County**

WHEREAS, Section 33.2-1509 of the *Code of Virginia* provides a fund to "...be expended by the Board for constructing, reconstructing, maintaining or improving access roads within localities to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership in consultation with the Virginia Department of Small Business and Supplier Diversity will be built under firm contract or are already constructed ..."; and

WHEREAS, the Appomattox County Board of Supervisors has, by appropriate resolution, requested Economic Development Access Program funds to provide adequate access to serve the Xpress Natural Gas, LLC facility that will be built under firm contract and be located off of Westridge Lane (Route 751), within the Appomattox County Industrial Park, and said access is estimated to cost \$303,000; and

WHEREAS, Xpress Natural Gas, LLC has been determined by the Virginia Economic Development Partnership to be a qualifying establishment meeting the basic employer criteria under the provisions of Section 33.2-1509 of the *Code of Virginia*; and

WHEREAS, the proposed Xpress Natural Gas, LLC facility is expected to result in at least \$7.8 million in capital investment and employment of 50 persons and VDOT Lynchburg District staff has confirmed the proposed access road will accommodate this development; and

WHEREAS, it appears that this request falls within the intent of Section 33.2-1509 of the *Code of Virginia* and complies with the provisions of the Commonwealth Transportation Board's (CTB) policy on Economic Development Access.

NOW, THEREFORE, BE IT RESOLVED, that \$303,000 of the Economic Development, Airport and Rail Access Fund be allocated to provide adequate access to Xpress Natural Gas, LLC in the County of Appomattox, Project ECON-006-646, N501 contingent upon:

1. All right of way, environmental assessments and remediation, and utility adjustments being provided at no cost to the Commonwealth; and
2. Execution of an appropriate contractual agreement between the County of Appomattox (LOCALITY) and the Virginia Department of Transportation (VDOT), to provide for the:
 - a. design, administration, construction and maintenance of this project; and
 - b. payment of all ineligible costs, and of any eligible costs in excess of this and any other approved allocation for this economic development project, from sources other than those administered by VDOT; and
 - c. provision by the LOCALITY of either i) documentation of at least \$1,515,000 of eligible capital outlay by Xpress Natural Gas, LLC on the site served by this project, or, should documentation of capital outlay by Xpress Natural Gas, LLC be insufficient, ii) an appropriate bond, or other acceptable surety device, by the LOCALITY to VDOT, not to expire before June 16, 2021, without written permission of VDOT. Such surety device shall provide for reimbursement to VDOT of any expenses incurred by the Economic Development, Airport and Rail Access Fund for this project's construction not justified by the eligible capital outlay of establishments served by the project. If, by March 16, 2021, at least \$1,515,000 of eligible capital outlay on parcels served exclusively by this project has not been expended or committed by firm contract by Xpress Natural Gas, LLC or another qualified establishment, then an amount equal to 20% of the eligible capital outlay of up to \$1,515,000 will be credited toward the allocation utilized in the project's construction and the balance of the utilized allocation not justified by eligible capital outlay will be returned to VDOT and the Economic Development, Airport and Rail Access Fund. This surety may be released or reduced accordingly at an earlier date upon provision of documentation of eligible capital outlay by a qualified establishment, or establishments; and
3. Determination by VDOT of eligible capital outlay in accordance with current policy and procedures for administering the Economic Development Access Program.

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APPOMATTOX COUNTY
OFFICE OF COUNTY ADMINISTRATION

P.O. Box 863, Appomattox, VA 24522 Phone: (434) 352-2637
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April 28, 2020

Mr. Gregg Allen, E.I.T.
Locally Administered Project Engineer
Virginia Department of Transportation
Lynchburg District
4219 Campbell Avenue
Lynchburg, VA 24501

RE: West Ridge Lane Extension
Economic Development Access Program Funding

Dear Mr. Allen,

This letter is in response to your recent inquiry regarding the status of the West Ridge Lane extension project in the Appomattox Center for Business and Commerce. The County, along with its Economic Development Authority (EDA), was successful in obtaining road funds through the Virginia Department of Transportation's Economic Development Access Program back in 2016 as part of the expansion of XNG, a natural gas company from Massachusetts. In 2017, Delta Response Team (DRT), a private ambulatory service, located its corporate headquarters and dispatch operation on West Ridge Lane. DRT was responsible for extending the road a short distance in order to accommodate their new entrance. The EDA is currently working with Blue Ridge Rock Festival, LLC. (BRRF) to provide a festival venue that would accommodate up to 25,000 patrons, with the possibility of even larger events. However, neither business is considered a "qualifying business", as defined by the Access Program.

Unfortunately, XNG will not be locating in the Appomattox Center for Business and Commerce. Several factors played into their decision not to locate in Appomattox, among them being the construction of the Atlantic Coast Pipeline and the Mountain Valley Pipeline through Virginia, which greatly hampered the company's ability to establish a client base.

That being said, the project will not move forward without having the security of another prospective business to locate in the park. The EDA met on April 27, 2020 to review the VDOT recommendation to cancel the project due to the challenges associated with securing a qualifying business and the time that has elapsed. The EDA concurred with this recommendation to cancel the project.

The County and the EDA understand that VDOT desires to closeout this project and return the allocation to the statewide account. Additionally, it is understood that there is no penalty for returning the funds and the County can reapply at a later date should the need arise.

As always, the County appreciates VDOT's willingness to partner with Virginia localities, as we work cooperatively towards our economic development goals.

Best Regards,


Susan M. Adams

County Administrator