

14. CONSIDERATION OF A FINAL MOA WITH THE HRTPO

As you recall, the final version of the Transportation Funding Bill (HB 2313) approved by the General Assembly at its veto session in April imposed an additional 0.7% sales tax and 2.1% state tax on wholesale distributors of motor fuels in Southampton County starting July 1. The legislation created in the state treasury a special nonreverting fund for Planning District 23 that will be known as the Hampton Roads Transportation Fund. The special revenues generated by the sources described above will be paid into the state treasury and credited to this Fund, along with any interest earned on them. These revenues are to be used solely for new construction projects on new or existing roads, bridges, and tunnels in the localities comprising Planning District 23, as approved by the Hampton Roads Transportation Planning Organization (HRTPO). The HRTPO is required to give priority to those projects that are expected to provide the greatest impact on reducing congestion and must ensure that the revenues are used for construction projects in all localities comprising Planning District 23.

Because we are not members of the HRTPO, at your April 22 meeting, the Board authorized me to execute a Memorandum of Agreement (MOA) with the HRTPO entitling Southampton County to one vote at their meetings on any matter involving the planning, programming and funding of projects supported by HB 2313 revenues. **However, based on concerns raised by the Federal Highway Administration, the HRTPO deferred action on the MOA that you approved in April.** The FHA indicated that *“any action on the planning, programming, and funding of projects that are the responsibility of the MPO [should] remain with the MPO, and that any actions of non-members remain separate.”*

In order to resolve the FHA’s concerns, the MOA has been redrafted. It now provides that:

1. Effective July 1, 2013, the HRTPO will establish **“Fund set-asides”** for the City of Franklin and Southampton County, comprised of those portions of HB2313 revenues collected in our respective localities, and reserve them for projects in Franklin and Southampton County;
2. Effective July 1, 2013, the City of Franklin and Southampton County will be entitled to one vote on actions of the HRTPO involving the allocation of funds for any project to be funded in whole or in part with HB2313 Revenues from the Fund set-asides;
3. The representatives from the City of Franklin and Southampton County will be invited to attend all meetings of the HRTPO in which any allocation of HB2313 Funds are to be discussed or otherwise considered and will be provided with all information and communications relating to the allocations that are provided to HRTPO members; and
4. For those meetings in which allocations of funds from the **“Fund set-asides”** are to be discussed or subjected to a vote, our representatives will be provided with all information and communications relating to the projects that

are provided to the HRTPO members, and will be allowed to participate in discussions relating to the projects.

Based on an earlier HRPDC estimate, the additional taxes in Southampton County are expected to generate roughly \$6.1 million in revenue over the next 5 years.

It is necessary for the Board to authorize me to execute the attached MOA and to appoint an alternate member to vote in the event that Supervisor Porter is unable to attend.

MOTION REQUIRED:

A motion is required authorizing the County Administrator to execute the attached MOA. A second motion is required to appoint an alternate member to represent Southampton County at the HRTPO meetings.



**Memorandum of Agreement
Between
The Hampton Roads Transportation Planning Organization
And
The County of Southampton, Virginia**

This Memorandum of Agreement is executed as of _____, 2013, by and among the Hampton Roads Transportation Planning Organization (“HRTPO”), and the County of Southampton (“Southampton County”), Virginia.

WHEREAS, Chapter 766, 2013 Virginia Acts of Assembly, effective July 1, 2013, codifies the enactment of HB2313, establishing new revenues for transportation projects (“HB 2313 Revenues”), a portion of which will be deposited to a newly established Hampton Roads Transportation Fund (the “Fund”) to be expended for projects in the Planning District 23; and

WHEREAS, HB2313 imposes certain new and increased taxes in those cities, counties and towns comprising Virginia Planning District 23 that will be deposited into the Fund, and requires that monies in the Fund be used for transportation projects in all localities of that Planning District 23; and

WHEREAS, the HRTPO is the designated MPO for the Hampton Roads Metropolitan Planning Area, which does not include the City of Franklin, nor Southampton County (hereinafter collectively referred to as “the Localities” and individually as “Locality”); and

WHEREAS, the HRTPO is designated by HB2313 to identify those transportation projects for which monies in the Fund may be expended; and

WHEREAS, the Localities are not members of the HRTPO, and therefore this Agreement does not provide the Localities with any authority to participate as a voting member in the federal planning processes conducted by the HRTPO in its capacity as an MPO, which processes include, but are not limited to, development of the Transportation Improvement Program and Constrained Long-Range Transportation Plan for the Hampton Roads Metropolitan Planning Area; and

WHEREAS, the parties hereto desire to establish a mechanism by which the Localities will be entitled to vote on the allocation of funds for projects supported by HB2313 revenues deposited into the Fund.

NOW, THEREFORE, the parties hereby agree as follows:

1. Effective July 1, 2013, the HRTPO shall establish "Fund set-asides" for each of the Localities by maintaining information, received from the various state agencies responsible for collecting and depositing HB2313 Revenues into the Fund, relating to the portions of the HB2313 Revenues attributable to the imposition/collection of HB2313 taxes in each of the Localities and deposited into the Fund, and shall reserve sums equivalent to said portions of the HB2313 Revenues, which sums shall be expended for projects located in each Locality, outside the boundaries of the Hampton Roads Metropolitan Planning Area.
2. Effective July 1, 2013, each of the Localities shall be entitled to one vote on actions of the HRTPO involving the allocation of funds for any project to be funded in whole or in part with HB2313 Revenues in the Fund set-asides for the Localities in Paragraph 1 above.
3. Each of the Localities shall appoint one individual to represent it, and, subject to the provisions of Paragraphs 1 and 2 above, exercise the right of the Locality to vote, on the allocation of HB2313 funds before the HRTPO. The representative shall be an elected official appointed by the governing body of the Locality. Each of the Localities shall designate an alternate authorized to act in the absence of the appointed representative of the Locality, who shall also be an elected official.
4. The representatives of the Localities shall be invited to attend all meetings of the HRTPO in which any allocation of HB2313 Funds are to be discussed or otherwise considered and shall be provided with all information and communications relating to said allocations that are provided to HRTPO members, and for those meetings in which allocations of funds for projects meeting the conditions set forth in Paragraphs 1 and 2 above are to be discussed or will be subjected to a vote, shall be provided with all information and communications relating to said projects that are provided to the HRTPO members, and shall be allowed to participate in discussions relating to said projects.
5. This Agreement may be amended or revoked only by further written instrument executed by all parties hereto. This Agreement shall remain in effect until such time as it is revoked by the parties hereto.

In Witness Whereof, the parties have caused this Memorandum of Agreement to be executed by their duly authorized officers as of the date first set forth as shown on page 1.

Hampton Roads Transportation
Planning Organization

By: _____
Chair

Southampton County

By: _____
Title: _____



U. S. Department
of Transportation

Federal Highway Administration
Virginia Division
400 North 8th Street, Suite 750
Richmond, VA 23240
804-775-3320
804-775-3356 (fax)

June 13, 2013

The Honorable Molly Ward, Chair
c/o Mr. Dwight Farmer, Executive Director
Hampton Roads Transportation Planning Organization
The Regional Building
723 Woodlake Drive
Chesapeake, Virginia 23320

Re: MPA Boundary and MPO Voting Membership

Dear Ms. Ward:

The April 4, 2013 letter from the Secretary of Transportation, Sean Connaughton, provided two options to ensure that Surry County, Southampton County, and the City of Franklin have a vote on the planning, programming, and funding of projects supported by HB2313. One option is to expand the metropolitan planning area (MPA) boundary to include Surry County, Southampton County, and the City of Franklin. The other option is to develop an agreement between the Hampton Roads MPO and these three non-member localities, "...that guaranties representation and voting rights for the non-members on matters involving the planning, programming and funding of projects supported by HB2313 revenues."

With this in mind, the Federal Highway Administration (FHWA) is writing to you to provide information on each of these options from a federal perspective.

Expansion of Metropolitan Planning Area

Federal regulations require that the boundaries of a MPA be agreed to by the MPO and Governor. The MPA is defined in 23 CFR 450.104 as "the geographic area determined by agreement between the metropolitan planning organization (MPO) for the area and the Governor, in which the metropolitan transportation planning process is carried out." The area outside of the MPA is defined as the non-metropolitan area which means "a geographic area outside a designated metropolitan planning area." At a minimum, the MPA boundary must encompass the existing urbanized area (as defined by the Bureau of the Census) plus the contiguous area expected to become urbanized within a 20-year forecast period. Additional adjustments may be made to the boundary by the MPO and Governor as long as the minimum statutory requirement is met. Ultimately, it is the MPO and Governor who decide the appropriate MPA boundary for the MPO.

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Attachment 8-D

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The MPO includes the jurisdictions contained within the agreed upon or designated MPA boundary. The MPO, recognized by FHWA and Federal Transit Administration (FTA), sets forth the national policy for each urbanized area to carry out a continuing, cooperative and comprehensive multimodal transportation planning and decision-making process. The MPO's main responsibilities include voting on transportation related matters within the metropolitan planning area including approving, amending, modifying, or updating the regional Long Range Transportation Plan (LRTP), the strategic Transportation Improvement Program (TIP) and annual Unified Planning Work Program (UPWP). This regional planning process is certified every four years jointly by the FHWA and FTA. Projects that need to be included in the metropolitan TIP are: all projects using FHWA and/or FTA funds; all regionally significant projects requiring an FHWA or FTA action regardless of funding source; and regionally significant projects to be funded with Federal funds other than those administered by the FHWA or FTA or regionally significant projects funded with non-federal funds (23 CFR 450.324(d)).

Jurisdictions outside of the MPA boundary are not eligible to become voting members of the MPO and do not approve the metropolitan planning and programming documents nor partake in selecting/ranking potential transportation projects containing Federal funds including those that are supplemented with regional "HB2313 revenues". In order for jurisdictions outside of the MPA boundary to become MPO voting members in the metropolitan planning, programming, and decision-making process, the MPO and Governor must agree to expand the MPA boundary to include these jurisdictions. Once the boundary is expanded, elected officials representing these jurisdictions can then become part of the MPO with voting rights. Should the MPO and Governor decide to expand an MPA boundary, the following implications should be considered:

- The modeling conducted for the MPA will need to be expanded to include the new jurisdictions.
- Jurisdictions within the new MPA boundary will be included in the development of estimated revenues and project costs contained in financial plans that support the MPO's LRTP and TIP.
- Jurisdictions within the new MPA boundary would be eligible to compete for federal Surface Transportation Program (STP) and Transportation Alternatives Program (TAP) funds that are sub-allocated to the urbanized areas, as well as the MPO's PL and Section 5303 transportation planning funds.

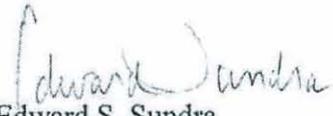
Development of an MOA

Only the MPO (and its members) can select, approve, and amend into the LRTP and TIP the region's transportation projects containing Federal funds including those that are supplemented with HB2313 revenues. Granting voting rights (via an MOA) to jurisdictions outside of the Hampton Roads MPA boundary on transportation matters that are the responsibility of the MPO pursuant to 23 CFR 450 Subpart C would be inconsistent with that regulation and the MPO's self-certification compliance statement. We are not taking a specific position on the approach of utilizing a MOA between the Hampton Roads MPO and the City of Franklin and Counties of Southampton and Surry, but we trust that you will ensure that any action on the planning, programming, and funding of projects that are the responsibility of the MPO remain with the MPO, and that any actions of non-members remain separate.

If you have any questions, please direct them to Mr. Ivan Rucker, at the FHWA Virginia Division, (804) 775-3350 or Ivan.Rucker@dot.gov.

Sincerely,

Irene Rico
Division Administrator
Federal Highway Administration

By: 
Edward S. Sundra
Director of Program Development

cc: Mr. Jim Utterback, District Administrator, Virginia Department of Transportation
Mr. Eric Stringfield, Virginia Department of Transportation (Hampton District)
Ms. Marsha Fiol, Virginia Department of Transportation (Central Office)
Ms. Reta Busher, Virginia Department of Transportation (Central Office)
Ms. Brigid Hynes-Cherin, FTA Region III Administrator