

## **ITEM #9: CORRESPONDENCE OF INTEREST**

### **A. HRTPO Board Appointment Letter**

Attached is a letter dated February 10, 2020 from Secretary of Transportation Shannon Valentine, to Mr. Robert A. Crum, Jr., HRTPO Executive Director, appointing Mr. Todd Halacy to the HRTPO Board as the Alternative Voting member representative from the Virginia Department of Transportation (VDOT).

Attachment 9-A

### **B. Comment Letter on the 2045 LRTP Draft Candidate Projects**

Attached is a letter dated February 13, 2020 from the Southern Environmental Law Center (SELC) regarding the draft candidate projects for the 2045 Long-Range Transportation Plan along with a letter from HRTPO Staff responding to SELC's comments.

Attachment 9-B

### **C. Comment Letter on the Recommended Enhancements to the HRTPO Project Prioritization Tool**

Attached is a letter dated March 5, 2020 from the Southern Environmental Law Center (SELC) regarding the recommended enhancements to the HRTPO Project Prioritization Tool. These comments will be considered by HRTPO Staff and the Long-Range Transportation Plan (LRTP) Subcommittee.

Attachment 9-C

### **D. HRTPO Board Appointment Letter**

Attached is a letter dated May 12, 2020 from Speaker Eileen Filler-Corn, to Delegate Steve Heretick, with a copy to Mr. Robert A. Crum, Jr., HRTPO Executive Director, appointing Delegate Steve Heretick to the HRTPO Board as one of the two Voting Members of the Virginia House of Delegates.

Attachment 9-D

### **E. HRTPO Board Appointment Letter**

Attached is a letter dated May 12, 2020 from Speaker Eileen Filler-Corn, to Delegate Jeion Ward, with a copy to Mr. Robert A. Crum, Jr., HRTPO Executive Director, appointing Delegate Jeion Ward to the HRTPO Board as one of the two Voting Members of the Virginia House of Delegates.

Attachment 9-E

March 5, 2020

Dale Stith  
Principal Transportation Planner  
Hampton Roads Transportation Planning Organization  
723 Woodlake Drive  
Chesapeake, VA 23320  
dstith@hrtpo.org

VIA EMAIL

Dear Ms. Stith,

The Southern Environmental Law Center (SELC) offers the following comments on the proposed modifications to the Hampton Roads Transportation Planning Organization's Project Prioritization Tool (PPT). SELC is a non-partisan, non-profit organization headquartered in Virginia that works throughout the southeast to promote policies and laws that protect our natural resources, strengthen our communities, and improve our quality of life.

SELC strongly supports using objective criteria to evaluate and prioritize transportation proposals, and we commend the HRTPO for being one of the pioneers in Virginia in this regard. Further, recognizing that project prioritization tools and their associated methodologies should be evaluated and updated over time as the quality and quantity of available data improve and as regional priorities shift in response to new or growing challenges, we applaud the HRTPO for taking the initiative to review the PPT. We also want to thank you again for taking the time to speak with us and exchange emails to answer some of our questions about the proposed changes, and we hope these comments can help strengthen key aspects of the proposed changes before they are finalized.

**I. Enhancing Consideration of a Project's Environmental Impacts**

**A. Factoring in Impacts to Natural Resources**

We strongly support adding consideration of projects' environmental impacts to the PPT, as this crucial component of a project's viability and overall value is not captured in the current PPT criteria. As noted in slide 31 in the *Additional Resource Slides* presentation available on the HRTPO's Project Prioritization webpage (<https://www.hrtpo.org/page/project-prioritization/>), the current PPT criteria assess the status of a project's environmental review and permits, but provide no real indication of the project's actual environmental impact.

Further, we support the proposal to assess a project's impact on natural and cultural resource acreage as a primary element of its environmental impact score (the "Acres of Natural and Cultural Resources" criterion), similar to one of the ways environmental impacts are evaluated in Virginia's SMART SCALE project prioritization tool. Slide 13 in the *Additional Resource Slides* presentation indicates that the specific types of resources assessed for this criterion will be conservation lands, protected habitats for threatened and endangered species, cultural resources, and wetlands. In addition to their purely ecological value, wetlands and other types of conservation lands and wildlife habitats are of particular importance in Hampton Roads because of the vital protections they provide to communities by slowing and storing floodwaters and by buffering against storm surges and rising seas. In a region that is already facing significant impacts from climate change, and with new data showing sea level rise accelerating in Virginia and along the East Coast,<sup>1</sup> it is imperative that the PPT take into account the extent to which a transportation proposal would negatively impact these natural resiliency resources.

#### B. Valuing Impacts to Natural and Cultural Resource Acreage Adequately

Although we are glad that these natural resource acreage impacts would now be assessed under the PPT, we are concerned by the minimal value this criterion would have in proportion to a project's overall score. As proposed, the "Acres of Natural and Cultural Resources" criterion would only account for up to 3 points (or 1% of a project's overall score) for the Highway, Interchange, and Bridge & Tunnel project categories, and up to 4 points (or 1.33% of a project's overall score) for the Intermodal and Transit project categories. This strikes us as far too few points to adequately reflect the value of these resources to the region or the detrimental effect that damaging these resources can have on project viability (since projects with greater impacts to environmental and cultural resources are more likely to encounter permitting delays and litigation, among other challenges). We therefore urge the HRTPO to increase the value of the "Acres of Natural and Cultural Resources" criterion to better reflect its importance.

One way to do this would be to reallocate value from the "Basic Environmental Review" criterion to the "Acres of Natural and Cultural Resources" criterion. In our view, the proposed "Basic Environmental Review" criterion misses the mark as an assessment of environmental impacts. Based on the *Additional Resource Slides* presentation (and slide 33, specifically), the criterion appears to consist of a few "Yes/No" questions such as: (1) "Is there a fatal flaw for permitting?" and (2) "Is the intrusion into sensitive areas justified?". Answering these questions requires a high degree of subjectivity, diverting sharply from the objective and data-driven approach that we understand the HRTPO strives for the PPT to embody. Further, these questions fail to capture a project's environmental impact in a meaningful way. Indeed, the question asking whether the intrusion into sensitive areas is justified seems to provide an opportunity for

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<sup>1</sup> David Malmquist, *Sea-level Report Cards: 2019 Data Adds to Trend in Acceleration*, Va. Inst. of Marine Sci. (Jan. 30, 2020), [https://www.vims.edu/newsandevents/topstories/2020/slrc\\_2019.php](https://www.vims.edu/newsandevents/topstories/2020/slrc_2019.php).

an applicant to summarily *dismiss* a project’s environmental impacts based on the applicant’s view of the value of other aspects of the proposal.

We understand that the HRTPO first considered incorporating certain environmental measures of effectiveness (MOEs) from SMART SCALE to serve as the portion of a project’s score that is now proposed to be represented in the “Basic Environmental Review” criterion, but that the “Environmental MOEs” criterion was ultimately rejected due to a concern that several of the environmental MOEs from SMART SCALE are fairly design-specific and do not translate well to projects in the more conceptual stage of development that are typically included in long-range transportation plans. Although that rationale makes some sense to us, we still have the serious doubts we outlined above about the effectiveness of the “Basic Environmental Review” criterion that has been proposed in place of the “Environmental MOEs” criterion. We therefore recommend against including the “Basic Environmental Review” criterion at this time, and we urge the HRTPO instead to allocate its share of point value (3 points in most project categories) to the far more objective and informative “Acres of Natural and Cultural Resources” criterion, providing a much-needed boost to its overall value within the project scoring methodology.

C. Assessing Natural and Cultural Resource Acreage Impacts for Active Transportation Projects

As we understand the current proposal, the “Acres of Natural and Cultural Resources” criterion for projects in the Active Transportation category will award points based on the extent to which a project would *increase access* to these resources. That approach is in contrast to how this criterion will be assessed for the other project categories; points will be awarded to proposals in those other categories based on *avoiding impacts* to natural and cultural resources.

We are concerned that the approach proposed for this criterion in the Active Transportation category could in some cases inadvertently reward projects that adversely impact the very areas to which they are providing access (for example, a pedestrian trail leading to a natural area that results in the clearing and paving of a path through part of the natural area). Providing better access to natural and cultural resources can be beneficial for many reasons, but it does not always result in a positive environmental impact—particularly where the proposed infrastructure would directly or indirectly damage some portion of the resource.

We urge the HRTPO not to use this different approach to assessing this criterion for Active Transportation projects. Rather, we believe that for all project categories, the “Acres of Natural and Cultural Resources” criterion should focus on the potential damage to these resources. The improved access that active transportation projects might provide to natural and cultural resources would be more appropriately captured in a different measure, such as the “Increased Opportunity” criteria under the Economic Vitality measure.

#### D. Rewarding Projects that Improve Freight Rail Networks or Intermodal Facilities

Slide 34 in the *Additional Resource Slides* presentation indicates that at one point during the review process, an environmental criterion was considered that would reward projects that “include[] improvements to the freight rail network or intermodal (truck to rail) facilities/ports/terminals.” We believe this is a suitable environmental criterion because transportation improvements that help move freight from our highways to other modes of transportation can provide significant air quality benefits (in addition to improving highway safety and reducing congestion). However, that same slide indicates that one of the regional stakeholders expressed concern that this criterion “appears to double dip from the Economic Vitality section,” and it seems that it is no longer being considered as a result.

It is unclear to us how the Economic Vitality measure captures enhancements to the freight rail network and/or intermodal facilities. We assume the stakeholder comment cited in Slide 34 may refer to the “Addresses the Needs of Basic Sector Industries” criterion, which includes an element for increasing access to port facilities. However, any slight potential for overlap with respect to port facilities does not, in our view, justify eliminating a proposed criterion that is based on a much broader set of transportation modes and facility types, and we recommend that it be added back to the changes that will be presented to the HRTPO Board later this month.

## **II. Including Resiliency in the Project Prioritization Tool**

For many of the same reasons we strongly support adding to the PPT an environmental criterion that assesses a project’s impacts to natural areas, we are also in favor of adding a resiliency component that would generally work to discourage the building of new transportation projects in areas threatened by flooding and other effects of climate change. For this reason, we think the current proposal’s default position of rewarding points to projects that are not located in areas vulnerable to sea level rise, storm surge, or recurrent flooding is a good one.

Under the proposed changes, projects that *are* proposed in vulnerable areas would be awarded points if: (1) the applicant has “developed planned improvements or adaptation strategies to address future sea level rise/storm surge/recurrent flooding” (see slide 6 in the *Additional Resource Slides* presentation); or (2) the project provides access to critical areas or facilities such as hospitals, emergency shelters, and dense employment areas.<sup>2</sup>

We are concerned that the first of these two prongs is too vague and could be read to cover situations as broad as one in which a locality is awarded points for a project proposed in a

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<sup>2</sup> We note that the criterion related to providing access to critical facilities was adjusted in the most recent proposal to reflect our previous suggestion to limit it to facilities that are actually located in vulnerable areas (so that a new road linking to a hospital in an area that is not at risk for flooding would not receive resiliency points), and we appreciate our suggestion being incorporated.

vulnerable area simply because the locality has developed a locality-wide sea level rise plan, regardless of whether the project itself is designed to withstand projected flooding. We recommend being clear about what would qualify as “planned improvements or adaptation strategies” to help limit this criterion to a more focused and appropriate set of situations in which the project design clearly incorporates climate resiliency.

Taking this a step further, we recommend that projects proposed in vulnerable areas should only be eligible for resiliency points if they include design features that make them resilient to flooding and fall into one (or both) of two categories: (1) the project is an improvement to an existing transportation facility that currently floods or is projected to flood in the reasonable future (e.g., raising an existing roadway that regularly floods); or (2) the project—either an improvement to an existing project or a new project—would significantly improve access to critical areas or facilities that are currently disrupted, or projected to be disrupted in the reasonable future, by flooding or related effects of climate change. We urge the HRTPO to consider adjusting the resiliency measure along these lines to help ensure that the types of projects that would be awarded points for providing a resiliency benefit would actually do so.

### **III. Diluting Project Viability Measure through Application of the Cost Effectiveness Criterion**

SELC is concerned with the proposed move of the Cost Effectiveness criterion from the Project Utility measure to the Project Viability measure for all categories of projects, particularly in conjunction with the proposed change to the way Cost Effectiveness would be measured.

As proposed, Cost Effectiveness would be measured by comparing a project’s estimated cost to the sum of its scores under the Project Utility measure and the Economic Vitality measure, and it would comprise twenty percent (20 of total 100 points) of a proposal’s Project Viability score. We believe that basing twenty percent of the Project Viability score on the sum of the Project Utility and Economic Vitality scores would exaggerate the value of those two measures at the expense of the Project Viability measure and the important criteria it includes, such as a project’s environmental impact.

Instead, we urge the HRTPO to either move the Cost Effectiveness criterion to the Economic Vitality measure, or to include it as a fourth, stand-alone measure. In both cases, we also recommend reallocating its 20-point allotment within the Project Viability measure to the environmental criteria in order to help boost these criteria’s overall value to a more significant level.

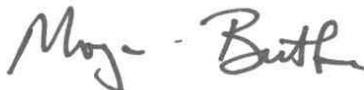
#### **IV. Ensuring Economic Distress Factor Takes Broad View of Potential Impacts**

We support adding an “economic distress” factor to the PPT that would reward projects benefitting areas with lower-income neighborhoods or high unemployment. Past and current transportation policies and decision-making have too often generated more adverse impacts and fewer benefits for poor communities, burdening them with a disproportionate share of transportation pollution while often inadequately investing in mobility options. As a result, it is essential that we address these flaws in our policies and decision-making going forward. However, the proposed “economic distress” factor could have the opposite effect if it is measured in a way that rewards projects that would further disrupt or harm these communities by, for example, routing a new highway right next to—or even through—them.

It appears the economic distress factor will focus on the extent to which a project would improve congestion and travel time in and around lower-income and high unemployment areas. Using the example of a new highway project again, the traffic modeling for a new freeway proposed next to a low-income neighborhood may well indicate that residents of that neighborhood would have a faster route to a nearby area of high job concentration. But if the freeway would take land from the neighborhood or negatively impact its air quality, faster travel times or reduced congestion may be of small solace—particularly for those residents of the neighborhood who cannot afford a car or are unable to drive. We therefore urge the HRTPO to make sure the “economic distress” factor is measured and applied in a way that takes the potential for detrimental impacts to low-income areas into account.

Thank you again for engaging us in the process of updating the PPT and for your consideration of our comments and recommendations. Please do not hesitate to contact me if you would like to discuss any of this further.

Sincerely,

A handwritten signature in black ink that reads "Morgan Butler". The signature is written in a cursive, slightly slanted style.

Morgan Butler  
Senior Attorney