



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Shannon Valentine
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Agenda item # 11

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

March 17, 2021

MOTION

Made By: Mr. Malbon **Seconded By:** Mr. Johnsen

Action: Motion Carried, Unanimously

**Title: Economic Development Access to
Preferred Freezer Services, off West Norfolk Rd.
Project ECON-124-255 – City of Portsmouth**

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, “in the event there is no such establishment or ... firm contract, 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 City of Portsmouth by formal resolution has requested Economic Development Access (EDA) Program funds to serve Preferred Freezer Services, which is located off West Norfolk Road without public access, and said access is estimated to cost approximately \$1,503,000; 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 EDA Fund Policy, and its accompanying regulations at 24 VAC 30-271-20.

NOW, THEREFORE, BE IT RESOLVED, that \$650,000 (\$500,000 unmatched and \$150,000 matched) of the Economic Development, Airport and Rail Access Fund is allocated to provide adequate access to the planned Preferred Freezer Services facility on eligible property off West Norfolk Rd., Project ECON-124-255, 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 City of Portsmouth (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 allocation, from sources other than those administered by VDOT; and
 - c. Provision of the required matching funds, up to \$150,000, by the LOCALITY for appropriately documented eligible project costs; and
 - d. Provision by the LOCALITY of either i) documentation of a least \$3,250,000 of eligible capital outlay attributed to qualifying business on property served exclusively by this project, or ii) should documentation of capital outlay be insufficient, an appropriate bond or other acceptable surety device by the LOCALITY to VDOT, not to expire before March 16, 2026, 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, 2026, at least \$3,250,000 of eligible capital outlay on property 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 project's EDA Program 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 EDA Program.

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CTB Decision Brief

Economic Development Access – City of Portsmouth Preferred Freezer Services

Issue: Pursuant to § 33.2-1509 of the *Code of Virginia* and the Economic Development Access EDA Fund Policy of the Commonwealth Transportation Board (CTB), the City of Portsmouth has requested funds from the EDA Program to assist in constructing road access to eligible property located off West Norfolk Rd. Allocation of the requested funds by the CTB is sought.

Facts: Section 33.2-1509 of the *Code of Virginia* authorizes the CTB to expend funds set aside for constructing access roads to economic development sites on which certain establishments as prescribed by the *Code* or other establishments that meet the basic employer criteria as determined by the Virginia Economic Development Partnership (VEDP) in consultation with the Virginia Department of Small Business and Supplier Diversity (VDSBSD) will be built under firm contract or are already constructed. In the event that there is no such establishment already constructed or construction of such establishment is not under firm contract, a locality may guarantee to the CTB by bond or other acceptable device that such will occur.

The CTB's EDA Fund Policy sets forth certain criteria which must be met for projects to be eligible for such funding and directs the Commissioner of Highways to establish administrative procedures to administer to assure adherence to such policy and legislative requirements. The Commissioner established such administrative procedures in the Economic Development Access Program Guide administered by the Local Assistance Division of the Virginia Department of Transportation (VDOT). The Policy stipulates that the governing body of the locality shall provide a resolution in request of the EDA Program funding prior to the Board's allocation of funds.

Preferred Freezer Services plans to construct a 200,000 square-foot facility, for the purpose of importing, exporting and distributing a variety of food products, located off West Norfolk Road. The Preferred Freezer Services facility is expected to result in an investment of \$60 million and will add up to 60 new jobs. The VEDP, in consultation with the VDSBSD has determined that the Preferred Freezer Services operation is a qualifying business establishment warranting the use of the EDA Program funds. The property does not currently have public access. The City of Portsmouth will administer design and construction of the proposed access road project.

The City of Portsmouth's plans for the proposed access road include improvements to the existing West Norfolk Road; and a 32-foot wide asphalt roadway with shoulders and ditches, beginning at the intersection with West Norfolk Road, extending south east approximately 500-feet in length within 50 feet of right of way. VDOT Hampton Roads District staff concurs with the plans for the project and with the estimated project cost for eligible items and quantities of approximately \$1,503,000, exceeding the maximum EDA allocation. The City of Portsmouth will be responsible for financial arrangements to provide for the required EDA Program matching funds, as appropriate, and all project costs exceeding the state EDA Program allocation to fully fund the project. Documentation of qualifying capital investment of \$3,250,000 or provision of appropriate surety from the City will be required prior to funding authorization.

Recommendation: VDOT recommends the maximum allocation of \$650,000 (\$500,000 unmatched and \$150,000 matched) from the Economic Development, Airport and Rail Access Fund be approved for construction of this project, subject to certain contingencies as set forth in the accompanying resolution.

Action Required by the CTB: The *Code of Virginia*, the Virginia Administrative Code, and the CTB’s EDA Fund Policy specify that the CTB shall approve of the allocation of funds for the construction of the access road project. A resolution is provided for formal vote.

Result, if Approved: VDOT and the City of Portsmouth will proceed with the EDA road project.

Options: Approve, Deny, or Defer.

Public Comments/Reactions: None

A RESOLUTION AUTHORIZING AND SUPPORTING SUBMISSION OF AN APPLICATION FOR PARTICIPATION IN THE VIRGINIA DEPARTMENT OF TRANSPORTATION ECONOMIC DEVELOPMENT ACCESS PROGRAM.

WHEREAS, the City of Portsmouth, Virginia desires to assist in the development of property for the purpose of economic development located off of West Norfolk Road in the City of Portsmouth, Virginia, within the West Norfolk industrial area; and

WHEREAS, the property is expected to be the site of new private capital investment in land, building, and manufacturing equipment which will provide substantial employment; and

WHEREAS, the property assisted includes Tax Parcels 07010260, 07000010, 07020300, 07010470 and 07190020, and may include Tax Parcel 07190010; and

WHEREAS, the subject property, or portions thereof, has no site access to a public street or highway and will require the construction of a new roadway to connect with West Norfolk Road; and

WHEREAS, the existing public road network does not provide for adequate industrial access to the property, or portions thereof, and it is deemed necessary that improvements be made to West Norfolk Road; and

WHEREAS, the City of Portsmouth hereby guarantees that the necessary environmental analysis, mitigation, fee simple right of way and utility relocations or adjustments, if necessary, for this project will be provided at no cost to the Economic Development, Airport and Rail Access Fund; and

WHEREAS, the City of Portsmouth acknowledges that no land disturbance activities may occur within the limits of the proposed access project prior to appropriate notification from the Department of Transportation as a condition of the use of the Economic Development, Airport and Rail Access Fund; and

WHEREAS, the City of Portsmouth hereby acknowledges that the Virginia Department of Transportation's Economic Development Access (EDA) Program may provide up to a maximum of \$650,000 for a project and requires matching funding, up to \$150,000, from the City of Portsmouth for estimated eligible project costs over \$500,000, up to \$800,000; and

WHEREAS, the City of Portsmouth hereby guarantees that financing of all ineligible project costs, project costs exceeding the EDA Program project allocation, EDA Program required locality matching funds, if applicable, and all costs not justified by eligible capital outlay will be provided from sources other than those administered by the Virginia Department of Transportation;

NOW THEREFORE BE IT RESOLVED by the Council of the City of Portsmouth, Virginia:

1. That the City Council hereby requests that the Commonwealth Transportation Board provide Economic Development Access Program funding to provide adequate road access to the referenced property;

2. That the City Council hereby agrees to provide a surety or bond, acceptable to and payable to the Virginia Department of Transportation, in the full amount of the Commonwealth Transportation Board's allocation less eligible private capital outlay credit as determined by VDOT; this surety shall be exercised by the Department of Transportation in the event that sufficient qualifying capital investment does not occur on qualifying parcels within five years of the Commonwealth Transportation Board's allocation of funds pursuant to this request; and

3. That the City Manager and/or her designee(s) are authorized to act on behalf of the City Council to execute any and all documents necessary to secure funding in the maximum amount eligible under the Economic Development Access Program; and

4. That it hereby acknowledges that the new roadway so constructed will be added to and become a part of the road system of the City of Portsmouth pursuant to § 33.2-1509, paragraph C, of the Code of Virginia; and

5. That the City of Portsmouth will request the new roadway[s] so constructed to be added to receive maintenance payments in accordance with the provisions of § 33.2-319 of the Code of Virginia, and such request for street additions for assistance payments will be submitted, together with a copy of this Resolution and such maps and other documents as may be necessary in the manner prescribed by the Department.

ADOPTED at a meeting of the Council of the City of Portsmouth, Virginia held on March 26, 2019.

Teste:

City Clerk



PROPOSED ECONOMIC DEVELOPMENT ACCESS PROJECT
Preferred Freezer Services
Project ECON-124-255
City of Portsmouth

Economic Development Facility / Site

Proposed 200,000 square-foot lineage cold storage facility on approximately 44 acres
 Anticipated Traffic: 5,200 vpd (30 trucks)
 Capital Investment (expansion): \$60 million
 Employment: 60

Access Facility

Project Length: 0.65 mile
 Pavement Width: 32 feet
 R/W Width: 50 feet
 Estimated Cost: \$1,503,000
 Proposed Allocation: \$650,000
 (\$500,000 unmatched, \$150,000 matched)