

## 12. CONSIDERATION OF A MEMORANDUM OF AGREEMENT WITH THE HAMPTON ROADS TRANSPORTATION PLANNING ORGANIZATION

As you're aware, Governor McDonnell's amendments to the Transportation Funding Bill (HB 2313) were approved by the General Assembly at its veto session earlier this month and the additional .7% sales tax and 2.1% state tax on wholesale distributors of motor fuels will be imposed in Southampton County (along with the rest of Hampton Roads) beginning July 1.

The legislation creates 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 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.

Based on a HRPDC estimate, the additional taxes in Southampton County are expected to generate roughly \$6.1 million in revenue for the region over the next 5 years. I'm cautiously optimistic that we'll be able to access and leverage an equitable portion of this revenue stream to address some of our own transportation needs.

As you're also keenly aware, while Southampton County is a longstanding member of Planning District 23, we are not, and have never been, a member of the HRTPO. In order to resolve this dilemma, please find a proposed Memorandum of Agreement attached which entitles Southampton County to one vote at meetings of the HRTPO on any matter involving the planning, programming and funding of projects supported by HB 2313 revenues. The MOA will be considered by the HRTPO Board of Directors on April 18. Current HRTPO voting members include the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg, and the Counties of Gloucester, Isle of Wight, James City, and York, as well as representatives of the Virginia Senate, Virginia House of Delegates, Transportation District Commission of Hampton Roads, Williamsburg Area Transit Authority (WATA), the Virginia Department of Transportation (VDOT), Virginia Department of Rail and Public Transportation (DRPT), and the Virginia Port Authority.

The MOA requires the appointment of one elected official to represent us, and a second elected official to serve as his alternate. HRTPO meetings are conducted on the third Thursday of each month at 10:30 a.m., immediately following regular meetings of the Hampton Roads Planning District Commission (HRPDC). Supervisor West is currently the Board's representative on the HRPDC.

I am seeking your authority to execute the attached Memorandum of Agreement on behalf of Southampton County. The appointments can be made now, or deferred until you May meeting, if you prefer.

**MOTION REQUIRED:** A motion is required authorizing the County Administrator to execute the attached MOA.

**ITEM #6: HB 2313 TRANSPORTATION REVENUES**

Attached is a letter from Secretary Sean T. Connaughton, dated April 4, 2013, to the HRTPO Executive Director regarding the regional taxes found in HB 2313 (Attachment 6-A). The Governor recommended, and the General Assembly approved, amendments to redefine their applicability. Specifically, rather than the regional taxes only applying in certain named localities, the amendments broaden the applicability to any Planning District that meets certain population, registered vehicle, and transit ridership criteria. Numerous technical changes were also made to ensure that associated language reflected these changes, such as requiring that revenues deposited into the Hampton Roads Transportation Fund be used on projects in all regions of Planning District 23.

The legislation will impose taxes on three localities that are members of the Hampton Roads Planning District Commission (HRPDC) but not the Hampton Roads Transportation Planning Organization (HRTPO). They include the City of Franklin and the Counties of Southampton and Surry.

The Secretary suggests two possible alternatives:

*“Develop an agreement among the HRTPO member and non-member localities that guarantees representation and voting rights for the non-members on matters involving the planning, programming, and funding of projects supported by the HB 2313 revenue;”*

*or*

*“The HRTPO could amend the boundaries of the HRTPO to include Southampton, Franklin, and Surry”.*

The HRTPO staff recommends approving an interim agreement among the HRTPO members and the three non-member localities that guarantees representation and voting rights to the non-members on matters involving the planning, programming, and funding of projects supported by the state revenues in HB 2313. Attached is a Memorandum of Agreement between the HRTPO and the City of Franklin and Counties of Southampton and Surry in accordance with the Secretary’s suggestion.

This item is under the Consent Agenda for approval; see Item #13-G.

Mr. Dwight Farmer, Executive Director, and/or legal counsel will brief the HRTPO Board on a recommended action.

Attachment 6-A

Attachment 6-B



# COMMONWEALTH of VIRGINIA

Office of the Governor

Sean T. Connaughton  
Secretary of Transportation

April 4, 2013

Dwight L. Farmer  
Executive Director  
Hampton Roads Transportation Planning Organization  
723 Woodlake Drive  
Chesapeake, VA 23320

Dear Mr. Farmer:

As you are aware, this past General Assembly session, the legislature reached an historic, bi-partisan compromise to provide much needed revenues to address the Commonwealth's transportation funding challenges. While much of the legislation (HB2313) focuses on addressing statewide transportation needs, certain provisions impact the Hampton Roads region and the Hampton Roads Transportation Planning Organization (HRTPO). I write to request the HRTPO have in place by July 1, 2013, a process to ensure that all the localities of the Hampton Roads Planning District have a vote on the planning, programming and funding of projects supported by HB2313 revenues.

The Conference Report for HB2313, as adopted by the General Assembly, imposed an additional 0.7 percent sales and use tax, as well as an additional 2.1% sales tax on motor fuel, in the Hampton Roads region. The Hampton Roads region was defined as those localities embraced by the HRTPO. Revenues generated by these taxes were to be deposited in the Hampton Roads Transportation Fund and used on road projects within the localities where the taxes were imposed.

Based on legal concerns regarding these regional taxes, the Governor recommended, and the General Assembly approved, amendments to redefine their applicability. Specifically, rather than the regional taxes only applying in certain named localities, the amendments broaden the applicability of the taxes to any Planning District that meets certain population, registered vehicle, and transit ridership criteria. Numerous technical changes were also made to ensure that associated language reflected these changes, such as requiring that revenues deposited into the Hampton Roads Transportation Fund be used on projects in all regions of Planning District 23.

While these amendments strengthened the constitutionality of the legislation, the enumerated criteria set forth in the legislation will impose the regional transportation taxes on three localities that are members of the Hampton Roads Planning District Commission but not

currently members of the HRTPO. Specifically, Planning District 23 includes the County of Southampton, the City of Franklin and the County of Surry, which are not members of the HRTPO.

Consequently, the HRTPO must develop and implement a method to ensure that Southampton, Franklin and Surry have a vote on the planning, programming and funding of projects supported by HB2313 revenues. We assume that as a practical matter, inclusion of these additional jurisdictions should not be difficult. The Hampton Roads Transportation Planning Organization and the Hampton Roads Planning District Commission have generally the same localities as members and work hand in hand to achieve the long-term planning goals for the region. In addition, both organizations share the same offices and staff, with you serving as the Executive Director for both entities.

Given this, we believe that the HRTPO could quickly develop an agreement among the HRTPO member and non-member localities that guarantees representation and voting rights for the non-members on matters involving the planning, programming and funding of projects supported by HB2313 revenues. As an alternative, the HRTPO could amend the boundaries of the HRTPO to include Southampton, Franklin and Surry. It is my understanding that such a change requires the approval of the Federal Highway Administration and the Federal Transit Administration. We are committed to working with you to effectuate such an amendment, if that is the desired course of action.

Since a workable solution needs to be in place on or about July 1, 2013, which is the date on which revenues will begin to accrue to the Hampton Roads Transportation Fund, we request that the HRTPO immediately begin the process of providing Franklin, Southampton and Surry representation and voting rights for the non-members on matters involving the planning, programming and funding of projects supported by HB2313 revenues. The transportation challenges facing the Hampton Roads region are among the most severe in the Commonwealth. The new regional revenues will go a long way to helping address these challenges and improving the region's economic competitiveness and quality of life. However, in implementing the new revenue streams, it is imperative that we ensure that every locality wherein the revenues are generated has a seat at the table in deciding how the revenues are spent.

I look forward to working with the HRTPO and the local governments in Hampton Roads as we address this critical issue. Please do not hesitate to contact me at your convenience if you would like to further discuss this matter.

Sincerely,



Sean T. Connaughton



**Memorandum of Agreement  
Between  
The Hampton Roads Transportation Planning Organization  
And  
The City of Franklin and Counties of Southampton and Surry, Virginia**

This Memorandum of Agreement is executed as of \_\_\_\_\_, 2013, by and among the Hampton Roads Transportation Planning Organization (“HRTPO”), the City of Franklin, Virginia (Franklin”), Southampton County, Virginia (“Southampton”); and Surry County, Virginia (Surry”). Franklin, Southampton and Surry are sometimes hereinafter referred to as “the Localities.”

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

**WHEREAS**, HB 2313 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 regions of that Planning District 23; and

**WHEREAS**, the Localities are within Planning District 23 but not within the designated Hampton Roads Metropolitan Planning Area or members of the HRTPO, which is designated by HB 2313 to identify those transportation projects for which monies in the Fund may be expended, and

**WHEREAS**, the Commonwealth of Virginia and the parties hereto desire to establish a mechanism by which the Localities will be entitled to vote on the planning, programming and funding of projects supported by HB 2313 revenues.

**NOW, THEREFORE**, the parties hereby agree as follows:

1. Effective July 1, 2013, each of the Localities shall be entitled to one vote at meetings of the HRTPO on any matter involving the planning, programming and funding of projects supported by HB 2313 revenues.
2. Each of the Localities shall appoint one individual to represent it, and exercise the right of the Locality to vote, on the designated matters before the HRTPO. The representative shall be an elected official appointed by the governing body of the City or County. 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.

3. The representatives of the Localities shall be invited to attend all meetings of the HRTPO, shall be given notice thereof, shall be allowed to participate in the discussions of the HRTPO, and shall be given all communications given by the HRTPO to the voting representatives of the HRTPO members.
4. 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 above.

Hampton Roads Transportation  
Planning Organization

By: \_\_\_\_\_  
Chair

City of Franklin

By: \_\_\_\_\_  
Title:

Southampton County

By: \_\_\_\_\_  
Title:

Surry County

By: \_\_\_\_\_  
Title: