



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Aubrey L. Layne, Jr.
Chairman

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Agenda item # 9

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

February 18, 2015

MOTION

Made By: Mr. Garczynski, Seconded By: Mr. Kasprowicz

Action: Motion Carried, Unanimously

**Title: Economic Development Access to
K2M Company
Project ECON-253-330, C501, Town of Leesburg**

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 ..." or, "in the event there is no such establishment ..., a locality may guarantee to the Board by bond or other acceptable device that such will occur and, should no establishment or airport acceptable to the Board be constructed or under firm contract within the time limits of the bond, such bond shall be forfeited."; and

WHEREAS, the Leesburg Town Council has, by appropriate resolution, requested Economic Development Access Program funds to assist the Town in providing adequate access to serve K2M Company to be located off Miller Drive, east of Dulles Greenway (Route 267), and said access is estimated to cost \$1.5 million; and

WHEREAS, K2M Company has been determined by the Virginia Economic Development Partnership to be a qualifying establishment meeting the basic employer criteria under the provisions of § 33.2-1509 of the *Code of Virginia*; and

WHEREAS, the proposed K2M Company facility is expected to result in approximately \$28 million in capital investment and employment of 356 persons; and

WHEREAS, it appears that this request falls within the intent of § 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 \$650,000 (\$500,000 unmatched, \$150,000 matched) of the Economic Development, Airport and Rail Access Fund be allocated to assist in providing adequate access to K2M Company in the Town of Leesburg, Project ECON-253-330, C501 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 Town of Leesburg (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 \$3,250,000 of eligible capital outlay by K2M Company on the site served by this project, or, should documentation of capital outlay by K2M Company be insufficient, ii) an appropriate bond, or other acceptable surety device, by the LOCALITY to VDOT, not to expire before May 18, 2020, 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 February 18, 2020, at least \$3,250,000 of eligible capital outlay on parcels served exclusively by this project has not been expended or committed by firm contract by a qualified establishment or establishments, then an amount equal to 20% of the eligible capital outlay of up to \$3,250,000 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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