



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Aubrey L. Layne, Jr.  
Chairman

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*Agenda item #1*

### RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

October 19, 2016

#### MOTION

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

**Title: Delegation of Authority for the Commissioner of Highways to Enter into a Memorandum of Agreement between the Virginia Department of Transportation (VDOT) and the Transportation District Commission of Hampton Roads D/B/A Hampton Roads Transit (HRT) for the improvements in the vicinity of the HRT Light Rail corridor as part of the Route 264 Interchange Improvements – 64 WB Ramp to 264 EB project (I-64/I-264 Interchange Improvements Project), UPC 57048**

**WHEREAS**, VDOT proposes to construct the I-64/I-264 Interchange Improvements project beginning at I-64 at the Twin Bridges over the Elizabeth River and ending at I-264 before the Newtown Road interchange in Norfolk, VA, Project No. 0264-122-108, UPC 57048 (“Project”); and

**WHEREAS**, the HRT Light Rail corridor is within the proposed Project limits, crossing Interstate 64 just south of the I-64/I-264 interchange; and

**WHEREAS**, VDOT proposes to install a two-lane ramp on a bridge structure and a sound barrier structure adjacent to I-64 and over the HRT Light Rail tracks crossing Interstate 64, and to install a 60-inch Reinforced Concrete Pipe (RCP) culvert under the HRT Light Rail tracks; and

**WHEREAS**, HRT has reviewed the Project design plans and specifications pertaining to the work in the vicinity of the HRT Light Rail corridor and does not have any objection to the proposed improvements; and

Resolution of the Board

Delegation of Authority for the Commissioner of Highways to Enter into a Memorandum of Agreement between the Virginia Department of Transportation (VDOT) and the Transportation District Commission of Hampton Roads D/B/A Hampton Roads Transit (HRT) for the improvements in the vicinity of the HRT Light Rail corridor as part of the Route 264 Interchange Improvements – 64 WB Ramp to 264 EB project (I-64/I-264 Interchange Improvements Project), UPC 57048

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**WHEREAS**, all necessary easements have been acquired from HRT for the Project; and

**WHEREAS**, VDOT, its employees, assigns, and/or contractors will be responsible for the construction of the Project, including work within the HRT Light Rail corridor; and

**WHEREAS**, VDOT and HRT have developed a Memorandum of Agreement which sets forth the responsibilities of the parties relating to Project work that will be performed within the HRT Light Rail right of way and/or that will impact HRT Light Rail operations; and

**WHEREAS**, § 33.2-214(C) of the *Code of Virginia* authorizes the Commonwealth Transportation Board to enter into agreements with local districts, commissions, agencies, and other entities created for transportation purposes.

**NOW, THEREFORE, BE IT RESOLVED**, that pursuant to the § 33.2-214(C) of the *Code of Virginia*, the Commonwealth Transportation Board hereby authorizes the Commissioner of Highways to enter into a Memorandum of Agreement, attached hereto as Exhibit A, with the Transportation District Commission of Hampton Roads D/B/A Hampton Roads Transit for the completion of improvements to the I-64/I-264 Interchange Improvements Project in the vicinity of the HRT Light Rail corridor, in substantially the same form as Exhibit A, with such changes and additions as the Commissioner deems necessary.

###

## Commonwealth Transportation Board (CTB) Decision Brief

Delegation of Authority for the Commissioner of Highways to Enter into a Memorandum of Agreement (MOA) between the Virginia Department of Transportation (VDOT) and the Transportation District Commission of Hampton Roads D/B/A Hampton Roads Transit (HRT) for the improvements in the vicinity of the HRT Light Rail corridor as part of the Route 264 Interchange Improvements – 64 WB Ramp to 264 EB project (I-64/I-264 Interchange Improvements Project), UPC 57048.

**Issue:** VDOT seeks from the Commonwealth Transportation Board (Board) approval of and authority for the Commissioner to enter into an MOA between VDOT and Hampton Roads Transit detailing the obligations and responsibilities of VDOT and Hampton Roads Transit in the construction of the I-64/I-264 Interchange Improvements Project, UPC 57048, in the vicinity of the HRT Light Rail corridor.

**Facts:** The Project is located on Interstate 64 and Interstate 264 in the City of Norfolk, beginning at I-64 at the Twin Bridges over the Elizabeth River and ending at I-264 before the Newtown Road interchange. The proposed improvements for the I-64/I-264 Interchange Improvements Project include adding a second exit lane on westbound I-64, introducing a new two-lane collector-distributor roadway (C-D road) from I-64 to the Newtown Road interchange, and adding an exit ramp from westbound I-64 tying into the new C-D road. The project also includes a new two-lane flyover ramp from westbound I-64 tying into the existing eastbound I-264 C-D road. The new C-D road will serve the Newtown Road interchange on the south side of I-264 and the flyover ramp will allow motorists to utilize the existing eastbound C-D road to travel from westbound I-64 to eastbound I-264 without conflicting with the movements to and from the I-264/Newtown Road interchange.

HRT Light Rail corridor is within the project limits, paralleling Curlew Drive and crossing under Interstate 64 south of the I-64/I-264 interchange. As part of the I-64/I-264 Interchange Improvements Project, VDOT proposes to install a 60-inch Reinforced Concrete Pipe (RCP) culvert using jack and bore operations under the HRT Light Rail tracks located in the immediate vicinity of Curlew Drive and I-64. In addition, a two-lane ramp on a bridge structure and a sound barrier structure is proposed to be constructed adjacent to I-64 and over the HRT Light Rail corridor as part of the Project. HRT supports the proposed improvements.

VDOT will agree to perform all work within the HRT Light Rail corridor in compliance with the requirements of the HRT Adjacent Construction Manual (“HRT-ACM”) and HRT Standard Operating Procedure (SOP) 101.13.

VDOT and HRT have developed an MOA which sets forth the responsibilities of the parties relating to Project work that will be performed within the HRT Light Rail right of way and/or that will impact Light Rail operations.

Section 33.2-214(C) of the *Code of Virginia* empowers the CTB to enter into agreements with local districts, commissions, agencies or other entities created for transportation purposes.

**Recommendation:** VDOT recommends that the Board delegate to the Commissioner the authority to execute the MOA with HRT, attached hereto as Exhibit A, relating to construction in

the vicinity of HRT Light Rail corridor, in substantially the same form as Exhibit A, with such changes and additions as the Commissioner deems necessary.

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

**Result, if Approved:** The Commissioner will be authorized to execute an MOA between VDOT and HRT to construct the proposed I-64/I-264 Interchange Improvements in the vicinity of the HRT Light Rail corridor, in substantially the same form as Exhibit A, with such changes and additions as the Commissioner deems necessary.

**Options:** Approve, Deny, or Defer

**Public Comment/Reaction:** N/A



**MEMORANDUM OF AGREEMENT BETWEEN VIRGINIA DEPARTMENT OF  
TRANSPORTATION AND HAMPTON ROADS TRANSIT**

This Memorandum of Agreement (“MOA”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **VIRGINIA DEPARTMENT OF TRANSPORTATION** (“VDOT”), an agency of the Commonwealth of Virginia, and the **TRANSPORTATION DISTRICT COMMISSION OF HAMPTON ROADS D/B/A HAMPTON ROADS TRANSIT** (“HRT”), a body corporate and politic created pursuant to the Transportation District Act of 1964, (collectively, the “Parties”).

**RECITALS**

A. VDOT will construct various roadway lane widening and access ramp reconfigurations along the I-64/I-264 corridor beginning at I-64 at the Twin Bridges over the Elizabeth River and ending at I-264 before the Newtown Road interchange in Norfolk, Project No. 0264-122-108, UPC 57048 (“I-64/I-264 Interchange Improvements Project”).

B. As part of I-64/I-264 Interchange Improvements Project, VDOT will install a 60” Reinforced Concrete Pipe (RCP) culvert under the HRT Light Rail tracks located in the immediate vicinity of Curlew Drive and I-64. In addition to the installation of the RCP culvert, a two-lane ramp on a bridge structure and a sound barrier structure will be constructed adjacent to I-64 and over the HRT Light Rail tracks (collectively, “Light Rail Affected Work”).

C. The Light Rail Affected Work is more fully illustrated in Exhibit 1 attached to this MOA.

D. HRT has reviewed the following VDOT Project No. 0264-122-108, UPC 57048 design documents for the Light Rail Affected Work: final signed and sealed construction plans, sound barrier plans, bridge plans for B602, and special provisions. As of the date of this MOA and subject to the terms of the same, HRT does not have any objection to the proposed design for the Light Rail Affected Work.

E. As of the date of this MOA, the Parties have entered into all necessary easements for the construction of the Light Rail Affected Work.

**NOW, THEREFORE**, the Parties agree that the following constitutes the Parties’ agreed obligations and responsibilities for handling the construction of the Light Rail Affected Work:

**1. OBLIGATIONS AND RESPONSIBILITIES.**

A. VDOT, its employees, assigns, and/or contractors will be responsible for the construction of the I-64/I-264 Interchange Improvements Project, including the Light Rail Affected Work.

B. VDOT will perform or cause to be performed all Light Rail Affected Work in compliance with the requirements of the HRT Adjacent Construction Manual (“HRT-ACM”) and

HRT Standard Operating Procedure (SOP) 101.13. Both documents are attached hereto as Appendix A..

1. The 60” RCP culvert under the HRT Light Rail tracks located in the immediate vicinity of Curlew Drive and I-64 will be installed using jack-and-bore construction.
  2. VDOT will monitor the HRT Light Rail tracks for movement during and after construction in accordance with applicable provisions of the HRT-ACM.
  3. In the event movement of the HRT Light Rail tracks occurs in excess of the movement permissible pursuant to the HRT-ACM, VDOT will immediately notify HRT so that the HRT can prevent train travel over tracks that may have become misaligned.
- C. Light Rail Affected Work requiring the closure of the Light Rail tracks will only be performed on weekends; i.e., beginning on Fridays at 11:59 PM and concluding on Mondays at 4:30 AM.
1. HRT will provide a Bus Bridge between Military Highway Station and Newtown Station during any such periods of time the Light Rail Affected Work requires Light Rail track closure during normal service hours.
  2. The Bus Bridge may use Curlew Drive to provide service to Newtown Station. However, if the construction is taking place along Curlew Drive, I-264 will be considered as an alternate detour route.
  3. The Bus Bridge will be provided at the sole cost and expense of VDOT. HRT will provide those costs to VDOT on a monthly basis for reimbursement. VDOT will reimburse HRT for the Bus Bridge within thirty (30) days of receipt of such costs.
  4. Light Rail Affected Work requiring the closure of the Light Rail tracks will not be performed at any time during the following dates that require full Light Rail service into the City of Norfolk:
    - i. Memorial Day - Memorial Day weekends (beginning on Friday at 9:00 AM and continuing until Monday at 11:59 PM) ;
    - ii. Harborfest – Harborfest weekends (beginning on Friday at 9:00 AM and continuing until Monday at 11:59 PM);
    - iii. Independence Day Holidays - Independence Day weekends (beginning on Friday at 5:00 PM and continuing through Tuesday, July 4<sup>th</sup> at 11:59 PM in 2017,); in July 2018, beginning at 5:00 PM on July 3rd and continuing through Wednesday, July 4th at 11:59 PM; and in 2019, Independence

Day weekend (beginning on Wednesday, July 3rd at 5:00 PM and continuing through Sunday, July 7th at 11:59 PM); and

- iv. Grand Illumination/Christmas and New Year's Holiday Seasons - November 14 at 11:59 PM through January 7th at 11:59 PM.

D. HRT will promptly provide VDOT with all information and documentation related to the HRT Light Rail tracks that VDOT may reasonably require to safely and efficiently perform the Light Rail Affected Work.

**2. CONTACTS.** The following are contact information for each party:

**For VDOT:**

Salvija Hofheimer, P.E.  
Senior Project Manager - Project Management Office  
Virginia Department of Transportation- Hampton Roads District  
1992 South Military Highway, Chesapeake, VA 23320  
757.494.5486 (t)  
[salvija.hofheimer@vdot.virginia.gov](mailto:salvija.hofheimer@vdot.virginia.gov)

**For HRT:**

Lee Roy Padgett, P.E.  
Director of Engineering  
Hampton Roads Transit  
509 E. 18<sup>th</sup> St. – Bldg 4  
Norfolk, Virginia 23504  
(757) 222-6654 (t)  
[lrpadgett@hrtransit.org](mailto:lrpadgett@hrtransit.org)

**With Copy to:**

Robert E. Travers, IV  
Corporate Counsel  
Hampton Roads Transit  
509 East 18<sup>th</sup> Street – Bldg 4  
Norfolk, Virginia 32504  
(757) 222-6137 (t)  
[rtravers@hrtransit.org](mailto:rtravers@hrtransit.org)

**3. AUTHORITY.**

By signing below, each Party acknowledges and agrees that it has the authority to enter into this MOA and to perform their proposed respective obligations. Each Party represents and warrants



that: (i) it has complied with all requirements of applicable law; and of its charter, bylaws, and other organizational documents, including without limitation with respect to notices, meetings, and votes, prior to executing this MOA; and (ii) the person executing this MOA on behalf of the Party is fully authorized to do so.

#### **4. ASSIGNMENT.**

No Party may assign or transfer any rights herein without the written consent of the other Party.

#### **5. APPLICABLE LAW.**

This MOA shall be governed by the laws of the Commonwealth of Virginia. The venue of any disputes shall be the City of Richmond Circuit Court of the Commonwealth of Virginia.

#### **6. ENTIRE MOA.**

This MOA shall constitute the entire agreement between the Parties, and supersedes any prior understanding, agreement, or representation by or between the Parties, written or oral, to the extent that they relate to Light Rail Affected Work.

#### **7. NO THIRD PARTY BENEFICIARIES.**

This MOA is for the exclusive benefit of, and may only be enforced by, the Parties and their respective successors and assigns. It is not intended to benefit or confer any rights on any other person, organization, or entity.

#### **8. PROJECT AGREEMENTS.**

The Parties agree that VDOT will perform the Light Rail Affected Work and obtain all applicable approvals, or will cause its Contractor(s) to perform the Light Rail Affected work and obtain all applicable approvals, in accord with the terms and provisions set forth in the HRT ACM and HRT SOP 101.13 and that HRT will grant such approvals in accord with the terms and provisions set forth in the HRT ACM and HRT SOP 101.13, which approvals will not be unreasonably withheld. The latter document includes submittals of approved work plans, coordination with HRT Operations, and remediation of any damages to HRT light rail property, facilities, and operations.

#### **9. AGREEMENT SUBJECT TO APPROPRIATION.**

The Parties agree that this MOA is subject to the appropriation of funds of the Virginia General Assembly and allocation of funding by the Commonwealth Transportation Board.

#### **10. SOVEREIGN IMMUNITY.**

The Parties agree that nothing in this MOA shall affect the state sovereign immunity of the Parties.

**IN WITNESS WHEREOF**, the Project Partners have caused this MOA to be executed by their duly authorized representative.

**VIRGINIA DEPARTMENT OF TRANSPORTATION**

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**By:** Charles A. Kilpatrick, P.E.  
Commissioner, Virginia Department of Transportation

**Date:** \_\_\_\_\_

**TRANSPORTATION DISTRICT COMMISSION OF HAMPTON ROADS**

\_\_\_\_\_

**By:** William E. Harrell  
President and CEO

**Date:** \_\_\_\_\_

Approved as to Legal Sufficiency (Counsel, HRT)

\_\_\_\_\_

**By:** Robert E. Travers, IV, Esq.

**Date:** \_\_\_\_\_