



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Sean T. Connaughton
Chairman

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Agenda item # New Business 3

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

July 20, 2011

MOTION

Made By: Mr. Layne Seconded By: Mr. Miller
Action: Motion Carried, Unanimously

Title: Limited Access Control Change (LACC)
Route 199 NBL for Construction of Entrance to nTelos Cell Tower
James City County

WHEREAS, Route 199, between 0.006 mile south of Route 615 and 0.158 mile south of Route 612, in James City County, was designated as a Limited Access Highway by the State Highway and Transportation Board, predecessor to the Commonwealth Transportation Board (CTB), on October 16, 1986; and,

WHEREAS, in connection with a section of Route 199, State Highway Project 0199-047-F03, RW-205, which is located between the aforesaid locations, the Commonwealth acquired certain lands, and easements including access control easements from Realtec Incorporated, a North Carolina Corporation, by Deed dated July 26, 1996, recorded in Deed Book 0801, Page 0276, in the office of the Clerk of the Circuit Court of James City County; and,

WHEREAS, nTelos has an option with a right to lease this property adjacent to Route 199, which has no access as a result of the said previous real estate transaction, and nTelos along with A T & T Wireless and Sprint PCS desire to construct a cellular tower and antennas on this site in order to improve wireless telecommunication service to the public in this area of James City County; and,

WHEREAS, nTelos is requesting a proposed break in the limited access control of approximately 20 feet, on the east side of the Route 199 NBL proposed right of way and limited access line, as shown on the plans for State Highway Project 0199-047-F03, RW-205, from a

Resolution of the Board
Limited Access Control Change
Route 199 NBL for Construction of Entrance to nTelos Cell Tower
James City County
July 20, 2011
Page Two

point approximately 90 feet (right) opposite approximate Station 210+76 (Route 199 NBL and survey centerline) to a point approximately 90 feet (right) opposite approximate Station 210+96 (Route 199 NBL and survey centerline) for a gated connection to said NBL, with right in and right out only turning movements, no additional lanes, no median break and entrance design and shoulder improvements as required by VDOT; and,

WHEREAS, nTelos will become the lessee the adjacent property rights prior to VDOT granting the LACC and any permit for entrance construction; and,

WHEREAS, nTelos has agreed that once the initial construction is complete that the proposed gated connection to the nTelos cell tower site will be used for no more than nine (9) cumulative service visits per month by the three companies, and the use will primarily occur between midnight and 6:00 AM, with only emergency visits occurring at other times; and,

WHEREAS, the Board of Supervisors of James City County, by resolution adopted on June 22, 2010, supports the request for the LACC for use as a private entrance in accordance with Title 24, Section 30, Chapter 72-10 of the Virginia Administrative Code, in part, as an entrance to civil and communication infrastructure facilities for the sole, exclusive, limited purpose of developing and operating a wireless communications tower; and,

WHEREAS, an environmental analysis was prepared and reviewed, and VDOT has determined there are no known adverse environmental impacts or issues that would preclude granting access to the subject property for a telecommunication facility, however based on the Virginia Fish and Wildlife Service's Initial Project Assessment Report, nTelos will have environmental obligations that will confirm or deny the possible presence of threatened or endangered species involving agency coordination per their due diligence with the Federal Communications Commission; and,

WHEREAS, VDOT has determined that in consideration of the previously defined limited use of the entrance, the said proposed LACC is appropriate and viable from a design, safety and traffic control standpoint, subject to the final review and approval of the proposed entrance and shoulder improvements; and,

WHEREAS, public notices were posted in the *Daily Press* newspaper on December 13 and 22, 2010; and the *News Journal and Guide* newspaper on December 15, and 22, 2010; and all ads closed on December 30, 2010, with no comments received; and,

Resolution of the Board
Limited Access Control Change
Route 199 NBL for Construction of Entrance to nTelos Cell Tower
James City County
July 20, 2011
Page Three

WHEREAS, all right of way, engineering, construction, and necessary safety improvements shall meet all VDOT standards and requirements; and,

WHEREAS, all costs of design, engineering and construction, including all necessary safety improvements, will be borne by nTelos; and,

WHEREAS, upon completion and acceptance of the proposed entrance and changes by VDOT, all work, roadway construction, improvements and equipment within the Route 199 right of way as shown on the aforesaid plans of the aforesaid Project will become or remain the property of the Commonwealth; and,

WHEREAS, as determined by VDOT, nTelos shall be required to pay just compensation in consideration of the proposed LACC; and,

WHEREAS, the proposed LACC request is in compliance with Title 24, Section 30, Chapter 401 of the Virginia Administrative Code; and,

NOW, THEREFORE, BE IT RESOLVED, in accordance with the provisions of Section 33.1-58 of the *Code of Virginia* (1950), as amended, the CTB hereby finds and concurs with the determinations set forth herein and approves the said LACC for the restricted use solely by nTelos, A T & T Wireless and Sprint PCS, and their successors, as set forth and subject to Title 24, Section 30, Chapter 401 of the Virginia Administrative Code and the above referred to conditions. The Commissioner of Highways is hereby authorized to execute any and all documents needed to comply with this resolution.

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