



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

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Agenda item # 12

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

September 18, 2018

MOTION

Made By: Mr. Kasprowicz, Seconded By: Mr. Johnsen
Action: Motion Carried, Unanimously

Title: Delegation to the Commissioner of Highways or His Designee(s)
Authority to Enter into and Execute Agreements on Behalf of the Commonwealth
Transportation Board with U.S. Governmental Entities Concerning Section 14
Erosion Protection Projects.

WHEREAS, Section 14 of the Flood Control Act of 1946, as amended and regulations promulgated pursuant thereto (33 CFR 263.25), authorize the U.S. Secretary of the Army to undertake the construction, repair, restoration and modification of emergency streambank and shoreline protection works to prevent damage to highways, bridges, approaches, public works, churches, hospitals, schools and other nonprofit public services, not specifically authorized by Congress; (Section 14 Erosion Protection Projects) and

WHEREAS, Section 105(a) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2215(a)), specifies the cost-sharing requirements for the feasibility studies necessary for such Section 14 Erosion Protection Projects; and

WHEREAS, highways and other transportation facilities maintained by the Virginia Department of Transportation (VDOT) are often located or situated near stream banks or shorelines that may require emergency repairs or protection measures from time to time to prevent damage to the nearby highway or transportation facility; and

WHEREAS, opportunities may arise in which partnering with the Army or other U.S. governmental entities would serve to facilitate Section 14 Erosion Protection Projects and related feasibility studies for those VDOT highways and transportation facilities located near streambanks and shorelines, in which cases, cost sharing agreements between VDOT and the

Resolution of the Board

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U.S. governmental entity would be necessary in order to effectuate said Projects and/or feasibility studies; and

WHEREAS, the Commonwealth Transportation Board (“CTB”) is authorized under Virginia Code § 33.2-221(A) to enter into contracts and agreements with the United States government; and

WHEREAS, the CTB recognizes the need for and benefits of making delegations to the Commissioner of Highways or his designee(s) in situations where such delegations would facilitate timely coordination of Section 14 Erosion Protection Projects and/or feasibility studies in order to protect highways and other transportation facilities maintained by VDOT from flooding or washout by nearby streambanks and shorelines.

NOW, THEREFORE, BE IT RESOLVED, that the CTB hereby delegates to the Commissioner of Highways or his designee(s) authority to execute contracts and agreements between VDOT and entities of the U. S. Government related to Section 14 Erosion Protection Projects and feasibility studies, provided the value of the contract or agreement does not exceed \$5 Million.

BE IT ALSO RESOLVED, that the Commissioner shall make a quarterly report to the CTB describing the contracts and agreements executed under this delegation

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CTB Decision Brief

Title: Delegation to the Commissioner of Highways or His Designee(s) Authority to Enter into and Execute Agreements on Behalf of the Commonwealth Transportation Board with U.S. Governmental Entities Concerning Section 14 Erosion Protection Projects

Issue: From time to time opportunities may arise in which partnering with the Army or other U.S. governmental entities would serve to facilitate Section 14 Erosion Protection Projects and related feasibility studies for highways and transportation facilities located near and threatened by flooding of streambanks and shorelines, in which cases, agreements between the Virginia Department of Transportation (VDOT) and the U.S. governmental entity would be necessary in order to effectuate said Projects and/or feasibility studies. Pursuant to § 33.2-221 (A) of the *Code of Virginia*, the Commonwealth Transportation Board (CTB) is authorized to enter into contracts and agreements with the United States government and a delegation of authority is sought from the CTB for the Commissioner of Highways to enter into agreements with U.S. governmental entities relating to Section 14 Erosion Protection Projects.

Facts:

Section 14 of the Flood Control Act of 1946 and regulations promulgated pursuant thereto (33 CFR 263.25), authorize the U.S. Secretary of the Army to undertake the construction, repair, restoration and modification of emergency streambank and shoreline protection works to prevent damage to, among other things, highways, bridges and approaches (Section 14 Erosion Protection Projects). Section 105(a) of the Water Resources Development Act of 1986, Public Law 99-662, as amended (33 U.S.C. 2215(a)), specifies the cost-sharing requirements for the feasibility studies necessary for such Section 14 Erosion Protection Projects.

Highways maintained by VDOT are often located or situated near stream banks or shorelines that may require emergency repairs or protection measures from time to time to prevent damage to the nearby highway or transportation facility

The ability for VDOT to enter into agreements with the Army or other U.S. governmental entities relating to Section 14 Erosion Protection Projects and feasibility studies in a timely manner for those VDOT highways and transportation facilities located near streambanks and shorelines that are threatened by flooding would serve to facilitate those projects and feasibility studies.

The Commonwealth Transportation Board (“CTB”) is authorized under Virginia Code § 33.2- 221(A) to enter into contracts and agreements with the United States government.

Accordingly, VDOT seeks a delegation from the CTB authorizing the Commissioner of Highways or his designee(s) to enter into agreements with entities of the U.S. government relating to Section 14 Erosion Protection Projects and feasibility studies, provided the value of the agreement does not exceed \$5 million and to report back to the CTB such agreements,

Recommendations: The Department recommends that the CTB approve the delegation, and authorize the Commissioner of Highways or his designee(s) to execute agreements with the U.S. governmental entities related to Section 14 Erosion Protection Projects.

Action Required by CTB: The CTB will be presented with a resolution for a formal vote.

Result, if approved: The Commissioner will have authority to execute agreement(s) with the U.S. governmental entities for Section 14 Erosion Protection Projects which will facilitate partnerships and cost sharing for these projects the purpose of which is to protect VDOT highways and transportation facilities located near streambanks and shorelines. The Commissioner will report to the CTB execution of said agreements on a quarterly basis.

Options: Approve, Deny, or Defer

Public Comments/Reactions: N/A