



Chair, LINDA T. JOHNSON • *Vice-Chair*, DONNIE R. TUCK

Executive Director, KEVIN B. PAGE

AGENDA

Hampton Roads Transportation Accountability Commission

Regular Meeting

Meeting by Conference Call*

July 16, 2020
9:00 a.m.

Dial Toll Free Telephone Number to Attend: (855) 735-2639

**In light of the Governor's Declared State of Emergency due to COVID-19, it is impracticable and unsafe for the Commission to assemble in a single location, so the meeting will be held electronically, by telephone, pursuant to the 2020 Appropriation Act; the purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the Commission and the discharge of its lawful purposes, duties, and responsibilities. The public is welcome to use the number above to attend the meeting electronically. The Commission will make available a recording or transcript of the meeting on its website in accordance with the timeframes established in Sections 2.2-3707 and 2.2-3707.1 of the Code of Virginia.*

1. Call to Order, Declaration re: Purpose of Meeting, and Roll Call
2. Approval of Agenda
3. Public Comment Period (3 Minute Limit)**
4. Chair's Comments
 - A. Welcome new member
5. Consent Items
 - Recommended Action: Approval
 - A. Minutes of the June 18, 2020 Annual Organizational Meeting (Attachment 5A)
6. Action Items
 - Recommended Action: Discussion/Approval
 - A. Amended and Restated Bylaws, Second Reading (Attachment 6A) – Executive Director Page and Counselor Inglima – Recommended Action: Approval
 - B. Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network (a/k/a Master Tolling Agreement) – Resolution Authorizing Finalization, Execution and Delivery (Attachment 6B) – MTA Advisory

Committee Chair Johnson, Executive Director Page, General Counselor Inglima and Special Counselor Wall - Recommended Action: Approval

C. **Hampton Roads Regional Transit Fund Update (Attachment 6C)** – Executive Director Page, HRTPO Executive Director Crum, and HRT CEO Harrell – Recommended Action: Discussion

7. Information Items

- A. **HRTAC Monthly Financial Report (Attachment 7A)** – Finance Committee Chair Hipple
- B. **VDOT/HRTAC Project Updates, HRBT/Other** – VDOT Commissioner Brich, HR Administrator Chris Hall, and HRBT Project Director Utterback (**Attachment 7B**)
- C. **Next HRTAC Regular Meeting – September 17, 2020, 12:30 p.m., (Meeting by Conference Call unless the Governor lifts the State of Emergency)**

8. Adjournment

**Anyone wishing to make a public comment should contact Executive Director Page at kpage@hrtac.org 24 hours in advance of the meeting to register. Please do so by 9:00 a.m. on Wednesday, July 15, 2020.

Agenda Item 5A
Consent Item

To: Chair Johnson and the other members of HRTAC

From: Kevin B. Page, Executive Director

Date: July 16, 2020

Re: June 18, 2020 Annual Organizational Meeting Minutes

Recommendation:

The Commission is asked to approve the Commission's June 18, 2020 Annual Organizational Meeting minutes.

Background:

The Commission approves meeting minutes for the permanent record of the Commission.

Fiscal Impact:

There is no fiscal impact in relation to this Consent Item.

Suggested Motion:

Motion: The Commission approves and adopts the minutes of the Commission's Annual Organizational Meeting on June 18, 2020.



**Hampton Roads Transportation
Accountability Commission (HRTAC)**
Summary Minutes of the June 18, 2020 Annual Organizational Meeting

The Hampton Roads Transportation Accountability Commission (HRTAC) Annual Organizational Meeting was called to order at 12:30 p.m. by conference call due to COVID-19, with the following in attendance by telephone:

HRTAC Members in Attendance:

Linda T. Johnson, Chair	John Rowe, PO
Donnie Tuck, Vice Chair	Eugene Hunt, PQ
Rick West, CH	Christopher Cornwell, SH
Frank Rabil, FR	Thomas G. Shepperd, YK
William M. McCarty, Sr., IW	Robert Dyer, VB
Michael Hipple, JC	Delegate Clint Jenkins, VGA
McKinley Price, NN	Senator Monty Mason, VGA
Kenneth Alexander, NO	Delegate Mike Mullins, VGA

HRTAC Executive Director

Kevin Page

HRTAC Ex-Officio Members in Attendance:

Stephen Brich, VDOT	Barb Nelson VPA
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Other Participants:

Chris Price, CH	Michael Johnson, SH
Randy Keaton, IW	Tom Leahy, VB
Scott Stevens, JC	Christopher Hall, VDOT
Chip Filer, NO	Andrew Trivette, WM
J. Randall Wheeler, PQ	Tom Inglima, Willcox & Savage
Bob Baldwin, PO	

HRTAC Voting Members Absent:

Paul Freiling, WM	Delegate Joseph Lindsey, VGA
Senator John A. Cosgrove, VGA	

HRTAC Ex-Officio Members Absent:

John Malbon, CTB	Jennifer Mitchell, DRPT
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* Denotes Late Arrival or Early Departure

Others Recorded Attending:

Jason Powel (Public); Julie Cary (Veteran Reporters); Danetta Jankosky, Tiffany Smith, Sheila Wilson (HRPDC); Lynn Coen, Jennifer Hodnett (HRTAC); Bob Crum, Mike Kimbrel, John Mihaly (HRTPO)

Declaration re: Purpose of Meeting, Call to Order and Roll Call

Mr. Tom Inglima, HRTAC General Counsel, proceeded to read the following declaration for the Members:

In light of the Governor's Declared State of Emergency due to COVID-19, it is impracticable and unsafe for the Commission to assemble in a single location, so the meeting will be held electronically, by telephone, pursuant to the 2020 Amendments to the 2019 Appropriation Act. The purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the Commission and the discharge of its lawful purposes, duties, and responsibilities. The public is welcome to use the number to attend the meeting electronically. The Commission will make available a recording or transcript of the meeting on its website in accordance with the timeframes established in Sections 2.2-3707 and 2.2-3707.1 of the Code of Virginia.

A roll call vote of all Members was taken in order to confirm a quorum:

Mayor Rick West: Present
Mayor Frank Rabil: Present
Mayor Donnie Tuck: Present
Mr. William McCarty: Present
Mr. Michael Hipple: Present
Mayor McKinley Price: Present
Mayor Kenneth Alexander: Present
Mayor Eugene Hunt: Present
Mayor John Rowe: Present
Mr. Christopher Cornwell: Present
Chair Linda Johnson: Present
Mayor Robert Dyer: Present
Mayor Paul Freiling: No Response
Mr. Thomas Shepperd: Present
Senator John Cosgrove: No Response
Senator Monty Mason: Present
Delegate Clint Jenkins: Present
Delegate Joseph Lindsey: No Response
Delegate Mike Mullin: Present
Mr. John Malbon: No Response
Mr. Stephen Brich: Present
Ms. Jennifer Mitchell: No Response
Ms. Barb Nelson: Present

The quorum was confirmed by Mr. John Mihaly.

Approval of Agenda

Mayor John Rowe Moved to approve the agenda, Mayor Bobby Dyer Seconded. A roll call vote of the voting Members was taken:

Mayor Rick West: Yes
Mayor Frank Rabil: Yes
Mayor Donnie Tuck: Yes
Mr. William McCarty: Yes
Mr. Michael Hipple: Yes
Mayor McKinley Price: Yes
Mayor Kenneth Alexander: Yes
Mayor Eugene Hunt: Yes
Mayor John Rowe: Yes
Mr. Christopher Cornwell: Yes
Chair Linda Johnson: Yes
Mayor Robert Dyer: Yes
Mayor Paul Freiling: No Response
Mr. Thomas Shepperd: Yes
Senator John Cosgrove: No Response
Senator Monty Mason: Yes
Delegate Clint Jenkins: Yes
Delegate Joseph Lindsey: No Response
Delegate Mike Mullin: Yes

Mr. John Mihaly confirmed The Motion Carried.

Public Comment Period (limit 5 minutes per individual)

No one from the public requested to make a public comment.

Chair's Comments

HRTAC Chair, Linda T. Johnson, thanked the HRTAC Members for staying engaged and flexible during the COVID-19 crisis and ensuring that HRTAC activities continued.

Consent Items

- A. Minutes of the May 28, 2020 Special Meeting
- B. HRTAC Proposed FY2021 Administrative and Project Development Budget-HRTF and HRRTF Cost Sharing
- C. HRTAC Proposed Debt Management Plan to Include Hampton Roads Express Lanes Network-COVID-19 Potential Impact Review
- D. HRTAC Proposed FY2021-FY2026 Plan of Finance Update-COVID-19 Potential Impact Review
- E. HRTAC Proposed 2045 Long Range Plan of Finance Update-COVID-19 Potential Impact Review

Mayor Tuck Moved to approve the consent agenda items; Seconded by Mr. William McCarty. A roll call vote of the voting Members was taken:

Mayor Rick West: Yes
Mayor Frank Rabil: Yes
Mayor Donnie Tuck: Yes
Mr. William McCarty: Yes
Mr. Michael Hipple: Yes
Mayor McKinley Price: Yes
Mayor Kenneth Alexander: Yes
Mayor Eugene Hunt: Yes
Mayor John Rowe: Yes
Mr. Christopher Cornwell: Yes
Chair Linda Johnson: Yes
Mayor Robert Dyer: Yes
Mayor Paul Freiling: No Response
Mr. Thomas Shepperd: Yes
Senator John Cosgrove: No Response
Senator Monty Mason: Yes
Delegate Clint Jenkins: Yes
Delegate Joseph Lindsey: No Response
Delegate Mike Mullin: Yes

Mr. John Mihaly confirmed The Motion Carried.

Action Item

A. Executive Director's Annual Performance Evaluation

Chair Johnson praised HRTAC Executive Director Page and his leadership abilities. She indicated that the Executive Director evaluations that were submitted by the Commission Members were overwhelmingly positive.

Commission Members concurred that Mr. Page was an asset to HRTAC and the region.

This agenda item was for discussion purposes only and a vote was not required.

B. Election of FY2020 Officers of the Commission

Mr. Tom Inglima, HRTAC General Counsel, explained to the Commission Members the procedures for the election of officers.

Mr. Hipple recommended that the current Chair, Suffolk Mayor Linda T. Johnson, and the current Vice Chair, Hampton Mayor, Donnie Tuck, each serve a second term as Chair and Vice Chair, respectively.

Mayor John Rowe Moved to close the nominations and that the current officers serve a second term in their respective offices. Mayor Bobby Dyer Seconded. A roll call vote of the voting Members was taken:

Mayor Rick West: Yes
Mayor Frank Rabil: Yes
Mayor Donnie Tuck: Yes
Mr. William McCarty: Yes
Mr. Michael Hipple: Yes
Mayor McKinley Price: Yes
Mayor Kenneth Alexander: Yes
Mayor Eugene Hunt: Yes
Mayor John Rowe: Yes
Mr. Christopher Cornwell: Yes
Chair Linda Johnson: Yes
Mayor Robert Dyer: Yes
Mayor Paul Freiling: No Response
Mr. Thomas Shepperd: Yes
Senator John Cosgrove: No Response
Senator Monty Mason: Yes
Delegate Clint Jenkins: Yes
Delegate Joseph Lindsey: No Response
Delegate Mike Mullin: Yes

Mr. John Mihaly confirmed The Motion Carried.

C. FY2021 HRTAC Meeting Schedule

Mr. Kevin Page, HRTAC Executive Director, reviewed the meeting schedule for FY21 and noted the next HRTAC meeting would be held on July 16, 2020 at 9:00 a.m. prior to the HRTPO and HRPDC meetings.

Mayor John Rowe, Moved to approve the HRTAC FY21 Meeting Schedule; Seconded by Mayor McKinley Price.

A roll call vote of the voting Members was taken:

Mayor Rick West: Yes
Mayor Frank Rabil: Yes
Mayor Donnie Tuck: Yes
Mr. William McCarty: Yes
Mr. Michael Hipple: Yes
Mayor McKinley Price: Yes
Mayor Kenneth Alexander: Yes
Mayor Eugene Hunt: Yes
Mayor John Rowe: Yes
Mr. Christopher Cornwell: Yes

Chair Linda Johnson: Yes
Mayor Robert Dyer: Yes
Mayor Paul Freiling: No Response
Mr. Thomas Shepperd: Yes
Senator John Cosgrove: No Response
Senator Monty Mason: Yes
Delegate Clint Jenkins: Yes
Delegate Joseph Lindsey: No Response
Delegate Mike Mullin: Yes

Mr. John Mihaly confirmed The Motion Carried.

D. Amended and Restated Bylaws, First Reading

Mr. Kevin Page, HRTAC Executive Director, reminded Commission Members of the new Hampton Roads Regional Transit Fund legislation, which tasks HRTAC with the management of the HRRTF monies.

Mr. Tom Inglima, HRTAC Counsel, explained that as a result of the new legislation, HRTAC's Bylaws need to be amended to conform to the new statutory requirements. He noted two categories that would need to be addressed: (i) changes that are required to bring the Bylaws in conformity with the recently adopted legislation; and (ii) improvements to how HRTAC's committees function to ensure that there is a committee that aligns with the new regional transit initiative.

Mr. Inglima proceeded to review the affected sections of the Bylaws, noting that the proposed amendments would be read once at today's meeting and then voted upon at a subsequent meeting.

E. Briefing re: Development of Master Tolling Agreement and Timing to Finalize/Approve

Mr. Kevin Page, HRTAC Executive Director, noted the significant progress made and expressed his gratitude to all parties involved.

Mr. Inglima reviewed the steps taken since the May 28, 2020 HRTAC meeting. Because the HRBT expansion project relies on toll-backed debt from the Express Lanes Network, HRTAC began outlining the principal terms of the Master Tolling Agreement over a year ago. He highlighted the fast approaching Notice to Proceed milestone for the HRBT project and the financial implications for HRTAC.

He summarized the framework of the Master Tolling Agreement (MTA), which addresses how HRTAC, VDOT, and the CTB will pursue the development, building, and financing of the Express Lanes Network and its related infrastructure and the subsequent operation and maintenance of the Express Lanes Network. Because the MTA encompasses both development and operation phases, Mr. Inglima explained that it has been renamed the "Master Agreement for Development and Tolling." Mr. Inglima noted that the design, development and construction aspects of the Express Lanes Network are only conceptual

work and cost estimates at this time. Mr. Inglima indicated that the design would include phases, and the process for development and construction would be similar to the process used previously for the first six HRTAC-funded projects.

Mr. Inglima reviewed the upcoming studies that will be required to finalize HRTAC's conceptual funding plan and the initial tolling policies that will be adopted by the Commission. To balance the respective interests of HRTAC, VDOT, and the CTB, Mr. Inglima explained that a Tolling Policy Committee is contemplated to review subsequent, elective modifications to the tolling policies. He explained the Committee's charter and the composition of its membership. He noted the Commission Members' concern in regards to the potential for deadlock votes and stated that this concern was still an open issue.

He summarized the use of toll revenues and toll-backed debt as it related to HB1438 and reviewed the tolling operation and maintenance structure. He indicated that VDOT would remain responsible at all times for performance of all roadway maintenance obligations at VDOT's expense.

Mr. Inglima highlighted the MTA terms that are intended to provide protection against events that could interfere with the toll revenue stream. Examples of these protections include insurance and defined compensation events for the Commission. He noted that the events that would trigger VDOT's obligation to compensate HRTAC were still under negotiation.

Mr. Inglima explained that the next steps include the finalization of the terms of the MTA and exhibits, VDOT's finalization of the preliminary cost estimate for the Hampton Roads Express Lane Network, and HRTAC's continued development of the investment grade traffic and revenue study. Mr. Inglima indicated that if the MTA is approved at HRTAC's July meeting and by the CTB at its July meeting, the parties would likely proceed rapidly with execution.

Commission Members expressed concern over the Tolling Policy Committee membership structure and the potential for deadlock votes.

In response to the potential for deadlock votes, Mr. Inglima informed the Commission that HRTAC had proposed a process that would allow the policy modifications to be approved without Toll Policy Committee approval unless the Secretary of Transportation identified a safety concern that required reconsideration of the proposed modification.

Members questioned if funding would be an issue that the Secretary of Transportation could review.

Mr. Inglima answered that under the proposed approach, only safety issues affecting the users should be considered.

Commission Members confirmed the need for HRTAC to maintain its independent body status and to remember the original intent of HRTAC's enabling legislation.

Commission Members requested clarification on the cost estimate of the HREL.

Mr. Page noted the total cost of the HREL was an estimate of \$940 million and is included in the 2045 HRTAC Long Range Plan; however, the project will be broken into phases with corresponding costs.

Commission Members questioned the status of the toll relief efforts for the citizens of Portsmouth.

Mr. Page indicated that Staff was aware of the public reports in regards to the tolling company being auctioned, and Staff was currently weighing options.

Commission Members questioned whether both VDOT and HRTAC had the ability to toll the same roadways.

Mr. Steve Brich, VDOT Commissioner of Highways, stated that due to the recently passed legislation, no conflict exists. He further confirmed the State's concern over any changes to tolling policy and the effect on the tolled lanes and the general purpose lanes. He noted the vested interest of the entire network was a VDOT responsibility.

Commission Members asked if a similar situation existed in the State.

Mr. Page indicated that it does not, however; examples were found in Indiana and Kentucky.

Mr. Page further confirmed the near approaching notice to proceed on the HRBT expansion project and stated HRTAC's financial obligations increase exponentially. He stated that until the MTA has been agreed to, HRTAC will fund no more than \$250 million, and currently has spent \$249 million.

Mr. Inglima said the Project and Funding Agreement provides that a mutually acceptable tolling agreement must be in place. Otherwise HRTAC could terminate the agreement. He confirmed that HRTAC still has that right.

Members questioned if a third party could negotiate deadlock votes for the Tolling Policy Committee.

Mr. Inglima informed the Commission that a deadlock would have to be resolved in a court of law and that a third party could only mediate.

Mr. Page indicated that the MTA Advisory Committee would meet again and bring comments back to the Commission at its next meeting.

This was a discussion item only; no roll call vote was taken.

Information Items

A. HRTAC Monthly Financial Report

Chair Johnson highlighted the Monthly Financial Report with the Commission.

B. VDOT Project Updates

Mr. Steve Brich, VDOT Commissioner of Highways, stated significant progress had been made on the HRBT project and reiterated the notice to proceed date was going to be sometime in July. He stated that the project has received few comments from regulatory agencies. He added that if the MTA could not be agreed to by both VDOT and HRTAC, the notice to proceed could be affected.

D. Next HRTAC Regular Meeting – July 16, 2020, 9:00 a.m., (Meeting by Conference Call unless the Governor lifts the State of Emergency), if not adjusted by Action Item 6C

Adjournment

With no further business to come before the Hampton Roads Transportation Accountability Commission, the meeting adjourned at 1:54 p.m.

Linda T. Johnson
HRTAC Chair

Agenda Item 6A
Action Item

To: Chair Johnson and the other members of HRTAC

From: Kevin B. Page, Executive Director

Date: July 16, 2020

Re: Third Amended and Restated Bylaws, Second Reading

Recommendation:

The Executive Director requests that the Commission adopt the proposed amendments to the Commission's Bylaws, which will be set forth in the attached Third Amended and Restated Bylaws.

Background:

During the 2020 Acts of Assembly, the legislature passed House Bill 1726 and Senate Bill 1038 which created the Hampton Roads Regional Transit Fund (HRRTF) and designated the Commission as the manager of the HRRTF. The new legislation amended the Commission's governing statutes (the "HRTAC Act") by providing that the decisions of the Commission with respect to the disbursement of the HRRTF shall be made by the affirmative vote of two-thirds of the members of the Commission subject to the taxes that fund the HRRTF (*i.e.*, the Commission's traditional voting rules will not apply to these decisions because non-contributing members are not permitted to vote). The Commission's general counsel prepared the Third Amended and Restated Bylaws to ensure that the voting rules set forth in the bylaws conform to the amended HRTAC Act and presented the proposed changes at the Commission's Annual Organizational Meeting held on June 18, 2020. In addition, the Third Amended and Restated Bylaws includes as proposed amendments language that establishes a Regional Transit Committee to advise the Commission on matters regarding the HRRTF. This committee, like other HRTAC committees, would be solely advisory. The members of this Committee would be solely the members of the Commission that are authorized to vote on HRRTF decisions. Finally, the proposed amendments include the correction of an outdated statutory citation. Commission Staff has not received any comments on the proposed Third and Restated Bylaws.

Fiscal Impact:

There is no fiscal impact in relation to this Action Item.

Suggested Action:

Motion: Motion is the Commission adopts the Third Amended and Restated Bylaws.



~~SECOND~~THIRD AMENDED AND RESTATED BYLAWS

OF

HAMPTON ROADS

TRANSPORTATION ACCOUNTABILITY COMMISSION

Approved: ~~September 15, 2016~~July , 2020

ARTICLE I

POWERS AND DUTIES

The Hampton Roads Transportation Accountability Commission (the “Commission”) shall have all of the rights, powers and duties, and shall be subject to the limitations and restrictions, set forth in Chapter 26 of Title 33.2 of the Code of Virginia of 1950, as amended (the “Virginia Code”), as such may be amended from time to time (the “Act”).

ARTICLE II

MEMBERSHIP

A. Commission Members. The Commission consists of twenty-three (23) members (“Members” or “Member”) as follows:

1. The chief elected officer of the governing body of each of the ten (10) cities embraced by the Commission.
2. A current elected official of each of the four (4) counties embraced by the Commission, provided that such official (a) serves on the governing body of the county and (b) has been appointed by resolution of such governing body to serve as the county’s member on the Commission.
3. Three members of the House of Delegates who reside in different counties or cities embraced by the Commission. The House members shall be appointed to the Commission by the Speaker of the House.
4. Two members of the Senate who reside in different counties or cities embraced by the Commission. The Senate members shall be appointed to the Commission by the Senate Committee on Rules.
5. A member of the Commonwealth Transportation Board who resides in a locality embraced by the Commission and appointed by the Governor, who shall serve as a nonvoting ex officio member of the Commission.

6. The Director of the Virginia Department of Rail and Public Transportation, or his or her designee, who shall serve as a nonvoting ex officio member of the Commission.
7. The Commonwealth Transportation Commissioner of Highways, or his or her designee, who shall be a nonvoting ex officio member of the Commission.
8. The Executive Director of the Virginia Port Authority, or his or her designee, who shall serve as a nonvoting ex officio member of the Commission.

B. Designees. If a Member of the Commission described in Article II, section A, subsection (1) or (2) is unable to attend a meeting of the Commission, the Member may designate another current elected official of such governing body to attend the meeting of the Commission. Such designation shall be for the purposes of the one meeting that the Member will be unable to attend and shall be submitted in writing or electronically to the Chair of the Commission at least forty-eight (48) hours prior to the affected meeting.

ARTICLE III

OFFICERS AND DUTIES

A. Officers. The Commission shall annually elect from its voting Members a Chair and a Vice-Chair. The Commission may further elect such other subordinate officers from among its Members as it may from time to time deem appropriate. The election of officers shall be conducted in accordance with the voting procedures set forth in Article IV, section K.

B. Terms of Office. Officers of the Commission shall be elected at the annual organizational meeting of the Commission, to serve for a term of one (1) year or until a successor is elected, unless sooner removed by the Commission or the person ceases to be a Member of the Commission. All officers shall be eligible for reelection; provided, however, no officer may serve more than two (2) consecutive one (1) year terms in succession. Any officer who serves a partial term shall not be considered as serving a full term for purposes of this limitation. Any vacancy occurring in an office will be filled for the unexpired term by the Commission at the next regular meeting (or at an earlier special meeting called for that purpose) following the occurrence of such vacancy.

C. Appointment. At a regular meeting held preceding the annual organizational meeting at which the election of officers will be held, the Chair shall appoint a nominating committee. At the annual organizational meeting, the nominating committee shall submit the name or names of one or more persons for each office to be filled. Further nominations may be made by any Member at the annual meeting.

D. Chair. The Chair shall preside over all meetings of the Commission at which he or she is present, and shall vote as any other Member. The Chair shall be responsible for the implementation of the actions taken and policies established by the Commission, shall have all of the powers and duties customarily pertaining to the office of Chair, and shall perform such other duties as may from time to time be established by the Commission.

E. Vice Chair. In the event of the absence of the Chair, or the inability of the Chair to perform any of the duties of the office or to exercise any of the powers thereof, the Vice Chair shall perform such duties and possess such powers as are conferred on the Chair, and shall perform such other duties as may from time to time be assigned to the Vice Chair by the Chair or be established by the Commission.

ARTICLE IV

MEETINGS

A. Annual Organizational Meeting. The annual organizational meeting of the Commission shall be held by the Commission in the month of June for the purpose of electing officers and transacting such other business as may come before the meeting.

B. Regular Meetings. Regular meetings of the Commission shall be held on a periodic basis as determined by resolution of the Commission, but not less frequently than once per quarter, on the third Thursday of the scheduled month at a place to be determined by the Chair, or at such time and place as the Commission may determine. If no meeting is held in January, February or March of a year, then, for purposes of the quarterly meeting requirement in the preceding sentence, a meeting held in April of that year shall be deemed held during the first quarter. The regular meeting for the month of June shall serve as the annual organizational meeting.

C. Special Meetings. Special meetings may be called by the Chair, in his or her discretion, or by request in writing of at least seven voting Members. Any request in writing by seven or more voting Members shall be addressed to the Chair and shall specify the time and place of meeting and the matters to be considered at the meeting, which time shall not be earlier than the third business day after the day that the Chair receives the request. If the Chair elects to call a special meeting or receives a request in writing from the requisite number of Members, the Chair shall take appropriate action to coordinate the meeting site and time and shall cause notice to be provided to each Member of the Commission to attend the special meeting at the applicable time and place. Such notice shall specify the matters to be considered at the meeting, and shall be sent by electronic (e.g. email) or telephonic means at least forty-eight [48] hours (twenty-four [24] hours if the meeting is called by the Chair in exigent circumstances) in advance of the date of the meeting. Formal notice to any person is not required provided all Members are present or those not present have waived notice in writing, filed with the records of the meeting, either before or after the meeting.

D. Adjourned Meetings. Any regular or special meeting may be adjourned to a date and time certain.

E. Public Notice. All meetings of the Commission shall be preceded by public notice given in accordance with the provisions of Section 2.2-3707 of the Virginia Code. Notice of all meetings shall be published on the Commission's website and available in the offices of the Commission.

F. Public Hearing. Public hearings may be held at the direction of the Commission and shall, unless otherwise specified by the Commission or these Bylaws, be upon notice published on the Commission's website and in a newspaper or newspapers having general circulation in the geographic area encompassed by the Commission.

G. Open Meetings. All Commission meetings shall be open to the public in accordance with the Virginia Freedom of Information Act (Virginia Code §2.2-3700 et seq.), provided that the Commission may meet in closed session for those purposes authorized by, and held in accordance with the requirements of the Virginia Freedom of Information Act, to include requirements for public notice.

H. Quorum. A majority of the Commission (both voting and nonvoting), which shall include at least a majority of the total of chief elected officers and elected officials who represent the counties and cities embraced by the Commission, or their designees pursuant to Article II, section B, shall constitute a quorum.

I. Temporary Absence. No action shall be voted upon by the Commission unless a quorum is present; provided, however, that the temporary absence from the meeting room of Members (or designees attending pursuant to Article II, section B) required to constitute a quorum shall not be deemed to prevent presentations or deliberations regarding any matter that may be submitted to a vote. The Chair or any other Member may note the absence of a quorum during presentations or deliberations, but a failure to note the absence of a quorum during that period shall not affect the requirement that a quorum exist when any vote is taken.

J. Decisions of the Commission. The Commission shall act in one of the following ways:

1. Resolution – The Commission may act upon adoption of a resolution. Resolutions shall be in writing and a copy of any proposed resolution shall be provided to all Members of the Commission before the resolution is proposed for adoption. To the extent possible, such copy shall be provided twenty-four (24) hours in advance.
2. Motion – The Commission may act on oral motion made by a voting Member of the Commission (or a designee attending pursuant to Article II, section B).

K. Voting.

1. Votes – Votes shall be taken only upon motions made and seconded. Each voting Member of the Commission (or if a Member has a designee attending pursuant to Article II, section B, then that Member's designee) shall be entitled to one (1) vote in all matters requiring action by the Commission, except the disbursement of funds pursuant to Section 33.2-2600.1 of the Virginia Code. Decisions of the Commission, except those regarding the disbursement of funds pursuant to Section 33.2-2600.1 of the Virginia Code, shall require the affirmative vote of two-thirds of the voting Members, or their designees attending pursuant to Article II, section B, present and voting, and two-thirds of the total of chief elected officers and elected officials who represent the counties and cities embraced by

Planning District 23, or their designees pursuant to Article II, section B, who are present and voting and whose counties and cities include at least two-thirds of the population embraced by the Commission. However, no vote to fund a specific facility or service shall fail because of the aforesaid population criterion if such facility or service is not located or to be located, or provided or to be provided, within the county or city whose representative (or its respective designee attending pursuant to Article II, section B) cast the sole negative vote that caused the facility or service to fail to meet the population criterion. For purposes of the foregoing, the population of the counties and cities embraced by the Commission shall be determined in accordance with the Act. Decisions of the Commission regarding the disbursement of funds pursuant to Section 33.2-2600.1 of the Virginia Code shall require the affirmative vote of two-thirds of the Members of the Commission subject to the taxes imposed pursuant to Section 58.1-802.4 of the Virginia Code and Section 58.1-1743 of the Virginia Code, and the Commission shall not establish provisions that require the affirmative vote of any Members of the Commission not subject to such taxes for the disbursement of funds pursuant to Section 33.2-2600.1 of the Virginia Code.

2. Methods of Voting – All voting shall be taken by voice or by roll call if requested by any voting Member (or any designee attending pursuant to Article II, section B).
3. Restating the Question – The Chair shall restate the question prior to the taking of a vote, provided, however, that at the request of the Chair, a Member (or a designee attending pursuant to Article II, section B) may restate the question if it is the opinion of the Chair that such procedure will expedite the decision of the question.
4. Reconsideration – Action on a resolution or motion that has been approved may be reconsidered only upon motion of a Member (or a designee attending pursuant to Article II, section B) voting with the prevailing side on the original vote, which motion must be made at the same regular meeting. A motion to reconsider may be seconded by any Member (or a designee attending pursuant to Article II, section B). Any resolution or motion that failed as a result of a tie vote may be reconsidered upon motion by any Member (or a designee attending pursuant to Article II, section B) who voted against it, which motion must be made at the same meeting or the next regularly scheduled meeting.

L. Commencement of Meetings. At the times specified for the commencement of regular meetings, and at the hour specified for adjourned or special meetings, the Chair shall call the meeting to order, and shall ensure that the presence of Members (or their designees) or absence is noted. A quorum shall be required for the commencement of any meeting.

M. Agenda. The Chair shall prepare an agenda for each meeting. Any Member having matters to be considered by the Commission shall submit them to the Chair for inclusion on an appropriate agenda. The agenda for an upcoming meeting shall be sent to the Members prior to

the meeting date (for regular meetings, the Chair should endeavor to provide the agenda at least seven (7) days in advance).

N. Minutes. Minutes of the meetings of the Commission, except closed sessions, shall be kept and be a public record. Copies of the minutes shall be provided to each Member prior to the meeting at which the minutes are to be presented for approval by the Commission.

O. Closed Sessions. If a closed session is required at a meeting, consistent with purposes permitted by Virginia law, the agenda shall specify a time or position on the agenda, generally after all public business has concluded, for such a closed session properly called and conducted in accordance with Virginia law. When so requested, the Chair may permit a closed session at any other time prior to consideration of any agenda item provided that the purpose of the closed session and the procedure used to go into closed session are in accordance with Virginia law.

P. Order in Conduct of Business.

1. Persons Addressing the Commission – Prior to public comment and public hearings, the Commission will provide guidelines for length of presentation by individuals and group representatives. Persons speaking at a meeting or public hearing shall confine their remarks to the subject of the meeting or public hearing. At the discretion of the Chair, the conduct of business by the Commission may be reordered to allow earlier consideration of matters about which a substantial number of persons desire to address the Commission. Persons addressing the Commission may furnish the Chair and Members with a written copy of their remarks, at or before the meeting.
2. Recognition – Recognition shall be given only by the Chair. No person shall address the Commission without first having been recognized.
3. Questions – Questions by Members (or their designees) shall be reserved insofar as possible for the end of a presentation to avoid interrupting the speaker, disrupting the time-keeping process, and duplicating ground the speaker may cover.
4. Commission Discussion – Discussion and debate by the Commission shall be conducted following the presentation of the item of business pending. No Member (or designee) shall speak to the item until recognized by the Chair.

Q. Decorum.

1. Commission Members – Decorum of Members (and designees) shall be maintained in order to expedite disposition of the business before the Commission. Questions and remarks shall be limited to those relevant to the pending business. Members (and designees) shall address all remarks to the Chair.
2. Others – Decorum of persons other than Members shall be maintained by the Chair, who may request such assistance as may appear necessary. Persons

addressing the Commission shall first be recognized by the Chair and shall audibly state their name and address, and, if applicable, who they represent. Speakers shall limit their remarks to those relevant to the pending items and to answering questions. They shall address the Commission as a whole unless answering a question of an individual Member (or designee). Persons whose allotted time to speak has expired shall be warned by the Chair to conclude after which such person shall leave, unless he or she is asked to remain to answer questions from the Commission. The Chair shall call the speaker to order if out-of-order remarks are made or other indecorous conduct occurs. If such persists, the Chair shall rule the speaker out-of-order and direct the speaker to leave. Groups or a person in the audience creating an atmosphere detrimental or disturbing to the conduct of the meeting will be asked to leave by the Chair.

ARTICLE V

COMMITTEES

A. Open Meeting Requirement. Commission appointed committees and subcommittees shall comply with the open meeting requirements of the Virginia Freedom of Information Act.

B. Finance Committee.

1. **Charge.** This committee shall be responsible for advising the Commission on all financial matters and overseeing financial activities undertaken by the Commission, including:
 - a. Reviewing, commenting on, and recommending the annual budget and adjustments to the budget,
 - b. Recommending the Commission's financial policies (e.g., bond, investment, procurement, risk management, debit and credit card, direct debit, and small purchases) and making recommendations,
 - c. Monitoring the Commission's compliance with policies and procedures,
 - d. Reviewing financial statements, and
 - e. Working with the Auditor of Public Accounts in performing the annual audit.
2. **Membership.** The Committee shall consist of five (5) Members of the Commission appointed by the Chair for staggered two year terms.
3. **Chair.** The chair and the vice chair of the Committee shall be appointed by the Chair of the Commission.
4. **Staff Support.** Staff support may be requested by the committee chair from HRTAC personnel or VDOT, HRTPO, jurisdictional or other agency staff.

5. Quorum and Voting. A quorum shall consist of a majority (3) of the committee members. Approval of recommendations shall require an affirmative vote of a majority of the members present.

C. Funding Strategies Advisory Committee.

1. Charge. This committee of individuals shall be responsible for recommending funding strategies to build a program of projects identified by the HRTPO and the Commission.
2. Membership. The Committee shall consist of nine (9) individuals. The Chair shall appoint six (6) members who reside or are employed in counties and cities embraced by the Commission and who have experience in transportation planning, finance, engineering, construction, or management. Initially, half the members appointed by the Chair will serve a one year term. The other half will serve two year terms. Subsequently, members will serve three year terms. The Chair of the Commonwealth Transportation Board will appoint three (3) members of the funding strategies advisory committee and each of them will serve a three year term. Committee members appointed by the Chair may be removed by the Chair if the member fails to attend three consecutive meetings or no longer resides or is employed in a jurisdiction embraced by the Commission, or if the Chair receives a request for removal from the chief elected officer of the jurisdiction embraced by the Commission in which the member resides or is employed. Except for an employee who is also a Member of the Commission, no employee of any county or city embraced by the Commission shall be eligible to serve on this Committee.
3. Chair. The chair and the vice chair of the Committee shall be appointed by the Chair of the Commission.
4. Staff Support. Staff support may be requested by the committee chair from HRTAC personnel or VDOT, HRTPO, jurisdictional or other agency staff.
5. Quorum and Voting. A quorum shall consist of a majority (5) of the committee members. Approval of recommendations or actions shall require an affirmative vote of a majority of the members present, which shall include at least three of the members appointed by the Chair.

D. Regional Transit Committee.

1. Charge – This committee of individuals shall be responsible for advising the Commission on all matters regarding the management and disbursement of funds from the Regional Transit Fund.
2. Membership – The Committee shall consist of the Members of the Commission, subject to the taxes imposed pursuant to Section 58.1-802.4 of the Virginia Code and Section 58.1-1743 of the Virginia Code.

3. Chair – The chair and vice chair of the Committee shall be appointed by the Chair of the Commission.
4. Staff Support – Staff support may be requested by the committee chair from HRTAC personnel or Hampton Roads Transit, VDOT, DRPT, HRTPO, jurisdictional or other agency staff.
5. Quorum and Voting – A quorum shall consist of a majority of the committee members. Approval of recommendations shall require an affirmative vote of a majority of the members present.

E. D. Additional Committees. The Commission may, in its discretion, form such additional advisory committees as it may deem appropriate.

E. E. Ad Hoc Committees. As needed, the Chair of the Commission may appoint ad hoc committees to pursue specific tasks (e.g., nominating committee; personnel committee). In the absence of an appointed personnel committee, the Finance Committee shall be responsible for conducting the Executive Director's annual review, reviewing employee compensation and recommending adjustments thereto.

ARTICLE VI

ADMINISTRATION

A. Executive Director. The Commission shall employ or contract with an Executive Director who shall have direct authority for the employment, retention, and supervision of all of the other employees of the Commission. The Executive Director shall have direct control, subject to the oversight and authority of the Commission, of the management of the day-to-day administrative affairs of the Commission. The Executive Director shall propose activities to the Commission and shall carry out policies, programs and projects approved by the Commission, and shall be responsible for preparing and presenting the annual budget. The Executive Director may not contemporaneously serve as a member of the Commission.

B. Staff. The Commission may employ or contract for such staff of qualified professional and other persons as the Commission determines to be necessary to carry out its duties and responsibilities. Staff of the Commission may not contemporaneously serve as a member of the Commission.

C. Execution of Instruments. The Executive Director, on specific authorization by the Commission, shall have the power to sign or countersign in its behalf any agreement or other instrument to be executed by the Commission including checks and vouchers in payment of obligations of the Commission.

ARTICLE VII

FINANCES

A. Finances and Payments. The monies of the Commission shall be deposited in a separate bank account or accounts in such banks or trust companies as the Commission designates, and all payments (with the exception of those from petty cash) shall be made in the most practicable manner as determined by the Commission. Checks and drafts shall be signed and countersigned by the Chair (or, in the Chair's absence, the Vice Chair), and the Executive Director (or, in the Executive Director's absence, those authorized from time to time by vote of the Commission or, where the Vice Chair is acting solely as a countersigning party, the Vice Chair).

B. Audits. At least once each year, the Commission shall work with the Auditor of Public Accounts (APA) to have an audit to be made by an independent certified public accountant or by APA of all funds of the Commission.

C. Budget and Fiscal Year. After a duly convened public hearing held in accordance with the requirements of Virginia Code § ~~33.1-470(A)~~33.2-2605, the Commission shall adopt an annual budget for each fiscal year which budget shall provide for all of the revenues and the operating, capital, and administrative expenses of the Commission for the fiscal year. The fiscal year of the Commission will commence on July 1st each year and will terminate on the following June 30th. The annual budget for a fiscal year shall, except in the case of the Commission's first fiscal year, be adopted before such fiscal year begins. The Executive Director is authorized to administer the administrative budget approved by the Commission and may in the exercise of that authority, but subject to the advice and consent of the chair of the Finance Committee, implement adjustments to the amounts allocated to line items within the administrative budget, provided that, after giving effect to those adjustments, the aggregate amount of the administrative budget is equal to or less than the then applicable Commission-approved administrative budget.

D. Per Diem Payments. The Commission may pay its Members for their services to the Commission a per diem in either: (1) the amount provided in the general appropriations act for members of the General Assembly engaged in legislative business between sessions, or (2) a lesser amount determined by the Commission.

E. Bond of Officers and Others. The officers of the Commission and such employees as the Commission so designates, may, prior to taking office or starting contract or employment, respectively, be required by the Commission to give bond payable to the Commission conditioned upon the faithful discharge of that officer, contract employee or employee's duties, in such amount as the Commission may require. The premium for each such bond shall be paid by the Commission and the bond(s) shall be filed with the Commission.

ARTICLE VIII

AMENDMENTS

Any proposed amendment, repeal or alteration, in whole or in part, of these Bylaws shall be presented in writing and read for a first time at a regular meeting of the Commission. Such

proposal may be considered and amended at such meeting, but shall not be acted on by the Commission until a subsequent regular meeting or a special meeting called for the purpose. At such subsequent meeting, such proposal shall be read a second time, shall be subject to further consideration and amendment germane to the section or sections affected by such proposal, and shall thereafter be acted on in accordance with the voting requirements of these Bylaws.

ARTICLE IX

PROCEDURES

Parliamentary Procedure. In all matters of parliamentary procedure not specifically governed by these Bylaws or otherwise required by law, the current edition of *Robert's Rules of Order, newly revised*, shall apply.

Document comparison by Workshare 9 on Wednesday, June 10, 2020 7:11:50 PM

Input:	
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Description	#1692822v1< > - Copy of Second Amended and Restated HRTAC Bylaws for compare purposes
Document 2 ID	C:\NRPortb\ITCI\1692822_4.docx
Description	C:\NRPortb\ITCI\1692822_4.docx
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Legend:	
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Inserted cell	Light purple
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Moved cell	Light green
Split/Merged cell	Light yellow
Padding cell	Light grey

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Deletions	8
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	33

To: Chair Johnson and the other members of HRTAC

From: Kevin B. Page, Executive Director

Date: July 16, 2020

Re: Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network (a/k/a Master Tolling Agreement) – Resolution Authorizing Finalization, Execution and Delivery

Recommendation:

The MTA Advisory Committee Chair Johnson, Commission staff and its attorneys will provide a briefing on the terms of the Master Tolling Agreement (MTA) with recommendation for Commission approval of Resolution 2020-02.

Background:

The VDOT and HRTAC teams have negotiated substantially final versions of the Master Tolling Agreement and its exhibits. During deliberations, the HRTAC team enlisted the support and direction of the HRTAC Master Tolling Agreement Advisory Committee as appropriate. Since the June 18, Commission Annual Organizational meeting, the VDOT and HRTAC teams made substantial progress to resolve the open issues on the material terms. The VDOT team has presented the MTA to the CTB and sought approval for the Commissioner to execute the document. A copy of the substantially final MTA and its exhibits will be delivered to the Commission members before the July 16th meeting, together with information from counsel that briefs the Commission on the terms of the MTA and its exhibits. Resolution 2020-02 has been prepared for Commission consideration.

Fiscal Impact:

The Hampton Roads Express Lane Network has a conceptual estimate cost of \$939,672,593 to be constructed over time.

Suggested Motion:

Motion is to approve Resolution 2020-02; Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network (a/k/a Master Tolling Agreement); Approval of and Authorization to Execute and Deliver Master Agreement for Development and Tolling of the Hampton Roads Express Lanes Network.



July 16 Update re: Master Tolling Agreement

I. Introduction

- We will provide a briefing at the Commission meeting using this document, not a PowerPoint presentation.
- At the June 18th meeting, we highlighted two open areas in the negotiations:
 - The role of the Toll Policy Committee
 - VDOT's obligation in connection with certain events (Compensation Events) to compensate for lost toll revenue and increased tolling costs
- Below in Sections II and III we discuss how those open areas have been addressed
- Then, we will provide a brief overview of the exhibits using the attached Summary chart
- We will conclude by discussing Next Steps and any questions
- At the back of this document we have attached an updated version of the PowerPoint presentation from the June 18th meeting – this is furnished in case any member would like to review the broader summary.

II. Role of Toll Policy Committee; Process re: Approving Tolling Policies

- On June 18th, HRTAC and VDOT were at an impasse over the Toll Policy Committee:
 - VDOT asserted that the committee (membership of six; three appointed by Secretary of Transportation; three appointed by HRTAC) would have to approve modifications to the tolling policies;
 - HRTAC asserted a workaround was necessary to avoid the committee blocking a proper exercise of HRTAC authority
- The compromise is:
 - Toll Policy Committee will be purely advisory and its affirmative approval will not be required
 - However, to ensure the Commissioner of Highways is able to fulfill his or her statutory duties in respect of system safety and operations, the initial policies and modifications will be subject to the review process described below

- The Commissioner will review the policies and issue either an “Exception” or “No Exception” Notice; the Commissioner may not issue an Exception Notice unless he or she is able to reasonably demonstrate that the proposed policies, without modification, are reasonably likely to have a Material Adverse Effect on safety or operations, determined based on the following tests:
 - With respect to safety, the test (summarized) is whether the implementation of the policies would cause the crash rate, as compared with a five year average, to increase by more than 5%
 - With respect to operations, the test (summarized) is whether implementation of the policies would cause the “person throughput” in two or more System Segments (defined based on portions up to or between the interstate interchanges) for one or more peak periods, as compared with a baseline condition, to decrease by more than 5% (or a decrease of more than 10% in a single System Segment)
- If HRTAC disputes the Commissioner’s determination (and the parties are otherwise unable to resolve), HRTAC may seek a remedy in court; the court would be required to evaluate the Commissioner’s decision using a reasonableness standard of review (not arbitrary and capricious)

III. Compensation Events

- VDOT is obligated to compensate HRTAC for certain lost toll revenue and increased tolling costs if any of the following “Compensation Events” occur:
 - VDOT doesn’t have title to any parcel that the Department owns when the MTA is executed;
 - VDOT or the CTB orders the suspension of tolling on the HOT lanes or diverts traffic from the general purpose lanes onto the HOT lanes, excluding certain temporary orders for (a) emergency evacuations or traffic accidents, or (b) maintenance *except* as covered by the italicized provisions below;
 - Loss or impairment of (a) use of the facility (*e.g.*, vehicles are unable to access and use the facility and/or pay tolls relating to the use), or (b) HRTAC’s ability to impose or collect tolls relating to such use, in each case, that arises out of or results from:
 - VDOT’s breach of the MTA, negligence, illegal act, or willful misconduct;
 - VDOT maintenance activities that (1) *breach a specified maintenance protocol*, or (2) *relate to a Compensable Maintenance Event*

- A Compensable Maintenance Event (summarized) is triggered if there are maintenance activities, under the control of the Department, to the *GP* or *HOT* lanes that result in the closure (including, without limitation, individual lane closures) in a single direction of the general purpose lanes and/or HOT lanes within any System Segment for, in the aggregate:
 1. more than sixty (60) consecutive days, or
 2. more than one thousand eighty (1,080) hours during any one hundred eighty (180) day period, without counting the hours of closure between 10 p.m. and 4 a.m. toward such one thousand eighty (1,080) hours
 - However, if any such maintenance results from the negligence or misconduct of a third party not under the control of the Department, or any act of God (*e.g.*, an earthquake, hurricane, tsunami, tornado, flood, or other weather condition), then such maintenance would not constitute a Compensable Maintenance Event
 - The aggregation principle is applied to the maintenance activities within each applicable System Segment, so it includes only days or hours of maintenance within a specific System Segment (*i.e.*, work in other System Segments is not aggregated to determine the applicable days or hours)
 - The test is a threshold, so damages calculated based on the effects of the work in the System Segment continuing after the threshold has been reached
- The amounts that VDOT must compensate as “Commission Damages”, generally, equal the sum of (A) any adverse net cost impact plus (B) any adverse net revenue impact;
 - However, the amount payable in respect of the adverse net revenue impact is limited to the amounts needed and reasonably expected to be needed to:
 - (1) cure any breach under any Coverage Financing Covenants (defined below) and certain covenants customarily included in comparable TIFIA toll revenue financings;
 - (2) reimburse amounts that in connection with the Compensation Event were drawn from reserves or deposits established under the Revenues Waterfall to comply with Financing Covenants; and
 - (3) maintain compliance throughout the operating period (or periods) that is (or are) adversely affected by Compensation Event with the “Coverage Financing Covenants” – generally, those that pertain to debt service coverage ratio(s), or the funding, payment and deposits required in respect of the tolling operations and maintenance costs and the servicing of the toll-backed debt

IV. Overview re: Exhibits – See Summary attached

V. Next Steps

- Subject to approval, the Master Agreement and its exhibits will be finalized, executed and delivered
- VDOT will continue to work to finalize the preliminary cost estimates for the HREL
- HRTAC, PFM, Office of P3, and CDM Smith will continue with the development of the investment grade traffic and revenue study of the HREL
- In connection with this effort, HRTAC team will work with HRTAC board/members to adopt Initial Tolling Policies
- HRTAC will continue to develop the toll and HRTF-backed TIFIA loan(s) for HRBT
- HRTAC will engage bond underwriter services and continue to prepare for the Commission's authorized bond sale following approval of the MTA and issuance of the Notice to Proceed for HRBT

Summary re: Exhibits to Master Tolling Agreement

Ex.	Title	Purpose	Additional Comment
1	List of Standard Project Agreements re: HRB	<ul style="list-style-type: none"> Used merely to list the agreements that HRTAC has entered into with VDOT re: the High Rise Bridge expansion project 	
2	CTB Resolutions re: Express Lanes Network	<ul style="list-style-type: none"> Copies of the resolutions that the CTB has adopted re: the Express Lanes Network will be attached to the MTA 	
3	HRTPO Resolutions re: Express Lanes Network	<ul style="list-style-type: none"> Copies of the resolutions that the HRTPO has adopted re: the Express Lanes Network will be attached to the MTA 	
4	Definitions	<ul style="list-style-type: none"> The MTA uses certain terms (capitalized format) as “defined terms”; for these terms, the definitions exhibit sets forth the applicable definition 	
5	Implementation Map	<ul style="list-style-type: none"> This is a map that shows the entire layout of the proposed initial I-64/Hampton Roads Express Lanes Network; the map also identifies each component segment 	
6	Conceptual Scope and Estimate for HREL	<ul style="list-style-type: none"> This is a high level summary of the work required to construct the HREL and the related cost estimates 	
7	Intentionally Omitted	<ul style="list-style-type: none"> Initially, the parties contemplated an exhibit with this number; however, it was omitted and instead of renumbering all of the other exhibits, the parties decided to merely state that the exhibit has been intentionally omitted 	
8	Conceptual Funding Plan	<ul style="list-style-type: none"> This is a high level summary of HRTAC’s proposed funding plan for its existing projects, including the HREL (construction and initial implementation) 	

Ex.	Title	Purpose	Additional Comment
9	Standard Project Agreement for Funding and Administration (“ <u>SPA</u> ”)	<ul style="list-style-type: none"> The HREL will be constructed on a segment-by-segment basis; when project readiness is reached for a particular segment, HRTAC and VDOT will enter into a SPA that will address the terms and conditions upon which HRTAC will reimburse VDOT for the eligible project costs relating to the construction of that segment 	<ul style="list-style-type: none"> The model SPA is generally based on the model SPA that was used with the first five projects funded by HRTAC, but it has been updated to incorporate certain additional terms that were developed and implemented in connection with the HRBT expansion project
10	Additional High Rise Bridge Work	<ul style="list-style-type: none"> This is a summary of the additional work that VDOT and HRTAC have agreed will be added to the High Rise Bridge construction project; principally, the modification of the roadway and drainage infrastructure to accommodate the future conversion of the HOT lane shoulders to part-time shoulder HOT lanes 	<ul style="list-style-type: none"> The reason this is an exhibit to the MTA is because the costs of this work may become part of the HREL project costs if the existing project contingency for the HRB is insufficient to absorb the costs of the additional work; the total costs of this work are expected to be less than \$40 million; presently, VDOT anticipates the contingency will be sufficient
11	Intentionally Omitted	<ul style="list-style-type: none"> Initially, the parties contemplated an exhibit with this number; however, it was omitted and instead of renumbering all of the other exhibits, the parties decided to merely state that the exhibit was intentionally omitted 	
12	Tolling Operations and Maintenance Standards	<ul style="list-style-type: none"> This describes the standards that must be met by the party responsible for the Tolling O&M Duties under the MTA The document addresses the qualitative and quantitative standards for, among other things: <ul style="list-style-type: none"> ➤ operating the equipment used to capture transactions ➤ prompt delivery of transponder or video toll records to the 	<ul style="list-style-type: none"> Pre-Transition Date, VDOT must adhere Post-Transition Date, HRTAC must adhere (however, HRTAC will likely engage VDOT or a third party to manage)

Ex.	Title	Purpose	Additional Comment
		<p>applicable processor</p> <ul style="list-style-type: none"> ➤ HOV enforcement ➤ customer service 	
13	Maintenance Protocol	<ul style="list-style-type: none"> • VDOT is responsible for the roadway operations and maintenance work; this exhibit describes the annual and weekly plans that VDOT must share with HRTAC and the procedures that VDOT must follow 	<ul style="list-style-type: none"> • This is intended to provide HRTAC visibility into VDOT's plans and to set expectations re: use of best practices and efforts to minimize disruption
14	Form of Electronic Toll Collection Agreement	<ul style="list-style-type: none"> • VDOT operates the E-ZPass system on behalf of all toll road operators in the Commonwealth; • VDOT is the only provider: post-Transition Date, HRTAC must have an agreement with VDOT governing the terms upon which VDOT will provide the applicable services 	<ul style="list-style-type: none"> • This is a "program" agreement that all participants must execute; thus, it is substantially standardized across all participants; with that said, VDOT has accepted certain changes requested by HRTAC and, under the MTA, VDOT will commit to extend to HRTAC any favorable terms that VDOT may offer to other participants
15	Form of Violation Processing Services Agreement	<ul style="list-style-type: none"> • VDOT provides violation processing services for non-E-ZPass transactions; • VDOT is not the only provider of these services; • if HRTAC elects to engage VDOT to provide such services to HRTAC (post-Transition Date), this agreement sets forth the terms upon which VDOT would provide the applicable services 	<ul style="list-style-type: none"> • This agreement is also a "program" agreement with substantially standardized terms for all participants; with that said, VDOT has accepted certain changes requested by HRTAC and, under the MTA, VDOT will commit to extend to HRTAC any favorable terms that VDOT may offer to other participants
16	Tolling O&M Duties	<ul style="list-style-type: none"> • This describes the duties that must be performed by the party responsible to operate the tolling infrastructure and system 	<ul style="list-style-type: none"> •



Summary of Proposed Master Tolling Agreement

July 16, 2020*

*This Summary updates the information contained in the June 18, 2020 PowerPoint. The most material updates are highlighted.

Introduction

- **Parties:** HRTAC; VDOT; Commonwealth Transportation Board
- Framework agreement re:
 - Design/development of the initial HREL
 - vicinity of Jefferson Ave in Newport News, through HRBT and High Rise Bridge, to Bowers Hill
 - Building/Construction
 - Financing
 - Operations
 - Maintenance
- Now named Master Agreement for Development and Tolling (of HREL)
- Users of the HREL section of I-64 will always have access to free general purpose lanes
- If either CTB or HRTAC desires to toll other lanes on Interstate system or roadways within Hampton Roads improved with HRTAC funding or within Hampton Roads beltway, CTB and HRTAC to consult and evaluate addressing such lanes under the Master Agreement
- Unless the parties otherwise agree, no party shall enter into/award any concession relating to the HREL Project or the Express Lanes Network or any facet thereof, whether relating to construction, financing, operation, maintenance, or otherwise.

Principal Terms re: Design, Development and Construction

- Developed in phases
 - Initial plan begins with segment from Reversible HOT through High Rise Bridge
 - Then, core portion of HRBT
 - Followed by remainder
- VDOT has developed conceptual work and cost estimates and HRTAC has developed conceptual funding plan
- Parties to work cooperatively to develop definitive plans with phased implementation
- When all parties are prepared to design and construct a project element, they will use process similar to one with initial six projects
 - VDOT will lead procurement of goods and services required to complete the project element
 - VDOT will involve HRTAC in procurement process
 - HRTAC will update its funding plan
 - VDOT and HRTAC will prepare a Standard Project Agreement (SPA)
 - CTB and HRTAC board members will be presented with SPA for approval

Principal Terms re: Design, Development and Construction (cont.)

- Development efforts include three studies:
 - traffic and revenue (T&R) study
 - operations and maintenance cost study
 - operational analysis
- VDOT will afford HRTAC ability to participate in studies – specifications, parameters and assumptions must align with the requirements of the HRTAC financing activities
- HRTAC will have rights in the studies, necessary for HRTAC's financing activities
- T&R study completed in phases as information is developed
- First phase relates to investment-grade T&R study for HRBT which will be used for HRTAC's 2021 TIFIA loan re: HRBT
 - Initial Tolling Policies: HRTAC will have to adopt Initial Tolling Policies in the next few months to permit this study to be finalized in timely manner

Principal Terms re: Funding Plan

- Sources under HRTAC's conceptual funding plan:
 - Hampton Roads Transportation Fund (HRTF) revenues and proceeds of HRTF-supported debt, including TIFIA
 - Toll Revenues and proceeds of toll-backed debt, including TIFIA
 - HRTF to fund reserves re: capital maintenance and re: toll-backed debt service
 - VDOT/TFRA funding re: tolling O&M cost reserves
- HRTAC will impose the tolls and be the issuer of toll-backed debt (using powers under 2020 special legislation – HB 1438)
- HRTAC will finalize definitive funding plan and update over time
- VDOT and CTB to support HRTAC's efforts (but not be liable for HRTAC debt), including supporting efforts to pursue federal and state funding that may become available

Principal Terms re: Tolling Policies

- Reversible HOT – CTB policies apply until the first new segment is opened
- HRTAC sets the Initial Tolling Policies which will take effect* when the expansion of the network starts; the policies will principally:
 - establish hours (24/7 likely)
 - establish toll points and whether trip-building applies (consolidating multiple traveled segments into one transaction)
 - ~~allow for (and not adversely impact) safe operating conditions~~
 - be subject to the Commissioner's review process (re: safety/operations) described on the next slide
 - define and allow “Permitted Vehicles” (excluding Trucks) to use HOT lanes
 - specify toll rates (established using dynamic-pricing algorithm which selects applicable rate based on congestion level); must not be less than rate required by HRTAC's financing covenants
 - HRTAC will select baseline algorithm, taking into account recommendations from VDOT and traffic consultant
 - require each Permitted Vehicle to pay the applicable rate unless an exemption applies

*Once the network becomes operational and the Commission begins operating it, the network must be operated as HOT lanes for the term of the Agreement

Principal Terms re: Tolling Policies (cont.)

[Replacement Slide for Former Slide 9]

- Modifications to policies will be subject to a review process by a Toll Policy Committee
- Toll Policy Committee is solely an advisory committee and does not have power to block, introduce, repeal or revoke policies
 - 6 members; 3 appointed by HRTAC and 3 appointed by Secretary of Transportation
 - Potential for deadlock not an issue because approval not required
- As a compromise for converting the Toll Policy Committee into an advisory role, a process has been established for the Commissioner of Highways to review the initial policies and any modifications and assess whether they would have a Material Adverse Effect on safety or operations, applying two objective tests
 - See July 16 Update document for further discussion of the process and tests

Principal Terms re: Use of Toll Revenues & Toll-Backed Debt

- HRTAC has right to proceeds of toll-backed debt and toll revenues
- Debt proceeds are used to, *first*, procure and implement the tolling infrastructure and system, *second*, fund \$345 million of the HRBT Expansion Project or such greater amount as may be allocated under HRTAC's funding plan, and, *third* to fund other HREL Project Costs
 - To the extent HRTAC allocates more than \$345 million to the HRBT project, it will replace HRTF funding and that HRTF funding will be reallocated to other uses in the debt proceeds waterfall
- Toll revenues are used to, *first*, pay the costs of tolling O&M costs and required reserves, *second*, pay any debt service payments and/or reserves related to toll-backed debt, in each case as permitted by applicable law, *third*, fund an HREL Project Cost payment fund, and, *fourth*, reimburse VDOT for costs advanced from Toll Facilities Revolving Account

Principal Terms re: Use of Toll Revenues & Toll-Backed Debt (cont.)

- In each case, excess debt proceeds or toll revenues would be used in the following order to:
 - reimburse and supplant HRTAC monies that have been used, committed or scheduled to fund HREL network costs
 - fund other mutually agreed projects (including, without limitation, Bowers Hill and any other extension segments of the Express Lanes Network) as permitted by applicable law; and
 - for such other transportation-related costs permitted by applicable law and that the parties mutually determine are suitable
- After scheduled Toll-backed debt incurred, HRTAC generally may not incur additional debt without VDOT's consent until TFRA advances have been repaid
- Upon termination of the Master Agreement (and repayment of Toll-Backed Debt), remaining revenues will be distributed to HRTAC for use in accordance with law

Principal Terms re: Tolling Operation and Maintenance

- Pre/Post “Transition Date” distinction re: responsible operator for Tolling O&M Duties
 - Pre-Transition – VDOT
 - Post-Transition – HRTAC
- Transition Date is not later than the date that the network is operational at HRBT (could be earlier at HRTAC’s option)
- Responsible operator must perform per designated standards
- When HRTAC is operator, HRTAC may elect to subcontract performance of obligations to:
 - VDOT or third party
- Operator is responsible for O&M re: tolling infrastructure and system
 - Pre-Transition Date, VDOT bears operating risk by advancing funds out of TFRA; during this period, VDOT may cause incremental advances to be repaid out of excess toll revenues

Principal Terms re: Roadway Operations and Maintenance

- VDOT is responsible (at all times) for all roadway operations and maintenance
- VDOT must perform in accordance with standards it follows for Interstates and toll roads throughout the Commonwealth
- VDOT's O&M obligations include same snow, ice and debris removal and surface treatment services that VDOT performs for general purpose lanes
- Suspension of Tolling: VDOT has right to suspend tolling if use of HOT lanes required for emergency mass evacuation or to divert traffic due to (i) a significant traffic incident or emergency or (ii) an order from federal authorities (re: secret service, national security or homeland security purpose), or from state or local police forces (re: governmental security or public safety)
- Temporary Closure: VDOT also may order a temporary closure when reasonably required in connection with maintenance activities, provided that VDOT complies with a prescribed maintenance protocol

Principal Terms re: Revenue Stream Protections

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- Insurance: Protection re: third party action or act of God damaging roadway or system and, in turn, impairing revenue stream: HRTAC and VDOT will pursue insurance program which includes toll revenue interruption insurance (cost borne as Tolling O&M Cost, which is paid through toll revenues waterfall)
- Compensation Events: Protection re: VDOT activities, acts or omissions:
 - VDOT doesn't have title to any parcel that the Department owns when the MTA is executed;
 - VDOT or the CTB orders the suspension of tolling on the HOT lanes or diverts traffic from the general purpose lanes onto the HOT lanes, excluding certain temporary orders for (a) emergency evacuations or traffic accidents, or (b) maintenance except as covered by the bold provisions below;
 - Loss or impairment of (a) use of the facility (e.g., vehicles are unable to access and use the facility and/or pay tolls relating to the use), or (b) HRTAC's ability to impose or collect tolls relating to such use, in each case, that arises out of or results from:
 - VDOT's breach of the MTA, negligence, illegal act, or willful misconduct;
 - **VDOT maintenance activities that (1) breach a specified maintenance protocol, or (2) relate to a Compensable Maintenance Event**
 - See July 16 Update document for further discussion of Compensable Maintenance Events and the Damages relating to Compensation Events

Principal Terms re: Term of Agreement and Remedies for Breach

- Term: Expires ~~upon~~July 2080 or such earlier date that is the later of (i) the 50 year anniversary of execution or (ii) the 40 year anniversary of the date the final portion of the scheduled Toll-backed debt is issued
- Agreement is not terminable for breach
 - Parties may pursue damages and specific performance, subject to applicable cure periods and dispute resolution procedures
 - If HRTAC breaches and VDOT steps in to cure, VDOT entitled to recover (as a Tolling O&M Cost) its actual costs to cure
- If HRTAC engages VDOT to perform services (e.g., tolling O&M duties), such separate services agreement shall be terminable in accordance with its terms



**MASTER AGREEMENT FOR DEVELOPMENT AND TOLLING OF
HAMPTON ROADS EXPRESS LANES NETWORK**

Dated [●], 2020

among

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION,
as Commission

COMMONWEALTH TRANSPORTATION BOARD,
as Board

and

VIRGINIA DEPARTMENT OF TRANSPORTATION,
as Department

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¹ Clean up TOC once body provisions finalized.

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EXHIBITS

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**MASTER AGREEMENT FOR DEVELOPMENT AND TOLLING OF
HAMPTON ROADS EXPRESS LANES NETWORK**

This MASTER AGREEMENT FOR DEVELOPMENT AND TOLLING OF HAMPTON ROADS EXPRESS LANES NETWORK (this “Agreement”) is made and entered into as of [●], 2020 (the “Effective Date”), by and among the HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION (the “Commission”), a body politic and a political subdivision of the Commonwealth of Virginia; the VIRGINIA DEPARTMENT OF TRANSPORTATION (the “Department”), an agency of the Commonwealth of Virginia; and the COMMONWEALTH TRANSPORTATION BOARD, a board of the Commonwealth of Virginia (the “Board”), (each a “Party” and, together, the “Parties”).

RECITALS

WHEREAS, the Hampton Roads Bridge-Tunnel Expansion Project (the “HRBT Expansion Project”) is one of the most critical projects in the Commonwealth and is being funded predominantly by the Commission through a Project Agreement for Funding and Administration dated April 2, 2019 (the “HRBT PAFA”) between the Commission and the Department;

WHEREAS, the funding plan incorporated into the HRBT PAFA anticipates at least \$345,000,000 of the funds for the HRBT Expansion Project being sourced through toll-backed financing derived from HOT lanes (defined below) at such facility;

WHEREAS, the Interstate 64 Southside Widening and High Rise Bridge Phase 1 Project (the “High Rise Bridge Expansion Project”) is also a high priority project which is being funded predominantly by the Commission pursuant to certain Standard Project Agreements with the Department, which are more specifically described on Exhibit 1 (the “HRB Funding Agreements”);

WHEREAS, the Commission’s existing funding plan for regional projects also anticipates toll revenue from the HOT lanes developed through the High Rise Bridge Expansion Project;

WHEREAS, the facilities being developed as part of the HRBT Expansion Project and the High Rise Bridge Expansion Project are integrated into and connected by Interstate 64;

WHEREAS, a portion of Interstate 64 between such facilities, specifically between (i) the interchange of Interstate 64 and Interstate 564 and (ii) the interchange of Interstate 64 and Interstate 264, is presently tolled as HOT lanes (the “Reversible HOT Lanes Segment”)², the result of work undertaken by the Department (and funded out of the Commonwealth’s Toll Facilities Revolving Account (defined below)), to convert the reversible high-occupancy vehicle (“HOV”) lanes that existed on such portion of Interstate 64 into HOT lanes;

² **NTD:** Discuss whether this Reversible HOT Lanes Segment equates to “Segment 1”. If yes, modify to “Segment 1” for consistency.

WHEREAS, by resolution adopted January 15, 2020, the Board authorized advancing an additional \$28,000,000 from the Commonwealth's Toll Facilities Revolving Account to support the construction and tolling integration on Interstate 64 from Interstate 264 to the interchange of Interstate 664 and Interstate 264 (referred to as "Segment 2");

WHEREAS, the Board and the HRTPO (defined below) have determined, pursuant to the resolutions attached hereto as Exhibits 2 and 3, respectively, that it is in the best interests of the users of Interstate 64 in Hampton Roads to integrate the HOT lanes described above, whether now existing or contemplated, into a network of contiguous HOT lanes, in each direction, between the interchange of Interstate 64 and Jefferson Avenue in Newport News and the interchange of Interstate 64, Interstate 264 and Interstate 664 in the Bowers Hill section of Chesapeake, which ultimately would enable continuous HOT lane travel throughout such corridor (the foregoing, with the lane configurations described in Exhibit 5, the "Initial Interstate 64 Express Lanes Network" or "Initial Network");

WHEREAS, the actions of the Board and HRTPO with respect to such HOT lanes are predicated upon the continued existence of general purpose lanes that are parallel and adjacent to the HOT lanes so the users of Interstate 64 between Jefferson Avenue and Bowers Hill will continue to have a free means of travel in each direction throughout that corridor as an alternative to the HOT lanes;

WHEREAS, neither the (i) Department's advancement of the Applicable Revolving Account Costs nor (ii) the Commission's existing funding plan for the HRBT Expansion Project and the High Rise Bridge Expansion Project account for certain costs to construct and implement the Initial Interstate 64 Express Lane Network, which costs are more specifically described and defined below as the "HREL Project Costs";

WHEREAS, the HREL Project Costs are currently estimated to be approximately \$940,000,000, as demonstrated in Exhibit 6 (Conceptual Scope and Estimate for HREL Project);

WHEREAS, the Department's P3 Office has engaged CDM Smith to produce an investment grade traffic and revenue (T&R) study relating to the Initial Interstate 64 Express Lanes Network (the "T&R Study");

WHEREAS, the T&R Study, as supplemented from time to time, will provide traffic and revenue information that will be essential for developing and implementing a financing plan for the construction and implementation of the entire Initial Interstate 64 Express Lanes Network;

WHEREAS, the Board has been vested with tolling authority pursuant to Va. Code § 33.2-309, and the Commission has been vested with tolling authority in respect of the Initial Interstate 64 Express Lanes Network pursuant to Chapter 703 of the 2020 Acts of Assembly (H1438) (the "2020 Tolling Legislation");

WHEREAS, the Parties desire to enter into this Agreement and the ancillary agreements attached hereto to coordinate their efforts and actions with respect to, and to establish protocols and procedures to govern, among other things, (i) the procurement, financing, and delivery of the additional facilities to support the Initial Interstate 64 Express Lanes Network, including the design, construction, installation, testing and implementation of the Tolling Infrastructure and

System for the Initial Interstate 64 Express Lanes Network, (ii) the tolling policies applicable to the Initial Interstate 64 Express Lanes Network, (iii) the imposition, collection, and enforcement of tolls on the Initial Interstate 64 Express Lanes Network, (iv) the operation and maintenance of the Tolling Infrastructure and System, the HOT lanes and the applicable Interstate 64 facilities, and (v) the uses of Toll Revenues (defined below) and the proceeds of Toll-Backed Debt (defined below);

WHEREAS, without limiting the foregoing, the Parties (a) acknowledge that the Initial Interstate 64 Express Lanes Network constitutes the “facility” described in the 2020 Tolling Legislation, and (b) further desire for this Agreement and the ancillary agreements attached hereto to constitute the agreement required by the 2020 Tolling Legislation.

NOW, THEREFORE, in consideration of the covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1

DEFINITIONS, INTERPRETATION, AND PRECEDENCE; **REPRESENTATIONS AND WARRANTIES**

Section 1.01 Definitions

Unless the context otherwise requires, all capitalized terms and acronyms used in this Agreement have the meanings given in Exhibit 4.

Section 1.02 Interpretation

- (a) In this Agreement:
 - (i) headings are for convenience only and do not affect interpretation;
 - (ii) unless otherwise stated, a reference to any agreement, instrument, or other document is to such agreement, instrument, or other document as amended or supplemented from time to time in accordance with its terms;
 - (iii) a reference to this Agreement or any other agreement includes all Exhibits, schedules, forms, appendices, addenda, attachments, or other documents attached to or otherwise expressly incorporated into this Agreement or any such other agreement (as applicable);
 - (iv) subject to Section 1.02(a)(v) (Interpretation), a reference to an Article, Section, subsection, clause, Exhibit, schedule, form, or appendix is to the Article, Section, subsection, clause, Exhibit, schedule, form, or appendix in or attached to this Agreement, unless expressly provided otherwise;

(v) a reference in the main body of this Agreement, or in an Exhibit, to an Article, Section, subsection, or clause is to the Article, Section, subsection, or clause of the main body of this Agreement, or of that Exhibit (as applicable);

(vi) a reference to a person includes such person's permitted successors and assigns;

(vii) a reference to a singular word includes the plural and vice versa (as the context may require);

(viii) the words "including", "includes", and "include" mean "including, without limitation", "includes, without limitation" and "include, without limitation", respectively;

(ix) the word "or" is used in the inclusive sense of "and/or";

(x) an obligation to do something "promptly" means an obligation to do so as soon as the circumstances permit, avoiding any delay; and

(xi) in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" mean "to and including".

(b) This Agreement is not to be interpreted or construed against the interests of a Party merely because that Party proposed this Agreement or some provision of it, or because that Party relies on a provision of this Agreement to protect itself.

(c) The Parties acknowledge and agree that this Agreement has been prepared jointly by the Parties and has been the subject of arm's length and careful negotiation, that each Party has been given the opportunity to independently review this Agreement with legal counsel, and that each Party has the requisite experience and sophistication to understand, interpret and agree to the particular language of the provisions of this Agreement. Accordingly, in the event of any ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement will not be interpreted or construed against the Party preparing it simply as a consequence of preparing it, and instead the other applicable rules of interpretation and construction set out herein shall be used.

Section 1.03 Order of Precedence

(a) Except as otherwise expressly provided in this Section 1.03 (Order of Precedence), if there is any conflict between the provisions of this Agreement (including all Exhibits), the order of precedence will be as follows, from highest to lowest:

(i) amendments to the provisions of the main body of this Agreement;

(ii) the provisions of the main body of this Agreement and Exhibit 4; and

(iii) the provisions of the Exhibits to this Agreement, as amended, other than Exhibit 4.

(b) Additional or supplemental details or requirements in a provision of this Agreement with lower priority will be given effect, except to the extent that they irreconcilably conflict with any provisions of this Agreement with higher priority.

(c) To the extent this Agreement conflicts with the provisions of the HRBT PAFA, this Agreement will control.

Section 1.04 Representations and Warranties of the Board and the Department

Each of the Board and the Department hereby represents and warrants to the Commission as follows:

(a) The Board is a board of the Commonwealth, duly created under the Code of Virginia, and has full power, right, and authority to execute, deliver, and perform its obligations under, in accordance with, and subject to the terms and conditions of, this Agreement;

(b) The Department is an agency of the Commonwealth, and has full power, right, and authority to execute, deliver, and perform its obligations under, in accordance with, and subject to the terms and conditions of, this Agreement;

(c) each person executing this Agreement on behalf of the Board or the Department has been or at such time will be duly authorized to execute and deliver each such document on behalf of the Board or the Department, as applicable;

(d) the execution and delivery by the Board and the Department of this Agreement, and the performance of their obligations hereunder and thereunder, will not conflict with, and will not result, at the time of execution, in a default under or violation of, (i) any other agreements or instruments to which either is a party or by which it is bound or (ii) to its knowledge any Legal Requirement, where such violation would have a material adverse effect on the ability of the Board or the Department to perform its obligations under this Agreement;

(e) this Agreement has been duly authorized, executed, and delivered by each of the Board and the Department and constitutes a valid and legally binding obligation of the Board and the Department, enforceable against each of them in accordance with the terms hereof, subject to (i) bankruptcy, insolvency, reorganization, moratorium and other laws affecting the rights of creditors generally, (ii) principles of equity, whether considered at law or in equity, and (iii) sovereign immunity under the law of the Commonwealth of Virginia; provided, however, that, for the avoidance of doubt, sovereign immunity shall not bar an action to enforce a claim based on a breach of this Agreement presented in accordance with the law of the Commonwealth of Virginia;

(f) there is no action, suit, proceeding, investigation, or litigation pending and served on the Board or the Department which challenges the Board's or the Department's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement, or which challenges the authority of the Board or the Department official executing this Agreement, and

each of the Board and the Department has disclosed to the Commission any pending and unserved or threatened action, suit, proceeding, investigation, or litigation with respect to such matters of which the Board or the Department is aware; and

(g) each of the Board and the Department has taken or caused to be taken all requisite action to authorize the execution and delivery of, and the performance of its obligations under, this Agreement, and is otherwise in material compliance with all Legal Requirements applicable to the Commission or its activities in connection with this Agreement.

Section 1.05 Representations and Warranties of the Commission

The Commission hereby represents and warrants to the Board and the Department as follows:

(a) the Commission is a body politic and a political subdivision of the Commonwealth, and has full power, right, and authority to execute, deliver, and perform its obligations under, in accordance with, and subject to the terms and conditions of, this Agreement;

(b) each person executing this Agreement on behalf of the Commission has been or at such time will be duly authorized to execute and deliver each such document on behalf of the Commission;

(c) the execution and delivery by the Commission of this Agreement, and the performance of its obligations hereunder and thereunder, will not conflict with, and will not result, at the time of execution, in a default under or violation of, (i) any other agreements or instruments to which it is a party or by which it is bound or (ii) to its knowledge, any Legal Requirement, where such violation would have a material adverse effect on the ability of the Commission to perform its obligations under this Agreement;

(d) this Agreement has been duly authorized, executed, and delivered by the Commission and constitutes a valid and legally binding obligation of the Commission, enforceable against it in accordance with the terms hereof, subject only to (i) bankruptcy, insolvency, reorganization, moratorium and other laws affecting the rights of creditors generally, (ii) principles of equity, whether considered at law or in equity, and (iii) sovereign immunity under the law of the Commonwealth of Virginia; provided, however, that, for the avoidance of doubt, sovereign immunity shall not bar an action to enforce a claim based on a breach of this Agreement presented in accordance with the law of the Commonwealth of Virginia;

(e) there is no action, suit, proceeding, investigation, or litigation pending and served on the Commission which challenges the Commission's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement, or which challenges the authority of the Commission official executing this Agreement, and the Commission has disclosed to the Department any pending and unserved or threatened action, suit, proceeding, investigation, or litigation with respect to such matters of which the Commission is aware; and

(f) the Commission has taken or caused to be taken all requisite action to authorize the execution and delivery of, and the performance of its obligations under, this Agreement, and

is otherwise in material compliance with all Legal Requirements applicable to the Commission or its activities in connection with this Agreement.

ARTICLE 2

INITIAL INTERSTATE 64 EXPRESS LANES NETWORK; **ADDITIONAL TOLLED LANE(S)**

Section 2.01 Initial Interstate 64 Express Lanes Network

(a) The facility initially covered by this Agreement shall be the Initial Interstate 64 Express Lanes Network, including the [HRBT Segment]³, the Reversible HOT Lanes Segment, and the [High Rise Bridge Segment]⁴, which is the “facility” defined and described in the 2020 Tolling Legislation.

(b) The Parties acknowledge and agree that the users of the HRBT Segment, the Reversible HOT Lanes Segment, and the High Rise Bridge Segment will benefit from the construction of an integrated network of contiguous HOT lanes which enable continuous HOT lane travel throughout the corridor covered by the Initial Interstate 64 Express Lanes Network.

Section 2.02 Sequencing of Development and Implementation

(a) Notwithstanding the goal to implement a contiguous and continuous network of HOT lanes throughout the Initial Interstate 64 Express Lanes Network, the Parties acknowledge and agree that they will work collaboratively to mutually determine the most prudent manner to develop and open the Initial Interstate 64 Express Lanes Network and that it may be developed and opened to travel in phases, in non-contiguous segments, based upon, among other things, project readiness, project costs, projected operating expenses and toll revenues, and the terms and availability of funding.

(b) Subject to Section 2.02(a) (Sequencing of Development and Implementation) and Section 2.02(c) (Sequencing of Development and Implementation), the Parties presently anticipate sequencing the segments as follows (which segments are more specifically outlined on the Implementation Map attached as Exhibit 5):

- (i) the Reversible HOT Lanes Segment along Segment 1 (as shown in Exhibit 5);
- (ii) Segment 2, which includes the High Rise Bridge Segment;
- (iii) the HRBT Segment; and

³ **NTD:** Discuss whether this HRBT Segment equates to “Segment 3”. If yes, modify to “Segment 3” for consistency.

⁴ **NTD:** Discuss whether this High Rise Bridge Segment equates to “Segment 2”. If yes, modify to “Segment 2” for consistency.

(iv) other segments of the Initial Interstate 64 Express Lanes Network, with priority for any such segments that are designed to optimize the operational integrity of previously completed segments, including a part time shoulder lane adjacent to the Reversible HOT Lanes Segment along Segment 1 (as shown in Exhibit 5).

(c) The Parties acknowledge and agree that (i) the sequencing described above is a vision plan, except in the case of the HRBT Segment for which the financing under the HRBT PAFA relies on the implementation of tolling for the HRBT Segment, (ii) the completion of the HRBT Expansion Project, and the implementation of tolling for the HRBT Segment, shall at all times be primary considerations when balancing interests, and (iii) the Commission will assume the Tolling O&M Duties with respect to the Initial Interstate 64 Express Lanes Network no later than the first day that the HRBT Segment is ready to accept traffic and commence tolling operations (the “HRBT Segment Toll Day One”).

Section 2.03 Additional Tolled Lane(s)

(a) If either the Board or Commission desires to toll any lane, other than those lanes that are already part of the Initial Interstate 64 Express Lanes Network, on the Interstate system or other roadways within Hampton Roads that: (i) is part of a segment that has been expanded, constructed, or improved with Commission-Controlled Money or (ii) would be within the Hampton Roads Beltway, then the Board and Commission shall consult with each other in good faith and evaluate whether the tolling of such lanes should also be addressed under this Agreement (each such additional tolled lane an “Additional Tolled Lane” and, collectively, the “Additional Tolled Lanes”).

(b) If the Parties determine that any Additional Tolled Lanes should be addressed under this Agreement, the Parties will enter into a written amendment to this Agreement which addresses the Additional Tolled Lanes in a manner that is substantially consistent with the Initial Interstate 64 Express Lanes Network.

(c) When considering whether any Additional Tolled Lane(s) should be addressed under this Agreement, the Parties shall, among other things, (i) take into account all applicable studies and plans, including those by HRTPO, to determine the configurations of the system that optimize congestion relief and traffic throughput in the segments under consideration, and (ii) evaluate whether the failure to include or inclusion of such Additional Tolled Lane(s) would reasonably be expected to violate any of the Financing Covenants or otherwise have a material adverse effect on any debt obligation of the Commission.

ARTICLE 3

PROCUREMENT AND COMPLETION OF THE HREL PROJECT

Section 3.01 General Obligations of the Department

(a) Attached as Exhibit 6 is a conceptual-level summary of the scope of work and cost estimates needed to design, construct, and implement the Initial Interstate 64 Express Lanes Network (the “HREL Project”). The HREL Project includes the goods, services, and real

property rights that are required to implement the Initial Interstate 64 Express Lanes Network, but excludes the goods, services and real property rights:

(i) that are included in or will become part of the High Rise Bridge Expansion Project, the HRBT Expansion Project, or any other construction project that is already programmed under an existing funding agreement between the Department and the Commission;

(ii) that have been or will be provided by the Department with respect to the Initial Interstate 64 Express Lanes Network or any element or sub-element thereof using Toll Facilities Revolving Account funds made available by the Department, which are to be repaid by the Commission in accordance with this Agreement; and

(iii) that will be included as part of the Additional High Rise Bridge Work, except in the event and to the extent that such work is treated as a HREL Project Cost under Section 3.03 (Additional High Rise Bridge Work).

(b) Attached as Exhibit 8 is a conceptual-level summary of the Commission's funding plan for the projects currently contemplated by the Commission, including the HREL Project (the "Conceptual Funding Plan"). The Parties acknowledge that Exhibits 6 and 8 have been prepared merely as working drafts based upon limited, preliminary information and that a definitive project budget for the HREL Project (the "Definitive Project Budget") and a definitive funding plan (the "Definitive Funding Plan") must be prepared, finalized, and approved by the Department and the Commission, respectively, in a manner consistent with past practice and after all material information, including the T&R Study and the Tolling O&M Cost Study, is developed and evaluated (without limiting the foregoing, the T&R Study and the Tolling O&M Cost Study shall be completed and delivered in accordance with Section 3.05 (T&R Study, Operational Analysis and Tolling O&M Cost Study) below). The Department and the Commission will work collaboratively and in good faith to prepare the Definitive Project Budget and the Definitive Funding Plan as soon as reasonably practicable. The Parties will endeavor to structure the Definitive Project Budget and the Definitive Funding Plan in a manner that supports the phased implementation contemplated by Section 2.02 (Sequencing of Development and Implementation).

(c) At such time as the Parties are prepared to commence the design and construction of any element of the HREL Project, the Department and the Commission shall enter into a Standard Project Agreement for Funding and Administration, substantially in the form attached hereto as Exhibit 9, for such element (or sub-element), whereupon the Department shall procure all goods and services necessary to design and construct the applicable element of the HREL Project in accordance with (i) any and all applicable federal, state, and local laws and regulations, and (ii) all terms and conditions of the applicable Standard Project Agreement for Funding and Administration (each an "HREL SPA"), including all terms and conditions applicable to the Definitive Project Budget set forth therein. For the avoidance of doubt, the Department and the Commission intend to use a process that is substantially similar to the process used with the initial six projects funded by the Commission; specifically, for the applicable element (or sub-element) of the HREL Project, the following sequence of actions: (A) the Department and the Commission would prepare and, subject to Board and Commission

approval, enter into an HREL SPA for the preliminary work (e.g., preliminary engineering, cost estimation and environmental work), (B) if necessary, the Department would acquire the applicable right-of-way (which, for the avoidance of doubt, will be funded in accordance with the terms of the applicable HREL SPA), (C) the Department and the Commission would confer regarding the appropriate procurement method for project delivery, (D) the Department would initiate the procurement, prepare terms of the proposed project delivery agreement, and conduct the procurement to identify the selected contractor, (E) the Commission would take appropriate action to update the Definitive Funding Plan, (F) the Department and the Commission would prepare, and subject to Board and Commission approval, enter into the HREL SPA for project delivery, and (G) the Department would enter into the project delivery agreement.

(d) (i) The Department shall procure goods and services for the HREL Project in a manner that is consistent in all material respects with the policies, procedures and practices that the Department uses where the Commonwealth or the Department bears the cost of a project and operating risk. For example, the Department shall use its customary policies, procedures and practices relating to soliciting bids/proposals, negotiating/finalizing terms and conditions of contracts (using, where applicable, standard terms/forms).

(ii) Without limiting the foregoing or the terms of any applicable HREL SPA, each contract will establish liquidated damages for late completion (in an appropriate amount per day), with any liquidated damages assessed against a contractor for late completion being for the benefit of the Commission.

(e) Unless the Parties (including the Commission) otherwise expressly agree in writing, no Party shall enter into or otherwise award any Concession Agreement, whether initiated or to be implemented in accordance with the PPTA or otherwise, relating to the HREL Project or the Express Lanes Network or any facet thereof, whether relating to construction, financing, operation, maintenance, or otherwise. Each Party shall be entitled to withhold its approval of any Concession Agreement in its sole discretion; without limiting the foregoing, the Commission shall be entitled to withhold its approval if such agreement or arrangement could be reasonably expected to cause any of the Commission's bonds under the Definitive Funding Plan to be treated as taxable bonds or private activity bonds.

Section 3.02 Commission Involvement in Procurement Activities

The Department shall involve the Commission (through its Executive Director) in procurement activities relating to the HREL Project, provided, however, that the Commission shall undertake involvement in procurement activities within the reasonable times communicated by the Department so that the Commission does not delay any procurement activities. Upon the request of the Executive Director, the Department will include additional Commission representatives, such as officers, employees and/or consultants, in such procurement activities. If required by the Department, the Executive Director and each applicable Commission representative, before being granted access to confidential procurement information, shall enter into a non-disclosure agreement with the Department covering confidential information relating to the ongoing procurement or shall otherwise acknowledge and accept the duties and obligations applicable to Commission representatives under the Commission's non-disclosure agreement.

The Department will involve the Executive Director and the applicable Commission representatives by:

- (a) providing periodic updates regarding the status of the procurement process at reasonable intervals;
- (b) providing briefings to the Commission, as requested by the Executive Director; *provided* that the Department may conduct such briefings after briefing the Board on the same topics if the Department determines it must make such a briefing to the Board before making the requested briefing to the Commission;
- (c) providing the Executive Director and the applicable Commission representatives, in a manner consistent with past practice with the HRBT Expansion Project, an opportunity to participate in the development of, and provide feedback on, the terms of any applicable request for proposals or invitation to bid and any addenda or supplements thereto;
- (d) in the case of a request for proposals, providing the Executive Director (including applicable Commission representatives) an opportunity to participate in meetings with prospective or shortlisted offerors, review proposals, provide input to the Department's evaluation team, and observe the scoring of proposals (on a non-voting basis); and
- (e) providing the Executive Director (including applicable Commission representatives) with the opportunity to review and comment on drafts of, and receive a copy of the final, complete form of, any agreement relating to the goods and services procured (including all exhibits, appendices and attachments thereto).

Section 3.03 Additional High Rise Bridge Work

(a) The Department and the Commission acknowledge that the implementation of the HOT lanes in the High Rise Bridge Segment will require certain additional work, described on Exhibit 10 attached hereto (the "Additional High Rise Bridge Work"). The Department and Commission agree that any released or unused contingency reserve funds under the HRB Funding Agreements will be applied to fund the Additional High Rise Bridge Work, provided that the Department enters into a project agreement under which the Additional High Rise Bridge Work will be undertaken (the "Additional HRB Funding Agreement").

(b) If any such released or unused contingency reserve funds are insufficient to complete the Additional High Rise Bridge Work, then the unfunded portion of the Additional High Rise Bridge Work will be funded, *first*, to the extent the Department and the Commission identify (i) an unused and available contingency reserve under any other Initial Funding Agreement and (ii) any unused and available (to be confirmed and authorized by Board approval) SMARTSCALE award relating to the High Rise Bridge Expansion Project, from such reserve and award (if both exist the amounts drawn from each will be proportionate with the relative percentages of HRTF-Backed Funding and SMARTSCALE funds that supported the High Rise Bridge Expansion Project before adding the Additional High Rise Bridge Work), and, *second*, if necessary, as an HREL Project Cost.

(c) If any such released or unused contingency reserve funds exceed the funds needed to complete the Additional High Rise Bridge Work, then, to the fullest extent permitted by law, such excess funds shall be released and deobligated under the terms of the Additional HRB Funding Agreement and available to support the HREL Project Costs identified in the Commission's Definitive Funding Plan.

(d) For the avoidance of doubt, the application of any released or unused contingency reserve funds under the HRB Funding Agreements, to fund the Additional High Rise Bridge Work, will occur independently and separate from the applications of the Toll-Backed Debt proceeds and the Toll Revenues described in Section 6.02 (Proceeds Waterfall) and Section 6.03 (Revenues Waterfall), respectively.

Section 3.04 T&R Study, Operational Analysis and Tolling O&M Cost Study

(a) The Department has engaged CDM Smith to conduct, and CDM Smith has produced, preliminary traffic and revenue studies with respect to the Initial Interstate 64 Express Lanes Network. The Department shall provide the Commission with copies of such studies and related work papers. The Department shall use commercially reasonable efforts to cause CDM Smith to, as soon as practicable, prepare and finalize the T&R Study and deliver it to the Parties. The costs of the T&R Study shall be reimbursed to or borne as follows:

(i) With respect to costs of the T&R Study previously funded through advances from the Toll Facilities Revolving Account, those costs will be Applicable Revolving Account Costs and reimbursed in the manner provided below with respect to the reimbursement of Applicable Revolving Account Costs; and

(ii) With respect to the costs of the T&R Study incurred as part of the ongoing investment-grade traffic and revenue study, the Commission will bear those costs and make direct payments to CDM Smith.

(b) The Department has engaged Kimley-Horn to prepare and deliver an operational analysis with respect to the Initial Interstate 64 Express Lanes Network. The Department shall use commercially reasonable efforts to cause Kimley-Horn to, as soon as practicable, prepare and finalize the operational analysis (as so finalized, the "Operational Analysis") and deliver it to the Parties.

(c) The Department has engaged HNTB to prepare and deliver estimates of the Tolling O&M Costs (the "Tolling O&M Cost Study"). The Department shall use commercially reasonable efforts to cause HNTB to, as soon as practicable, prepare and finalize the Tolling O&M Cost Study and deliver it to the Parties.

(d) The Department will (i) afford the Commission the opportunity to participate with the Department in all material discussions with the contractors preparing the T&R Study, the Operational Analysis and the Tolling O&M Cost Study (each a "Toll Study" and, collectively, the "Toll Studies"), (ii) design the specifications, parameters and assumptions of the Toll Studies so that they align with the requirements of the Commission's financing activities (including, without limitation, any requirements of the Build America Bureau in connection with the Commission's TIFIA financing), (iii) not make any material modifications to the specifications,

parameters, and assumptions relating to any Toll Study without the Commission's consent, such consent not to be unreasonably withheld or delayed, and (iv) incorporate any modifications to any Toll Study that the Commission may reasonably request, including any modifications that are necessary to support the Commission's financing activities. However, the Department may engage the entity undertaking a Toll Study to run scenarios or perform other analysis in addition to that which the Commission directs, provided that (A) prior to such additional engagement, the Department consults with the Commission with respect to the desired analysis, (B) the terms of the engagement provide the Commission equal rights in the work product, (C) the Department pays for the incremental costs of such additional engagement, and (D) the engaged entity is directed to ensure that its completion of the additional engagement does not adversely affect its timely completion of the Toll Studies for the HREL Project.

(e) The Department shall cooperate with and support the performance of the work contemplated by this Section 3.04 (T&R Study, Operational Analysis and Tolling O&M Cost Study). By way of example and not limitation, the Department shall cooperate with the performance of traffic counts and shall supply information in its possession. The Parties acknowledge and agree that, in order to expedite the Commission's TIFIA financing relating to the HRBT Segment, each Toll Study may be completed in multiple parts or phases to ensure that the Toll Study in respect of the HRBT Segment is completed before September 30, 2020.

(f) The Department shall further take such action as may be reasonably necessary to cause the Commission to receive all rights with respect to each Toll Study that are necessary to enable the Commission to use and disclose such work product in connection with its financing activities (without limiting the foregoing, such rights shall be coextensive with the rights held by the Department therein).

Section 3.05 Funding of HREL Project

(a) The Conceptual Funding Plan contemplates, among other things, that the Commission will receive all Toll Revenues from the Initial Interstate 64 Express Lanes Network, that such Toll Revenues will be used as security for the Toll-Backed Debt, and that at least \$345,000,000 of the proceeds from such Toll-Backed Debt will be used to provide, and otherwise satisfy the Commission's obligations in respect of, the Commission-Funded Budget (as defined in the HRBT PAFA).

(b) The Conceptual Funding Plan further contemplates, among other things, that the Commission will use (i) Hampton Roads Transportation Fund revenues ("HRTF Revenues") and the proceeds of HRTF-backed debt and Toll-Backed Debt to fund, where lawful based on source, HREL Project Costs (which are inclusive of the Eligible Project Costs relating to procuring and implementing the Tolling Infrastructure and System), (ii) HRTF Revenues to fund certain reserves relating to capital maintenance and/or Toll-Backed Debt Service, (iii) funding from the Department and Toll Revenues to fund reserves relating to Tolling O&M Costs, and (iv) Toll Revenues to fund other items in the Revenues Waterfall.

(c) The Definitive Funding Plan will be prepared and finalized by the Commission and may be amended from time to time by the Commission in its discretion, provided that, before amending the facets of the Definitive Funding Plan that relate to the HREL Project, the

Commission will provide the Department not less than thirty (30) days' prior written notice of the proposed amendment and the opportunity to provide comments (if the Department advises the Commission that a proposed amendment is expected to adversely affect the design or construction schedule of any element of the HREL Project being performed contemporaneously with such amendment, the Commission will work in good faith with the Department to make reasonable adjustments to the proposed amendment).

(d) In furtherance of the implementation of the Definitive Funding Plan, and subject to the other terms and conditions of this Agreement, including Article 5 (Tolling Policy and Procedure), the Commission (i) shall be the issuer of all debt supported by the Toll Revenues, (ii) shall impose tolls in the Initial Interstate 64 Express Lanes Network, as further described in Section 5.01 (HOT Designation and Tolling Authority) below, and (iii) may take all actions it deems necessary or appropriate to pledge the Toll Revenues generated therefrom to support the Toll-Backed Debt.

Section 3.06 Cooperation Re: Funding Plan; TIFIA and Other Financing

(a) The Board and the Department shall reasonably support the Commission in its efforts to implement the Definitive Funding Plan, to obtain the Toll-Backed Debt, and to comply with applicable Financing Covenants; provided, however, that in connection therewith neither the Board nor the Department shall be required to agree to any provision that would cause the Commonwealth, the Board, or the Department to be liable for the Toll-Backed Debt or for any debt, covenant, or obligation of the Commission.

(b) Without limiting the foregoing, the Department will, when reasonably required (i) (A) negotiate and enter into a Direct Agreement with the United States Department of Transportation (and/or its agents or assigns) relating to the TIFIA loans (that the Commission will pursue in connection with the implementation of the Definitive Funding Plan), (B) supply all engineering and inspection reports that are held by (or under the control of) the Department, and deliver, in a form reasonably acceptable to the Department, certificates and opinions that may be required to consummate the closing of the applicable financings or to otherwise comply with the applicable Financing Covenants, and (C) provide assurances relating to the Department's responsibility for operations and maintenance that are consistent with the terms of this Agreement (which, for the avoidance of doubt, excludes any Tolling O&M Duties for which the Commission is responsible under the terms of this Agreement), and (ii) take such other actions as the Commission may reasonably request.

(c) In the event that application is made for federal or state funding or loans not previously available for the HREL Project, then the Department will, to the extent within its reasonable control, provide support to such application and, if any such funding or loans are awarded or otherwise become available, take action to satisfy conditions and comply with requirements of such funding or loans, in each case as may be reasonably requested by the Commission.

Section 3.07 FHWA Approvals

The Department and Commission will (a) collaborate to obtain any approvals and/or agreements that are required from the Federal Highway Administration with respect to the Initial Interstate 64 Express Lanes, and (b) each take such action, consistent with its roles and duties described in this Agreement, as may be necessary to comply with or facilitate compliance with such approvals and/or agreements and related federal Legal Requirements.

Section 3.08 Ownership of Express Lanes Network and Tolling Infrastructure and System

(a) The Department shall retain ownership of the Express Lanes Network and the Tolling Infrastructure and System even though the Commission will impose and collect tolls on the Express Lanes Network and possess the other rights set forth herein.⁵ For the avoidance of doubt, as the owner and operator of the roadway, the Department shall remain solely responsible for all environmental conditions relating to such real property and, without limiting the foregoing, as between the Department and the Commission, the Commission shall not under any circumstances constitute an owner or operator for purposes of any environmental Legal Requirement.

(b) The Department hereby grants to the Commission such rights with respect to the Express Lanes Network as may be necessary or expedient for the Commission to exercise its rights and perform its duties and obligations under this Agreement (by way of example and not limitation, such rights include (i) a license to use the Tolling Infrastructure and System, and (ii) a right to access the roadway after coordination with the Department in accordance with the Department's standard protocols, in each case to perform, directly or through one or more contractors, Tolling O&M Duties).

ARTICLE 4

TOLLING OPERATION AND MAINTENANCE

Section 4.01 Performance of Tolling O&M Duties

(a) The Tolling O&M Duties shall be performed initially by the Department and shall be transitioned to the Commission on the Transition Date, after which date the Commission shall be responsible for the Tolling O&M Duties. The “Transition Date” shall be the earlier of (i) the HRBT Segment Toll Day One, or (ii) if the Commission in its sole discretion elects to effect an earlier transition, a date selected by the Commission for such transition that is after Segment 2 Toll Day One but prior to the HRBT Segment Toll Day One.

(b) The Department or the Commission, as applicable, shall perform or cause to be performed the Tolling O&M Duties in accordance with the tolling operations and maintenance standards set forth of Exhibit 12; provided, however, that in each case the Department E-ZPass Back Office Operations shall be performed by the Department.

⁵ **Note to VDOT:** Subject to continuing review relating to tax exempt bond financing.

(c) With respect to the Tolling O&M Duties that the Department is responsible to perform before the Transition Date, the Department may contract for the provision of such services in a manner consistent with its past practice, provided that the Department will consult with the Commission, provide the Commission the opportunity to review and comment on solicitation documents and contracts prior to execution, and use commercially reasonable efforts to ensure such contracts contain: (i) provisions that allow the Department to unilaterally assign the contract to the Commission, and (ii) commercially reasonable termination provisions including, without limitation, the Department's right to terminate for convenience without undue termination compensation payable to the contractor.

(d) With respect to the Tolling O&M Duties, which the Commission is responsible to perform upon and after the Transition Date, the Commission may freely contract for the performance of such Tolling O&M Duties, which contracting may be effected with a third party or by entering into a mutually-agreeable contract with the Department under which the Department performs or causes the performance of the Tolling O&M Duties. The Commission shall provide to the Department a written statement on or before July 1, 2023 noting whether the Commission desires to enter into a contract with the Department under which the Department performs or causes the performance of the Tolling O&M Duties for the initial period of time immediately following the Transition Date. If the Commission fails to deliver a timely statement affirmatively requesting that the Department enter into such a contract with the Commission, then, unless the Parties otherwise agree, the Commission shall enter into such a contract with a third party for the performance of the Tolling O&M Duties. If the Commission contracts with the Department to provide the Tolling O&M Duties, the Department may subcontract for the provision of such services, provided that such subcontracting shall be (i) to a contractor that is fully qualified to provide such services, (ii) procured in a manner that permits the Department to assign the subcontract to the Commission (in the event the Department and the Commission agree to effect such assignment and assumption), and (iii) otherwise in accordance with the terms of the applicable contract between the Commission and the Department.

(e) The performance of the Tolling O&M Duties will be secured by reasonable cash reserves, to the extent required by the applicable Financing Covenants.

(f) Before the Transition Date, the Department shall make available to the Commission without cost or charge all personal property assets constituting, used or held for use (including, without limitation, spare parts and supplies) in the operation and/or maintenance of, the Tolling Infrastructure and System. (For the avoidance of doubt, the limitation regarding costs and charges does not limit the Commission's obligation to reimburse the Department for Tolling O&M Costs to the extent otherwise payable pursuant to this Agreement.)

Section 4.02 Department Responsibility for All Roadway Operations and Maintenance

(a) The Department shall be responsible to perform, at its sole cost and expense, all routine, emergency, and major highway, bridge, or tunnel operations and maintenance on Interstates in Hampton Roads (including, among other aspects of such facilities, both general purpose lanes and HOT lanes), including, without limitation, all required rehabilitation, reconstruction and replacement work (all such work, collectively, the "Roadway O&M Work"). The standards that the Department follows with respect to performance of the Roadway O&M

Work with respect to the HOT lanes in the Initial Network shall be consistent with the standards that the Department follows for Interstates and toll roads throughout the Commonwealth. For the avoidance of doubt, such operations and maintenance shall also include the same snow, ice and debris removal and surface treatment services that the Department performs or causes to be performed with respect to the general purpose lanes.

(b) The Department shall undertake, perform and complete all Roadway O&M Work in accordance with the protocol attached as Exhibit 13 (the “Maintenance Protocol”).

(c) In the event the Department determines that any Roadway O&M Work is necessary or advisable and that such work could reasonably be expected to adversely impact the use of the HOT lanes or the ability to impose and collect tolls thereon, the Department shall provide the Commission with a reasonably detailed plan for completing such Roadway O&M Work, including a planned timeline.

Section 4.03 Handling of Toll Revenues and Tolling O&M Costs Before Transition Date; Establishment of Reserves

(a) While the Department is responsible to perform the Tolling O&M Duties under Section 4.01(a), (i) the Department shall be entitled to apply the Toll Revenues that it collects during such period against the Department’s actual costs of performing the Tolling O&M Duties, (ii) if the Toll Revenues are not sufficient to cover such costs, the Department shall cause the excess costs to be advanced from the Toll Facilities Revolving Account (such additional funding, the “Incremental TFRA Funding”), and (iii) if such Toll Revenues exceed such costs, the excess Toll Revenues shall be used, *first*, to repay any Incremental TFRA Funding, and, *second*, as follows: (A) during the period before the Initial Tolling Policies Effective Date, in a manner consistent with the Department’s past practices and applicable law, and (B) from and after the Initial Tolling Policies Effective Date, in accordance with the Revenues Waterfall. If the Department’s actual costs of performing the Tolling O&M Duties are incurred in respect of a good or service that has a shared utilization between the performance of the Tolling O&M Duties and the performance of other Department duties (*e.g.*, a Department employee who is responsible to use a portion of his or her time to perform a function within the Tolling O&M duties and the remainder of his or her time to other Department duties), the Department shall use a commercially reasonable cost allocation methodology that is consistent with the methodology contemplated by the Tolling O&M Cost Study or that has otherwise been approved by the Commission, such approval not to be unreasonably conditioned, withheld, or delayed.

(b) At the Transition Date or at such time thereafter that the funding of operations and maintenance reserves for Tolling O&M Costs are first required by lenders, if and to the extent such reserves have not been funded, the Department will cause such reserves to be funded from the Toll Facilities Revolving Account. Such amounts will be reimbursable to the Department as an Applicable Revolving Account Cost.

ARTICLE 5

TOLLING POLICY AND PROCEDURE

Section 5.01 HOT Designation and Tolling Authority

The lanes comprising the Initial Interstate 64 Express Lanes Network have been, and throughout the term of this Agreement will be, designated as HOT lanes by the Board pursuant to § 33.2-502 of the Code of Virginia. Except as otherwise provided in Section 5.09 (Transitional Approach with Reversible HOT Lanes), the Initial Interstate 64 Express Lanes Network will be tolled under the authority of the Commission to impose and collect tolls for the use of the Initial Interstate 64 Express Lanes Network pursuant to the 2020 Tolling Legislation. The Parties hereby agree that, notwithstanding the fact that the Board is also vested with tolling authority, the Parties have determined to have the Commission exercise tolling authority over the Initial Interstate 64 Express Lanes Network on an exclusive basis, except as otherwise provided in Section 5.09 (Transitional Approach with Reversible HOT Lanes). Accordingly, except as otherwise expressly provided in Section 5.09, during the term of this Agreement the Board will not impose or collect tolls on the Initial Interstate 64 Express Lanes Network.

Section 5.02 Tolling Policies

(a) (i) Except as otherwise provided in Section 5.09 (Transitional Approach with Reversible HOT Lanes), the Commission will have the right and responsibility to set and implement the initial tolling policies for the Initial Interstate 64 Express Lanes Network (the “Initial Tolling Policies”). The Commission, with the Department’s support, will develop the Initial Tolling Policies in parts or phases as CDM Smith completes each part or phase of the T&R Study. The Commission will adopt the Initial Tolling Policies that are applicable to an applicable T&R Study before CDM Smith completes, but as part of a coordinated effort to finalize, that part or phase of the T&R Study. In that connection, the Commission and the Department will work collaboratively to develop Initial Tolling Policies that would not be reasonably likely to have a Tolling Policy Material Adverse Effect. Specifically, the Commission shall provide the Commissioner the data produced from a substantially final draft of such T&R Study, along with such T&R Study itself and written notice from the Commission that such information constitutes the substantially final draft, whereupon the Commissioner shall have twenty (20) business days to review such data and use it, together with the Department’s current operational analysis, to issue either (A) an “Exception Notice”, if the Commissioner is able to reasonably demonstrate from such data that the proposed policies, without modification, are reasonably likely to result in a Tolling Policy Material Adverse Effect, or (B) a “No Exception Notice” (the latter will be deemed to have been issued if the Commissioner does not issue either notice within the 20-business-day review period). If the data provided by the Commission reasonably requires modifications to the Department’s current operational analysis for the Commissioner to deliver an Exception Notice or No Exception Notice, the Commissioner may extend the 20-business-day period for a reasonable amount of time, not to exceed fifteen (15) business days. If the Commissioner issues an Exception Notice, he or she shall deliver with it (1) written findings and any supporting documentation demonstrating that the proposed policies,

without modification, would be reasonably likely to result in a Tolling Policy Material Adverse Effect, and (2) if feasible, recommended reasonable revisions, the adoption of which would result in the deemed issuance of a No Exception Notice. If the Commissioner issues such an Exception Notice and the Commission and the Department are unable to resolve any dispute with respect thereto (through negotiation or the escalation process set forth in Article 7), such dispute shall be resolved in accordance with the dictates (including the standard of review) set forth in Section 5.02(g)(vii).

(ii) As the Commission adopts each part or phase of the Initial Tolling Policies, it may, in its discretion update all previously adopted parts and phases, all of which, collectively, shall continue to constitute the Initial Tolling Policies. The Initial Tolling Policies will be effective and implemented on the first day that the first new segment (*i.e.*, a segment other than the Reversible HOT Lanes Segment) is opened (the “Initial Tolling Policies Effective Date”). The Commission, with the Department’s support, will take such action as may reasonably be required to obtain any applicable federal approvals or consents for the Initial Tolling Policies, and the Commission and the Department shall each take such action, consistent with their respective roles and duties described in this Agreement, as may be necessary to comply with or facilitate compliance with such approvals and/or consents. If, at the time the Commission endeavors to incur Toll-Backed Debt, the proposed Financing Covenants conflict with the Initial Tolling Policies, the Commission may adopt such modifications to the Initial Tolling Policies as the Commission may determine to be necessary or appropriate, subject to the written consent of the Department, such consent not to be unreasonably withheld, delayed, or conditioned.

(b) The Initial Tolling Policies shall:

(i) establish the hours of operation of the tolling on the Initial Interstate 64 Express Lanes Network;

(ii) establish toll points;

(iii) establish whether (or not) the Initial Express Lanes Network will employ trip-building as a feature of tolling;

(iv) comply with governing federal and Commonwealth laws and regulations, including 23 U.S.C. 166 (or any succeeding section);

(v) not be reasonably likely to have a Tolling Policy Material Adverse Effect, which condition shall be satisfied through the process described in Section 5.02(a);

(vi) define and allow only “Permitted Vehicles” to use the HOT lanes, which shall not include Trucks;

(vii) require each Permitted Vehicle using a tolled lane to pay the applicable toll rate unless an exemption applies (unless otherwise provided in the Tolling Policies, the high-occupancy vehicle exemption will be HOT-2);

(viii) to the extent permitted by law, exempt from tolls contractors that, at the direction of the Department or the Commission, are providing direct services to the Express Lanes Network (e.g., snow removal contractors, maintenance contractors, and other similar contractors); and,

(ix) prohibit the use of toll booths and require that tolling be effected through electronic means only.

(c) The Commission shall finish setting the Initial Tolling Policies no later than the first date there are operational, continuous, and contiguous HOT Lanes along and between the HRBT Segment and the High Rise Bridge Segment.

(d) After the Commission finishes setting the Initial Tolling Policies and incurs Toll-Backed Debt, the Commission may implement modified Tolling Policies at any time (and from time to time), provided that:

(i) the modified Tolling Policies do not contravene the Financing Covenants;

(ii) the Commission solicits an advisory endorsement from the Toll Policy Committee with respect to such modified Tolling Policies; and

(iii) except to the extent a Tolling Policies modification is required to prevent or cure a breach under the Financing Covenants (a "Required Tolling Policy Modification"), a No Exception Notice has been issued or deemed issued with respect to such modified Tolling Policies in accordance with Section 5.02(g) below.

(e) Notwithstanding anything to the contrary set forth in this Agreement:

(i) the Commission may implement a Required Tolling Policy Modification unilaterally, provided however, that prior to the implementation of a Required Tolling Policy Modification: (A) the Commission will use commercially reasonable efforts to provide to the Commissioner the details of the proposed modification to afford the Commissioner the opportunity to review and provide non-binding comments to the Commission with respect to the Required Tolling Policy Modification before the Required Tolling Policy Modification must be implemented (for the avoidance of doubt, the Commission may implement a Required Tolling Policy Modification without obtaining and/or addressing such comments), *and* (B) the Commission will solicit an advisory endorsement from the Toll Policy Committee with respect to such modified Required Tolling Policy Modification in accordance with Section 5.02(d)(ii) above;

(ii) in any event, the Commission may, in its sole discretion, implement modified Tolling Policies even though the Toll Policy Committee declines or fails to endorse such modified Tolling Policies (for the avoidance of doubt and without limiting the foregoing, the Toll Policy Committee is solely an advisory committee and shall not have the power to propose or introduce modifications to the Tolling Policies or to make, deny, repeal, or revoke any Tolling Policy).

(f) (i) The Chair of the Commission shall designate the chairperson of the Toll Policy Committee from one of the three (3) members that the Chair of the Commission has appointed to the Toll Policy Committee. The Commission may solicit an advisory endorsement with respect to proposed modified Tolling Policies by having the chairperson of the Toll Policy Committee call a special meeting upon not less than ten (10) days' written notice, which notice shall specify the time and place of the meeting.

(ii) Whenever the Toll Policy Committee is evaluating any proposed modification to the Tolling Policies, any member of the Toll Policy Committee may request reasonable toll-related analysis, which analysis will be procured as agreed by the Department and the Commission in accordance with law, performed by a duly qualified, independent third party and provided to all members of the Toll Policy Committee. The costs incurred in connection with such analysis shall be covered as a Tolling O&M Cost.

(iii) Advisory endorsements of the Toll Policy Committee shall require the approval of a majority of the members of the Toll Policy Committee present and voting. A quorum of the Toll Policy Committee shall consist of (A) not less than four (4) members of the Toll Policy Committee, which shall include at least two (2) members appointed by the Secretary of Transportation and two (2) members appointed by the Commission, or (B) three (3) members if less than two (2) members appointed by the Secretary of Transportation appear at two (2) consecutive meetings, which consecutive meetings must be not less than ten (10) business days apart.

(iv) The Toll Policy Committee shall comply with the open meeting requirements of the Virginia Freedom of Information Act.

(g) (i) With respect to proposed modifications to the Tolling Policies the Parties will collaborate as early as practicable and assist one another to assess the impacts of any proposed policies. Before implementing any modified Tolling Policies, the Commission will deliver to the Commissioner the proposed modifications and */operational analyses in a commercially customary form/ [and prepared substantially in accordance with the Department's then-current standards therefor]*.

(ii) Within sixty (60) days of receipt of the delivery of the proposed modifications to the Tolling Policies and operational analyses, the Commissioner must issue the Commission either an "Exception Notice" or a "No Exception Notice", and the latter will be deemed to have been issued if the Commissioner does not issue either.

(iii) If the Commissioner issues or is deemed to have issued a No Exception Notice, the proposed modifications to the Tolling Policies will become effective consistent with their terms.

(iv) The Commissioner may not issue an Exception Notice unless he or she is able to reasonably demonstrate that the proposed modifications to the Tolling Policies, without modification, are reasonably likely to result in a Tolling Policy Material Adverse Effect.

(v) Any Exception Notice must be delivered within the 60-day period and be accompanied by both (A) written findings of the Commissioner and any supporting documentation demonstrating that the proposed policies, without modification, would be reasonably likely to result in a Tolling Policy Material Adverse Effect, and (B) if feasible, recommended reasonable revisions, the adoption of which would result in the deemed issuance of a No Exception Notice.

(vi) Upon receipt of an Exception Notice, the Commission may either (A) modify the policies in accordance with the Commissioner's recommended reasonable revisions, if such revisions have been provided by the Commissioner, (B) request that the Commissioner engage in good faith discussions for a period of at least ten (10) days regarding mutually-acceptable revisions, or (C) dispute the Commissioner's finding using the dispute resolution procedures or through a court proceeding (which may be instituted without first using the dispute resolution procedures).

(vii) In the event the matter is submitted to a court for resolution, the court will apply a reasonableness (not an arbitrary and capricious) standard of review. If the court issues an order overturning or invalidating the Commissioner's action, a No Exception Notice will be deemed to have been issued.

(h) Within thirty (30) days of any modification to the Tolling Policies, the Commission shall provide to the Department a written explanation of the modification and the steps taken to implement such modification.

(i) For a period of ninety (90) days after the implementation of any Tolling Policies, either the Department or the Commission may request that such Parties meet and confer, after which request such Parties shall meet and confer, to consider potential refinements to the recently-implemented Tolling Policies; provided, however, that the Commission shall not have any duty or obligation to adopt and implement any potential refinement.

Section 5.03 Rate Methodology

(a) The Tolling Policies will specify the toll rates that may be applied from time to time, and the rate that is charged at any given time for any given segment shall be established using a dynamic-pricing algorithm which selects the applicable rate based on congestion level; provided, however, that, in no event shall the rate charged at any time be less than any rate required by the Financing Covenants.

(b) The baseline dynamic-pricing algorithm for the Initial Tolling Policies will be selected by the Commission in good faith taking into account the recommendations of the Department (relating to, among other things, safety) and the traffic consultant (relating to, among other things, compliance with the Financing Covenants).

(c) In exercising its right to impose and collect tolls, the Commission may impose, charge, collect, use, and enforce incidental fees and charges (by way of example and not limitation, reasonable administrative fees for account maintenance, account statements, and customer service, and fees, penalties, and interest for toll violations) of a type charged by toll road operators in the Commonwealth.

Section 5.04 E-ZPASS Compliance; Electronic Toll Collection Services

(a) The Party responsible to perform the Tolling O&M Duties (the Department or the Commission, as applicable) will use technologies and equipment approved for revenue operations by the E-ZPass Interagency Group (or any successor network thereof) or other interoperable tolling program supported by the Department to charge, debit, and collect tolls for actual vehicular use of the Express Lanes Network.

(b) No less than 120 days prior to the Transition Date, and effective as of the Transition Date, the Commission and the Department shall enter into an Electronic Toll Collection Services Agreement in substantially the form attached hereto as Exhibit 14. The Department will perform the Department E-ZPass Back Office Operations and will be reimbursed its costs (without any administrative fee or surcharge) in accordance with such agreement, whether the Department or the Commission performs the Tolling O&M Duties.

Section 5.05 Continuing Operations as HOT Lanes

Unless otherwise agreed by the Parties, once the Express Lanes Network becomes operational and the Commission begins operating it as HOT lanes under this Agreement, the Commission will continue operate the Express Lanes Network as HOT lanes for the term of this Agreement.

Section 5.06 Tolling Enforcement

(a) The Party performing the Tolling O&M Duties, the Department or the Commission, as applicable, will be responsible for HOT lanes enforcement and will perform such enforcement in accordance with § 33.2-503 of the Code of Virginia, or other applicable law (without limiting the foregoing, the Commission shall be considered a HOT lanes operator pursuant to Section 33.2-500 of the Code of Virginia).

(b) If the Commission elects to contract with the Department for violation processing services, it will enter into a Violation Processing Services Agreement with the Department in substantially the form attached hereto as Exhibit 15, and the Department will be reimbursed its costs (without any administrative fee or surcharge) in accordance with such agreement, such costs to be included as Tolling O&M Costs).

(c) In addition, the Commission shall bear ultimate responsibility for any costs associated with engaging police forces to provide HOT lanes enforcement on the Express Lanes Network (such costs to be included as Tolling O&M Costs). While the Department is performing the Tolling O&M Duties, the Department will contract with law enforcement for such enforcement. When Tolling O&M Duties are transitioned to the Commission, the Department, will, upon the request of the Commission, facilitate efforts to establish a similar agreement between the Commission and the applicable law enforcement entities.

Section 5.07 Suspension of Tolling

(a) The Department shall, in its sole discretion, have the right to order immediate suspension of tolling in the event any portion of the Express Lanes Network is required for use

as an emergency mass evacuation route. The Department shall lift any such emergency toll suspension as soon as the need for emergency mass evacuation ceases.

(b) If any portion of the Express Lanes Network is (i) designated for immediate use as any alternate route for diversion of traffic from another highway or from the general purpose lanes of Interstate 64 or (ii) temporarily closed to traffic in all lanes in one or both directions, in each case due to a significant traffic incident or emergency, then the Department shall have the right to order the immediate suspension of tolling in the direction(s) of any diversion. The Department shall lift any such order as soon as the need for such order ceases.

(c) The Department shall have the right to order the temporary closure of, and/or suspension of tolling on, any portion of the Express Lanes Network when reasonably required in connection with the performance of its maintenance activities, provided that such order and maintenance is in accordance with the Maintenance Protocol.

(d) None of the Commonwealth of Virginia, the Board, or Department shall have any liability to the Commission for the loss of any Toll Revenues or any increase in costs and expenses attributable to any suspension or closure described under subsections (a) through (c) above, provided that (i) such suspension or closure is effected in good faith in accordance with the terms of this Section 5.07 (Suspension of Tolling) and (ii) in the case of maintenance under subsection (c), the maintenance does not constitute a Compensable Maintenance Event.

(e) If the Department receives an order, request, notice, or demand from federal authorities, or from state or local police forces, the Department will have the right to close all or a portion of the HOT Lanes to the public for such period of time as may be necessary for (i) secret service, national security, and homeland security purposes and (ii) state or local police purposes relating to governmental security or public safety. The Department will have no liability to the Commission for the loss of Toll Revenues or the increase in costs and expenses attributable to any such event. The Department will lift any such closure as soon as the need for such order ceases.

(f) Each party will provide reasonable assistance to the other party in seeking any available reimbursement from federal sources for lost Toll Revenues and expenses incurred as a result of a suspension pursuant to Section 5.07(a) or (b) or a closure of the HOT lanes pursuant to Section 5.07(e) and for pursuing insurance coverage related thereto. If either the Commission or the Department receives reimbursement from federal sources for lost Toll Revenues as a result of actions taken in the preceding sentence, the proceeds of such reimbursement will be deposited into, and applied in accordance with, the Revenues Waterfall.

Section 5.08 Preservation of General Purpose Lanes

(a) The Parties agree at all times to comply with Virginia law, including the restrictions on tolling general purpose lanes in § 33.2-119 of the Code of Virginia.

(b) Without limiting the foregoing, unless the Parties otherwise expressly agree, the users of Interstate 64 between Jefferson Avenue and Bowers Hill (which, for the avoidance of doubt, runs through the Hampton Roads Bridge-Tunnel and across the High Rise Bridge) will at all times continue to have a free means of travel in each direction throughout that corridor as an

alternative to the HOT lanes. However, nothing in this provision shall be construed to negate the Department's right to close general purpose lanes when necessary to accommodate the performance of maintenance activities, including when such closure constitutes a Compensation Event.

Section 5.09 Transitional Approach with Reversible HOT Lanes

- (a) Until the Transition Date, the Reversible HOT Lanes will be tolled under the authority of the Board.
- (b) Until the Initial Tolling Policies Effective Date, the Board will set the tolling policies applicable to the Reversible HOT Lanes, which policies shall be substantially consistent with the policies in place as of the Effective Date.

Section 5.10 Opportunity to Receive Beneficial Terms

The Electronic Toll Collection Agreement and the Violations Processing Services Agreement are programmatic agreements offered to counterparties by the Department as standard terms, not subject to substantive negotiations. However, if at any time or from time to time after the date hereof (including after the Department and the Commission enter into the Electronic Toll Collection Agreement), the Department enters into an Electronic Toll Collection Agreement under terms that are more favorable to the counterparty (as compared to the Commission) than the contract terms set forth in either Exhibit 14 or the Electronic Toll Collection Agreement then in place between the Department and the Commission, the Department will notify the Commission of, and offer to the Commission, such more favorable terms, whereupon the Commission may elect to either incorporate the more favorable provisions into its Electronic Toll Collection Agreement with the Department, or remain with its then-current provisions. If a new toll facility becomes operational within the Commonwealth and the Department and the operator of such facility enter into an Electronic Toll Collection Agreement, the Commission may request, and the Department will provide, written verification that the terms of the applicable Electronic Toll Collection Agreement are no more favorable to the counterparty (as compared to the Commission) than the contract terms set forth in Exhibit 14 (or if the Department is unable to provide such verification, it will provide the Commission notice and an offer in accordance with the terms set forth above). However, if any more favorable provisions are offered to third parties in exchange for other related provisions that benefit the Department, the Commission shall incorporate the related provisions if it elects to incorporate the corresponding more favorable provisions.⁶ Except for *de minimis* variances in the applicable fees, all of the foregoing principles and processes shall apply with regard to the Violation Processing Services Agreement to the extent the Commission and the Department become parties to such agreement, whether in the form of Exhibit 16 or as such agreement may be modified from time to time.

⁶ Concept is to prevent cherry picking if a favorable provision is connected to a different provision that benefits VDOT.

ARTICLE 6

TOLL REVENUES AND TOLL-BACKED DEBT PROCEEDS

Section 6.01 Legal Limitations on Uses of Toll Revenues; Procurement of Toll-Backed Debt

(a) This Agreement is governed by applicable state and federal laws restricting the use of toll revenues, including (without limitation) Va. Code § 33.2-309, 23 U.S.C. §§ 129 and 166, and the terms of the memorandum of understanding between the Department and the Federal Highway Administration (“FHWA”) related to the tolling of the Express Lanes Network. The Department shall provide to FHWA any certifications required of a State agency under 23 U.S.C. § 166.

(b) The Commonwealth of Virginia, the Board, and the Department shall have no liability for any Toll-Backed Debt or any other sum secured by or accruing under any financing agreement entered into by the Commission as a result of this Agreement. No document evidencing Toll-Backed Debt shall contain any provisions whereby a trustee or other person would be entitled to seek payment of such Toll-Backed Debt from the Commonwealth of Virginia, the Board, or the Department or any damages or other amounts from the Commonwealth of Virginia, the Board, or the Department relating to any breach by the Commission.

(c) Each bond, promissory note, or other document evidencing Toll-Backed Debt must include a conspicuous recital on its face stating: (i) payment of the principal and interest does not constitute a claim against the Department’s interest in the Express Lanes Network, or any part thereof; (ii) payment of the principal and interest is not an obligation of the Commonwealth of Virginia, the Board, the Department, or any other agency, instrumentality, or political subdivision of the Commonwealth of Virginia (including not being an obligation of the Commission’s member jurisdictions), moral or otherwise; and (iii) neither the full faith and credit nor the taxing power of the Commonwealth of Virginia, the Board, the Department, or any other agency, instrumentality, or political subdivision of the Commonwealth of Virginia (including that the Commission’s member jurisdictions full faith and credit and taxing powers are not so pledged) is pledged to the payment of the principal and interest on the Toll-Backed Debt. Nothing herein shall preclude the Commission from making any clarifications to the foregoing recital that may be reasonably necessary to address any liability of the Commission itself.

(d) Each bond, promissory note, or other document evidencing Toll-Backed Debt must also include an affirmative statement to the effect that such obligation is secured solely by and payable solely from the Toll Revenues, and, as applicable, amounts held in the funds and accounts established under the financing documents, and the trustee and bondholders have no rights by lien or otherwise against the Department’s title to or real property interest in the Express Lanes Network or any other facilities owned by the Department.

Section 6.02 Proceeds Waterfall

(a) The Commission shall have the exclusive right, title, entitlement, and interest in and to all net proceeds of any Toll-Backed Debt, provided, however, that such net proceeds shall be used solely as follows (the “Proceeds Waterfall”):

- (i) *first*, to procure and implement the Tolling Infrastructure and System;
- (ii) *second*, to fund the Covered Costs of the HRBT Expansion Project pursuant to the then-current funding plan that the Commission has adopted (and, if applicable, amended/updated) with respect to its programmed projects, with the amount of such funding being \$345,000,000 or such greater amount of Toll-Backed Debt that may, subject to the Balancing Principle, be allocated by the Commission to such Covered Costs;
- (iii) *third*, for HREL Project Costs not already funded pursuant to paragraph first;
- (iv) *fourth*, to (A) reimburse and supplant Commission-Controlled Moneys that have been used, or may be committed or scheduled for use, to fund the eligible cost of the design and construction of the Express Lanes Network (including, without limitation, the cost of the design and construction of HRBT Expansion Project, the High Rise Bridge Expansion Project, and the other components of the Express Lanes Network), which supplanting may be effected by any means permitted by applicable law and applicable Financing Covenants, or (B) fund other mutually agreed projects (including, without limitation, the Bowers Hill Project and any other extensions of the Express Lanes Network) as permitted by applicable law; and
- (v) *fifth*, subject to applicable law and applicable Financing Covenants, for such other purposes as the Parties mutually approve.

Section 6.03 Revenues Waterfall

(a) The Commission shall have the exclusive right, title, entitlement, and interest in and to all Toll Revenues upon and after the Initial Tolling Policies Effective Date, provided, however, that such Toll Revenues shall be used solely as follows (the “Revenues Waterfall”):

- (i) *first*, to pay the Tolling O&M Costs and to fund and maintain any reasonable operations and maintenance reserves required by lenders, to the extent such amounts are not satisfied pursuant to Section 6.02(a) (Proceeds Waterfall);
- (ii) *second*, to pay any Toll-Backed Debt Service and to fund and maintain reserves (including, without limitation, any debt service reserve fund deposits) related to Toll-Backed Debt required by lenders, in each case as permitted by applicable law;
- (iii) *third*, to a HREL Project Cost payment fund;

(iv) *fourth*, to reimburse the Department for the Applicable Revolving Account Costs;

(v) *fifth*, to (A) supplant Commission-Controlled Moneys that have been used, or may be committed or scheduled for use, to fund the eligible cost of the design and construction of the Express Lanes Network (including, without limitation, the cost of the design and construction of HRBT Expansion Project, the High Rise Bridge Expansion Project, and the other components of the Express Lanes Network), which supplanting may be effected by any means permitted by applicable law and applicable Financing Covenants, or (B) fund other mutually agreed projects (including, without limitation, the Bowers Hill Project and any other extensions of the Express Lanes Network) as permitted by applicable law; and

(vi) *sixth*, subject to applicable Financing Covenants, remaining funds held under the indenture (or other appropriate instrument) may be used for other transportation-related costs permitted by applicable law, such as transit, that contribute to congestion relief and that the Parties determine by mutual agreement to be suitable for funding.

(b) The Proceeds Waterfall and/or Revenues Waterfall may be modified by an amendment authorized, approved, executed and delivered by the Department and the Commission. The Department agrees to consider in good faith modifications that may be reasonably requested in connection with finalizing the terms of the Toll-Backed Debt.

(c) If upon termination of this Agreement and the full repayment and satisfaction of the Toll-Backed Debt there are remaining revenues available for distribution, such remaining revenues shall be distributed to the Commission for use in accordance with applicable law.

Section 6.04 Balancing Principle; Substitution of Source

The parties will cooperate with the intent to maximize the proceeds of the TIFIA loans that the Commission will pursue in connection with the implementation of the Definitive Funding Plan. As part of such cooperation, at the Commission's request, the HRBT PAFA project budget (*i.e.*, Exhibit 3 to the HRBT PAFA) will be modified to allocate more than \$345,000,000 of Toll-Backed Debt proceeds to the Commission's obligations in respect of the Commission-Funded Budget (as defined in the HRBT PAFA). In such event, the Toll-Backed Debt in excess of \$345,000,000 will displace a portion of the \$3,208,469,581 of funding sourced from, or supported by, the Hampton Roads Transportation Fund ("HRTF-Backed Funding") identified in the HRBT PAFA project budget. Accordingly, the Commission, as a balancing principle (the "Balancing Principle"), will allocate to the uses contemplated by the Proceeds Waterfall clauses (to the extent legally permitted) *third*, *fourth* and *fifth* (and in that same order of priority) an amount of HRTF-Backed Funding equal to the difference between (i) the amount of Toll-Backed Debt actually allocated to the Commission's obligations in respect of the Commission-Funded Budget (as defined in the HRBT PAFA) and (ii) \$345,000,000.

Section 6.05 Reports and Accounting; Financial Models

(a) Prior to the Transition Date, the Department shall generate and deliver to the Commission monthly reports with respect to the operational portions of the Initial Interstate 64 Express Lanes Network, which monthly reports will include all monthly reports generated or received by the Department in the normal course of operations. The Department shall maintain in reasonable detail and in accordance with its customary accounting practices, consistently applied, books, records and accounts with respect to its performance of the Tolling O&M Duties, and the Department shall provide the Commission with such additional information in the Department's possession as the Commission may reasonably request from time to time.

(b) No more than once per year the Commission, or an accounting firm engaged by the Commission, may inspect the Department's records for the sole purpose of assessing the Department's compliance with the financial terms of this Agreement relating to performance of the Tolling O&M Duties. Such inspection shall be performed during normal business hours and in accordance with the Department's customary procedures for such activity. *[The cost of such inspection shall be borne as a Tolling O&M Cost.]*

(c) (i) The Commission has delivered to the Department the initial and most recent drafts of the financial model that the Commission has provided to the United States Department of Transportation in connection with the closing of the first TIFIA loan that the Commission will pursue in connection with the implementation of the Definitive Funding Plan. At any time before the closing of such TIFIA loan or any subsequent TIFIA loan related to the Express Lanes Network, the Commission will deliver to the Department the most recent version of the financial model that the Commission has delivered to the United States Department of Transportation at approximately the same time that the Commission provides such model to the United States Department of Transportation.

(ii) Before the closing of each TIFIA loan, the Commission will deliver to the Department the financial model used as the Base Case Financial Model for purposes of closing.

(iii) Thereafter, the Commission will deliver to the Department, at approximately the same time that it is provided to the United States Department of Transportation, any annual updates to the Base Case Financial Model(s).

Section 6.06 Compensation Events

(a) Compensation Event Notice.

(i) If the Commission is affected by a Compensation Event, it will give written notice to the Department within 30 days following the date on which the Commission first became aware (or should have become aware, using all reasonable due diligence) that an event has occurred and that it is or will become a Compensation Event (a "Compensation Event Notice"). The Compensation Event Notice will set forth (A) the Compensation Event and its date of occurrence in reasonable detail, (B) the amount claimed as Commission Damages and (C) details of the calculation thereof including a

written analysis and calculation of the estimated Net Cost Impact, if any, and estimated Net Revenue Impact, if known at that time; provided, however, that, if the amount of Commission Damages and details of the calculation thereof are not available within the 30-day notice period required in this Agreement, the Commission may submit an estimate of the amount, or if known, the actual amount claimed as Commission Damages and details of the calculation thereof no later than 60 days from submission of the Compensation Event Notice; provided, however, that the Commission may update the amount of claimed Commission Damages and details thereof every 30 days.

(ii) After the Commission submits a Compensation Event Notice, the Department may, but is not required to, obtain, at its sole cost, (A) a comprehensive report as to the Commission's estimate of the Net Cost Impact attributable to the Compensation Event and (B) from a traffic and revenue consultant a traffic and revenue study, prepared in a commercially reasonable manner, analyzing and calculating the estimated Net Revenue Impact attributable to the Compensation Event. Within 90 days after receiving a Compensation Event Notice and the supporting documentation required by Section 6.06(a)(i) (Compensation Events), the Department will provide to the Commission a copy of such reports as it has elected to obtain. If the Department disagrees with the entitlement to or amount of Commission Damages claimed by the Commission, the Commission and Department will commence good faith negotiations to resolve the dispute within 120 days after the delivery of the Compensation Event Notice. If the dispute cannot be resolved within such 120 days, either party may submit the dispute for resolution pursuant to Article 7.

(b) Commission Damages Determination.

(i) "Commission Damages" with respect to any Compensation Event will equal the sum of (A) any adverse Net Cost Impact for each year that there is an impact attributable to such Compensation Event plus (B) any adverse Net Revenue Impact for each year that there is an impact attributable to such Compensation Event; provided, however, that the amount payable in respect of such adverse Net Revenue Impact shall not exceed the sum of the amounts that are needed and are reasonably expected to be needed to (1) cure any breach under any Financing Covenant, provided that such Financing Covenant is a Coverage Financing Covenant or a covenant of the type customarily included in recent (*i.e.*, within last five (5) years) and comparable TIFIA toll revenue financings (*i.e.*, revenue risk public-private partnership financings), (2) reimburse amounts that in connection with the Compensation Event were drawn from reserves or deposits established under the Revenues Waterfall to comply with Financing Covenants (including, without limitation, reserves for Tolling O&M Costs and Toll-Backed Debt Service), and (3) maintain compliance with the Coverage Financing Covenants throughout the operating period (or periods) that is (or are) adversely affected by Compensation Event.

(ii) To avoid duplication of recovery, the Commission Damages (A) will be net of (1) all applicable net insurance proceeds payable to the Commission with respect to the Compensation Event, except as any payment of such insurance proceeds is affected by the bankruptcy or insolvency of the provider of such insurance, which net insurance

proceeds will be determined after deducting any retention or deductible absorbed or borne by the Commission, and (2) all applicable net amounts actually recovered by the Commission from any third party with respect to claims asserted by the Commission against such third party based on their fault with respect to the corresponding Compensation Event, and (B) will include (x) all costs of asserting claims for such insurance proceeds, and any increased insurance premium resulting from any such claims, provided that any increased insurance premium resulting from any such claim is certified in writing by the insurance provider of the Commission prior to payment by the Department, and (y) all costs of asserting any such third party claims.

(iii) The Commission will conduct all discussions and negotiations with the Department to determine any Commission Damages and will share with the Department all data, documents and information pertaining thereto. As part of such negotiations, the parties will continue to refine and exchange plans, drawings, configurations and other information related to the Compensation Event, traffic and revenue data, information, analyses and studies and financial modeling and quantifications of projected Net Cost Impacts and Net Revenue Impacts, if any.

(iv) If the Commission and the Department are unable to agree upon the amount of the Commission Damages within 75 days after the delivery of the Compensation Event Notice, then either party, by written notice to the other party, may terminate the negotiations and request the dispute be resolved in accordance with Article 7, provided that the Department will proceed to make payment to the Commission of the undisputed portion of the Commission Damages in accordance with Section 6.06(c) (*Compensation Events*) without regard to the dispute resolution procedures.

(v) The Commission will not be entitled to Commission Damages that are *de minimis*.

(c) Compensation Event Payment. Following a determination of the Commission Damages pursuant to Section 6.06(b) (*Compensation Events*), the Department will compensate the Commission for such Commission Damages in such manner as agreed upon by the parties in writing or as may be determined through the dispute resolution procedures set forth in Article 7; provided, that:

(i) in the case of any lump sum payment of the Commission Damages or any other payment schedule that differs from the projected timing of the Commission Damages, the net present value of the Commission Damages will be determined using the then appropriate risk adjusted discount rate(s), as agreed between the Department and the Commission;

(ii) in the case of any payment method chosen other than an up-front lump sum payment or a payment that is based on the projected timing and amounts of the Commission Damages, the payment method will yield an amount that will be equal to the present value of a lump sum payment, using appropriate risk adjusted discount rate(s) as agreed by the parties;

(iii) the amount and timing of payment of Commission Damages related to a Compensation Event shall in any event take into account the ability of the Commission to have funds available in such time and in such amounts as are required to make current payments to third parties.

Section 6.07 Limitation on Additional Toll-Backed Debt

The Parties acknowledge that the Commission's Definitive Funding Plan will rely upon Toll-Backed Debt proceeds to fund the costs described in the *first, second and third* tiers of the Proceeds Waterfall, which Toll-Backed Debt proceeds will be sourced from at least two TIFIA loans (one relating to the HRBT Expansion Project and another relating to the HREL Project) (the Toll-Backed Debt that, in the aggregate, is required to fund all such costs is the "Scheduled Toll-Backed Debt"). After the Scheduled Toll-Backed Debt is incurred, the Commission will not incur additional Toll-Backed Debt unless (i) before or in connection with the closing of transaction by which such additional Toll-Backed Debt is incurred the Department has received or will receive repayment in full of the Applicable Revolving Account Costs, (ii) the additional Toll-Backed Debt relates to a refinancing of the Scheduled Toll-Backed Debt that reduces the Commission's debt service obligations in respect of the Scheduled Toll-Backed Debt and would not reasonably be expected to delay the timing for repayment of the Applicable Revolving Account Costs, or (iii) the Department otherwise consents in writing to the Commission incurring the additional Toll-Backed Debt. The Department will not unreasonably withhold or delay its consent if the Commission is able to reasonably demonstrate that the obligations in respect of the repayment of the additional Toll-Backed Debt would not reasonably be expected to adversely affect the timing for repayment of the Applicable Revolving Account Costs.

Section 6.08 Contractor Acts

If the Commission is adversely affected by and/or suffers damages arising out of the negligence, illegal act, or willful misconduct of any Department contractor ("Contractor Act"), then, in addition to any other remedies available to the Commission against such contractor, at the Commission's request, the Department will assert on behalf of the Commission (to the extent the Contractor Act constitutes a breach of its contract with the Department or a tort claim that the Department, based on its rights or legal status, may more effectively assert), or otherwise support the Commission in asserting, claims against the contractor in respect of such Contractor Act and, to the extent that the Department obtains a recovery against the contractor in respect of such Contractor Act and the recovered damages or portions thereof are reasonably allocable to the Commission's claims or damages suffered by Commission (the "Commission Share"), the Department will assign or otherwise transfer to Commission the Commission Share of the recovered damages.

ARTICLE 7

DISPUTE RESOLUTION

Section 7.01 Disputes under the Agreement

(a) The Parties agree to use reasonable efforts to promptly resolve any dispute under this Agreement pursuant to this Section 7.01 (Disputes under the Agreement).

(b) If any dispute arises in relation to any aspect of this Agreement, the Parties shall consult in good faith in an attempt to come to an agreement. If the dispute cannot be resolved through such consultation, then, upon the request of either Party, the Chair of the Commission and the Commissioner shall meet as soon as possible, but in no event later than sixty (60) days after such request is made, to attempt to resolve such dispute. Prior to any meeting(s) between the Chair of the Commission and the Commissioner, the Parties will exchange relevant information that will assist the Parties in resolving the dispute or disagreement. If the Chair of the Commission and the Commissioner determine that the dispute cannot be resolved to the mutual satisfaction of both Parties within sixty (60) days after their consultation and attempt to come to an agreement (or such other period as they may mutually agree), despite their good faith efforts, then a Party may file a legal action pursuant to Section 7.01(c) (Disputes under the Agreement) below.

(c) All litigation between the Parties arising out of or pertaining to this Agreement shall be filed, heard, and decided in either the Circuit Court for the City of Richmond, Virginia, Division I or the Circuit Court for the City of Chesapeake, Virginia, which courts will have exclusive jurisdiction and venue. Satisfaction of the procedures set forth in this Section 7.01(c) (Disputes under the Agreement) shall be a condition precedent to instituting a legal action in court except with respect to legal action seeking injunctive or equitable relief on an emergency basis.

(d) Pending final resolution of any dispute the Parties will continue to fulfill their respective obligations under this Agreement.

(e) No Party will seek or accept an award of attorneys' fees or costs incurred in connection with the resolution of a dispute pursuant to the provisions of this Section 7.01(c) (Disputes under the Agreement).

(f) THE PARTIES HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THAT ANY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, PROCEEDING, COUNTERCLAIM OR DEFENSE BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN ANY CONNECTION WITH THIS AGREEMENT, OR WITH RESPECT TO ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO RELATING TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ALL PARTIES ENTERING INTO THIS AGREEMENT. THIS PROVISION APPLIES ONLY TO CLAIMS, ACTIONS AND SUITS BETWEEN THE PARTIES ARISING OUT OF OR RELATED TO THE AGREEMENT AND

DOES NOT APPLY TO THIRD-PARTY CLAIMS, ACTIONS OR SUITS. Each of the Parties (i) certifies that no representative, agent, attorney or any other person has represented, expressly or otherwise, that such other person would not, in the event of any suit, action or proceedings relating to this Agreement, seek to enforce the foregoing waiver and (ii) acknowledges that it has been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this Section 7.01(f) (Disputes under the Agreement).

ARTICLE 8

TERM

Section 8.01 Term of Agreement

(a) This Agreement shall be effective as of the Effective Date and, unless otherwise extended in the manner provided below, expire on the earlier of the following (the “Scheduled Expiration Date”):

(i) the later of (x) the fifty (50) year anniversary of the Effective Date, and (y) the forty (40) year anniversary of the date on which the final portion of the Scheduled Toll-Backed Debt was incurred; and

(ii) June 30, 2080.

(For the avoidance of doubt, if the Scheduled Toll-Backed Debt is refinanced, the maturity date of the refinanced debt shall not result in a further extension of the term of this Agreement.)

(b) At least two (2) years before the Scheduled Expiration Date, the Parties shall meet and confer to evaluate the congestion mitigation strategy and transportation needs of the region served by the Commission, and to work collaboratively to determine whether tolls will continue to be imposed on the Express Lanes Network.

(c) The following provisions shall survive any expiration or mutually agreed termination of this Agreement: (i) Section 1.01, Section 1.02, Section 1.03, Section 3.08(a), Section 6.03(c), Section 7.01, Section 8.01(c), Section 10.05, Section 10.10, Section 10.11, Section 10.12; and (ii) in each case with respect to events occurring before the expiration or termination of this Agreement: Section 5.07(f), Section 6.06, and Section 6.08.⁷

ARTICLE 9

NONCOMPLIANCE AND REMEDIES

Section 9.01 Breach

(a) If a Party is in breach of any material representation, warranty, covenant, obligation, agreement, term or condition of this Agreement, any non-breaching Party may

⁷ Note to VDOT: Subject to review.

provide written notice of breach to the breaching Party, specifying in reasonable detail the nature of the breach. If the Department or the Board alleges that the Commission has breached the provisions hereof relating to modifications to the Tolling Policies, the notice shall specifically state that allegation.

(b) Within thirty (30) days of receipt of written notice of breach, the alleged breaching Party will notify the non-breaching Parties whether it disputes the claim of breach or will commence and diligently pursue a cure for such breach.

(c) Any dispute with respect to the existence of a breach shall be resolved in accordance with Article 7.

(d) The breaching Party shall cure its breach as promptly as practicable. Except in the case of an Intentional Policy Modification Breach, the breaching party shall be afforded a reasonable cure period. The cure period shall be forty-five (45) days following the date of receipt of written notice of breach or such longer period as may be reasonably necessary to cure the breach up to a maximum cure period of one hundred eighty (180) days; provided, with respect to the extension, (i) the breaching Party is proceeding with all due diligence to cure or cause to be cured such breach, (ii) the breach is capable of being cured within a reasonable period of time, and (iii) the breach is in fact cured within such period of time.

(e) In the case of an Intentional Policy Modification Breach, whether before or after the Transition Date, there will be no cure period and the step in remedies described in Section 9.02(d) (Available Remedies) will be available to the Department immediately upon written notice to the Commission (the Department will use commercially reasonable efforts to provide at least twenty-four (24) hours' notice to the Commission that the Department is exercising such remedy).

Section 9.02 Available Remedies

(a) The Parties acknowledge and agree that termination of this Agreement is not a remedy for breach, but, except as otherwise provided below, each Party may otherwise seek any and all other remedies available under applicable law, including monetary damages and/or specific performance. (For the avoidance of doubt, the ancillary agreements attached to this Agreement or contemplated hereby may include rights of termination and nothing herein shall be deemed or construed to be a limitation of a Party's right to terminate an ancillary agreement in accordance with its terms.)

(b) In addition after the Transition Date (and including before the Transition Date in the case of an Intentional Policy Modification Breach), if the Commission is the breaching Party and fails to cure the breach within the applicable cure period, then the Department shall have the right (but not obligation) to step in and cure such breach and recover its actual costs to cure the breach (without any administrative fee) as a Tolling O&M Cost, which right, if exercised, shall constitute an exclusive remedy with respect to such breach. The Department shall discontinue its actions with respect to the cure when the cure has been effected or such earlier time that the Commission provides the Department with adequate assurance, to the Department's reasonable

satisfaction, that the Commission may effect the cure in a timely manner without the Department's assistance.

ARTICLE 10

MISCELLANEOUS

Section 10.01 Operations and Maintenance

(a) The Department shall be responsible for, and shall perform at its own cost and expense and without the use of any Toll Revenues or the proceeds of any Toll-Backed Debt (or any other financial contribution from the Commission), the Roadway O&M Work. In addition, if the Commission elects to contract with the Department for the Tolling O&M Duties, the Commission will reimburse the Department for the Tolling O&M Costs with funds sourced at the levels described in Section 6.02 (Proceeds Waterfall) and/or Section 6.03 (Revenues Waterfall).

Section 10.02 Signage; Naming Rights

(a) The Department, consistent with its customary practices, will install signs informing the public of, among other things, the direction and distance to the HOT Lanes in order to give sufficient notice of, and safe access to, the HOT Lanes. In connection therewith, the Department, in consultation with the Commission, will develop a signage plan. Such signage plan shall include all notices and information required under applicable Legal Requirements and, consistent with its customary practices, extend to arterial roadways.

(b) The Department also will install within the HOT Lanes (i) consistent with applicable Legal Requirements and its customary practices, traffic management and safety signs, and (ii) such additional signs relating to the use or operation of the HOT Lanes as the Commission may reasonably request (the cost of such signs requested by the Commission shall be covered as a Tolling O&M Cost).

(c) Upon the Commission's request, which may be made from time to time, the Department and the Commission will evaluate the sufficiency of the signage and the Department will make such modifications as may be reasonably necessary.

(d) Subject to any contrary action by the General Assembly, the public name for the HOT Lanes shall be the "Hampton Roads Express Lanes" and no Party shall declare or designate any other name for the HOT Lanes, such as an "in memoriam" name, without the consent of all of the Parties.

Section 10.03 Insurance

The Department and the Commission shall work cooperatively to establish a commercially reasonable insurance program for the Commission with respect to its activities and its interest contemplated by and described in this Agreement, the cost of which shall be a Tolling O&M Cost. Without limiting the foregoing, the Parties specifically acknowledge and agree the Commission will obtain and maintain insurance in coverage amounts and types, as determined

by the Commission, against interruption or loss of projected Toll Revenues (“Toll Revenue Interruption Insurance”); provided, however, that if any such insurance is not, or ceases to be, available on a commercially reasonable basis, such as, by way of example and not limitation, because of the nature of the Commission’s interest and the insurability thereof, then the Department shall use commercially reasonable efforts to obtain insurance coverage types and amounts identified by the Commission, provided, further, that, the Department’s costs to obtain and maintain such insurance shall be reimbursed as a Tolling O&M Cost, except to the extent the Department already has a policy in place insuring an interest independent of the Toll Revenues under which coverage benefitting the Commission may be added by rider or similar addendum or modification to existing coverage, in which case the Department will be responsible for the costs that are fairly attributable to the coverage that it maintains for its own benefit, and the Commission will be responsible for the incremental cost for the Department to obtain and maintain the additional coverage that is for the Commission’s benefit. In the event that the Department obtains insurance coverage for the Commission’s benefit and material premiums are due in advance in respect thereof, the Department may elect to request the Commission to pre-pay any insurance premium attributable to the Commission, and if so requested, the Department will not have any duty to pay such insurance premium unless first pre-paid by the Commission. In the event that the Department obtains insurance coverage for the Commission’s benefit, the applicable policies will include such endorsements as the Commission may reasonably request (including named insured status where possible), to ensure that the Commission receives the exclusive benefit of the insurance proceeds payable under each Toll Revenue Interruption Insurance policy and that the Commission’s rights with respect to claims thereunder are maximized and are not adversely affected by acts or omissions by the Department or third parties, whether under principles of subrogation or otherwise. Notwithstanding anything to the contrary set forth herein, if the Department is liable to the Commission with respect to any insured claim, the provisions hereof stating that the insurance costs will be treated as Tolling O&M Costs shall not limit the Commission’s recourse against the Department with respect to such claim.

Section 10.04 Assignment

This Agreement shall not be assigned by any Party unless express written consent is given by the other Parties.

Section 10.05 Notices

All notices under this Agreement shall be in writing and forwarded to the other Party by U.S. mail, care of the following authorized representatives:

If to the Commission:

Hampton Roads Transportation Accountability Commission
723 Woodlake Drive
Chesapeake, Virginia 23320
Attention: Executive Director and Chair of the Commission

With copies to (which shall not constitute notice):

The office of record of the Commission's general counsel

If to the Department or the Board:

Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219
Attention: Commissioner of Highways

With copies to (which shall not constitute notice):

Office of the Attorney General
202 North 9th Street
Richmond, Virginia 23219
Attention: Transportation Section Chief

Section 10.06 Modification or Amendment

(a) This Agreement may not be modified or amended, except pursuant a written agreement that is duly authorized, executed and delivered by the Parties or, in the case of an amendment pursuant to Section 6.03(b) (*Revenues Waterfall*), by the Department and the Commission.

Section 10.07 Engagement of Counsel

If, in connection with the work, the Department engages outside legal counsel approved by the Office of the Attorney General (as opposed to utilizing the services of the Office of the Attorney General), the Department will give the Commission notice of the engagement so as to ensure that no conflict of interest may arise from any such representation (the Department also shall ensure that such engagements are consistent with the practices and terms that the Department uses where it is solely responsible for project costs).

Section 10.08 No Personal Liability or Creation of Third Party Rights

This Agreement shall not be construed as creating any personal liability on the part of any officer, member, employee, or agent of any of the Parties. No provision of this Agreement shall inure to the benefit of, or be enforceable by, any third party, including any creditor of either Party.

Section 10.09 No Agency

(a) The Department and Board represent that they are not acting as a partner or agent of Commission.

(b) Nothing in this Agreement shall be construed as making any Party a partner or agent of any other Party.

Section 10.10 Governing Law

This Agreement is governed by the laws of the Commonwealth of Virginia, without regard to conflict of law principles.

Section 10.11 Sovereign Immunity

This Agreement shall not be construed as a waiver of any Party's sovereign immunity rights.

Section 10.12 Severability

If any provision in this Agreement is rendered void or invalid, the Parties agree to negotiate in good faith appropriate amendments to, or replacement of such provisions, to restore and carry out the original purposes to the extent practicable. If any provision is rendered void or invalid, all remaining provisions shall survive.

Section 10.13 Counterparts

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Master Tolling Agreement as of the date first written above.

[SIGNATURE PAGES TO FOLLOW]

HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION,
a body politic and a political subdivision of the Commonwealth of Virginia

[●]

Hampton Roads Transportation Accountability Commission Chair

Date: _____

*[Signature Page to Master Agreement for Development and Tolling
of Hampton Roads Express Lanes Network]*

COMMONWEALTH TRANSPORTATION BOARD

The Honorable Shannon Valentine
Secretary of Transportation

Date: _____

*[Signature Page to Master Agreement for Development and Tolling
of Hampton Roads Express Lanes Network]*

VIRGINIA DEPARTMENT OF TRANSPORTATION

Stephen C. Brich, P.E.
Commissioner of Highways

Date: _____

*[Signature Page to Master Agreement for Development and Tolling
of Hampton Roads Express Lanes Network]*

EXHIBIT 1

List of Standard Project Agreements Re: HRB

1. Interim Project Agreement between the Department and the Commission dated April 16, 2015 (UPC 106692).
2. Standard Project Agreement between the Department and the Commission dated November 9, 2015 (sic) (UPC 106692).
3. First Amendment to Standard Project Agreement for Funding and Administration between VDOT and HRTAC dated October 20, 2017 I-64 Southside Widening and High Rise Bridge – Phase I (UPC 106692/108990) (Clarified that the date of the Standard Project Agreement was an error and amended and replaced the date with November 2, 2016)
4. Amendment to Interim Project Agreement and Standard Project Agreement between VDOT and HRTAC dated June 6, 2018 Relating to I-64 (Southside) Widening and High Rise Bridge Phase I (Tax Covenants for Bond Funded Projects) (UPC 106692)
5. Amendment to Interim Project Agreement and Standard Project Agreement between VDOT and HRTAC dated August 30, 2018 Relating to I-64 (Southside) Widening and High Rise Bridge Phase I (Float Down) (UPC 106692)

EXHIBIT 2

CTB Resolutions Re: Express Lanes Network

EXHIBIT 3

HRTPO Resolutions Re: Express Lanes Network



**HAMPTON ROADS TRANSPORTATION PLANNING ORGANIZATION
BOARD RESOLUTION 2020-04**

**A RESOLUTION OF THE HAMPTON ROADS TRANSPORTATION PLANNING ORGANIZATION
ENDORsing I-64 REGIONAL EXPRESS LANES AS A COMPONENT OF THE REGIONAL
PRIORITY PROJECTS.**

WHEREAS, the Hampton Roads Transportation Planning Organization (HRTPO) identified a suite of Regional Priority Projects from the 2040 Long-Range Transportation Plan (LRTP) and submitted those projects to the Hampton Roads Transportation Accountability Commission (HRTAC) for funding from, among other sources, moneys associated with the Hampton Roads Transportation Fund (HRTF); and

WHEREAS, it is the goal of the HRTPO and HRTAC, in accordance with Code of Virginia Title 33.2, Chapter 26, § 33.2-2600, that HRTF moneys be used to fund projects that are expected to provide the greatest impact on reducing congestion for the greatest number of citizens residing in Hampton Roads; and

WHEREAS, the HRTPO and HRTAC recognize that the Regional Priority Projects are part of an integrated network and desire, where practicable, to optimize the delivery of congestion relief throughout the network; and

WHEREAS, the HRTPO staff conducted a travel demand modeling analysis with a baseline scenario that assumed all of the additional roadway capacity resulting from the I-64 Hampton Roads Bridge-Tunnel Expansion project and the I-64 Southside Widening and High Rise Bridge project would be operated as general purpose (free, unrestricted) lanes, and that existing managed (High Occupancy Vehicle and High Occupancy/Toll) lanes would continue to operate in their current, inconsistent configuration; and

WHEREAS, the HRTPO staff analysis indicated that under the baseline scenario users of the Interstate system in Hampton Roads would experience significant congestion at a number of locations along the I-64 corridor, including at the improved Hampton Roads Bridge-Tunnel and the improved High Rise Bridge, by the year 2040; and

WHEREAS, the HRTPO staff and Virginia Department of Transportation staff have provided analyses demonstrating that (a) a consistent Express Lanes Network (contiguous and in each traffic direction), comprised of High Occupancy/Toll (HOT) lanes along I-64 from Jefferson Avenue in Newport News to Bowers Hill in Chesapeake would provide an option for a dependable and reliable trip for High Occupancy Vehicles (HOV), public transit vehicles, and non-HOV users willing to pay a toll, and (b) motorists opting to use the Express Lanes would help ease congestion in the general purpose lanes and, thus, optimize the congestion relief delivered through that network; and

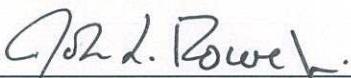
WHEREAS, on October 17, 2019, the HRTPO adopted a resolution endorsing, subject to certain policy guidelines as to the basis of design and operation of the network, the Hampton Roads Regional Express Lanes Network as a consistent HOT-2 network (contiguous and in each traffic direction) on I-64 from Jefferson Avenue in Newport News, proceeding along I-64 through Bowers Hill in Chesapeake and continuing along I-664 to I-64 in the vicinity of the Hampton Coliseum; and

WHEREAS, the HRTPO believes that the development and implementation of a consistent Express Lanes Network along I-64 between Jefferson Avenue in Newport News and Bowers Hill in Chesapeake, which would be contiguous and in each traffic direction, should be advanced by HRTAC based on project readiness and would maximize the congestion relief benefits of the Regional Priority Projects being constructed in that segment.

NOW, THEREFORE, BE IT RESOLVED that the Hampton Roads Transportation Planning Organization hereby identifies and adopts the Regional Express Lanes Network as a component of the Regional Priority Projects (current version dated January 2020) identified by the HRTPO in its 2040 Long-Range Transportation Plan to collectively provide the greatest impact on reducing congestion for the greatest number of citizens residing in Hampton Roads and requests that HRTAC pursue development of a funding, development, and implementation plan for the Express Lanes Network to be advanced by HRTAC based on project readiness.

BE IT FURTHER RESOLVED that the Hampton Roads Transportation Planning Organization staff is directed to amend the 2040 LRTP to incorporate the Express Lanes Network as part of the Regional Priority Projects and address fiscal constraint, as necessary.

APPROVED and ADOPTED by the Hampton Roads Transportation Planning Organization Board at its meeting on the 19th day of March, 2020.



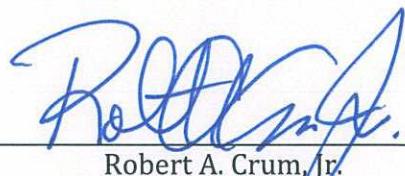
John L. Rowe, Jr.

Chair

Hampton Roads

Transportation

Planning Organization



Robert A. Crum, Jr.

Executive Director/Secretary

Hampton Roads

Transportation

Planning Organization



HAMPTON ROADS TRANSPORTATION PLANNING ORGANIZATION BOARD RESOLUTION 2019-06

A RESOLUTION OF THE HAMPTON ROADS TRANSPORTATION PLANNING ORGANIZATION ENDORsing THE HAMPTON ROADS REGIONAL EXPRESS LANES NETWORK.

WHEREAS, the Hampton Roads Transportation Planning Organization (HRTPO) is the federally-mandated authority responsible for carrying out the transportation planning and programming process for the Hampton Roads Region, and, as such, is responsible for the selection and prioritization of regionally-significant projects to be built in Hampton Roads; and

WHEREAS, due to the relationship between the HRTPO, the Hampton Roads Transportation Accountability Commission (HRTAC), and the Virginia Department of Transportation (VDOT), significant improvements have been made to the Interstate system in Hampton Roads as projects prioritized by HRTPO have been funded and executed by HRTAC and constructed by VDOT; and

WHEREAS, technical analyses conducted by VDOT and HRTPO have demonstrated that users of the Interstate system in Hampton Roads currently experience, or are expected to experience by 2040, significant congestion at a number of locations along the I-64 corridor; and

WHEREAS, the VDOT and HRTPO analyses have demonstrated that an Express Lanes Network comprised of High-Occupancy/Toll (HOT) lanes along I-64 from Jefferson Avenue in Newport News to Bowers Hill in Chesapeake would provide an option for a reliable trip for High Occupancy Vehicles (HOV), public transit vehicles, and non-HOV users willing to pay a toll; and

WHEREAS, the HRTPO believes it is important to pursue the concept of a fully connected and consistent Express Lanes Network to ensure the future needs of the Region will be addressed; and

WHEREAS, the HRTPO believes it is important that such an Express Lanes Network be managed by the Hampton Roads Transportation Accountability Commission (HRTAC).

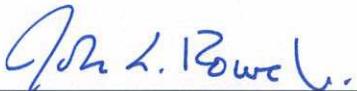
NOW, THEREFORE, BE IT RESOLVED that the Hampton Roads Transportation Planning Organization hereby endorses the Hampton Roads Regional Express Lanes Network as follows:

1. A consistent Express Lanes Network that begins on I-64 at Jefferson Avenue in Newport News, proceeds along I-64 through Bowers Hill in Chesapeake and continues along I-664 to I-64 in the vicinity of the Hampton Coliseum.
2. That the Express Lanes Network be a consistent HOT-2 network, with one HOT lane and one part-time HOT shoulder lane where practical and necessary.
3. That to minimize impacts to the Region's motorists, wherever practicable, the roadways that comprise the Express Lanes Network be restricted to HOT operation during high volume traffic times and be open to all traffic outside of the restricted periods.
4. That funding and operation of the Express Lanes Network be managed by HRTAC.
5. That a free alternative (general purpose lanes) be available throughout the roadway system associated with the Express Lanes Network.

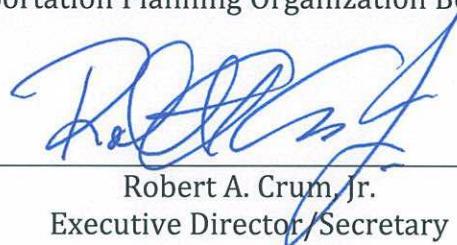
BE IT FURTHER RESOLVED that the Hampton Roads Transportation Planning Organization recommends that HRTAC consider the following items when developing the master tolling agreement with VDOT:

- Prioritize optimal congestion pricing.
- Develop tolling approaches that mitigate impacts on Hampton Roads residents, including options that maximize revenue collection on weekends.
- Ensure a free alternative (general purpose lanes) be available throughout the roadway system associated with the Express Lanes Network.
- Funding, operation, and the use of toll revenues of the Express Lanes Network to be managed by HRTAC directly or indirectly through the master tolling agreement.

APPROVED and ADOPTED by the Hampton Roads Transportation Planning Organization Board at its meeting on the 17th day of October, 2019.



John L. Rowe, Jr.
Chair
Hampton Roads
Transportation
Planning Organization



Robert A. Crum, Jr.
Executive Director/Secretary
Hampton Roads
Transportation
Planning Organization

EXHIBIT 4

Definitions

The following terms used in this Agreement shall have the following meanings:

“**2020 Tolling Legislation**” has the meaning given in the Recitals.

“**Additional High Rise Bridge Work**” has the meaning given in Section 3.03.

“**Additional HRB Funding Agreement**” has the meaning given in Section 3.03(a).

“**Additional Tolled Lane(s)**” is defined in Section 2.03.

“**Agreement**” means this Master Agreement for Development and Tolling of the Hampton Roads Express Lanes Network, dated as of [●], 2020, and all exhibits and schedules hereto, as supplemented or further amended from time to time.

“**Applicable Facility**” means the HOT lanes in the Express Lanes Network and the general purposes lanes that operate alongside such HOT lanes.

“**Applicable Revolving Account Costs**” means the non-recurring costs that the Department has advanced (or will advance) out of the Toll Facilities Revolving Account with respect to the following: (i) Segment 1 (about \$19,000,000) and Segment 2 (about \$38,000,000) HOV to HOT conversions and tolling implementation costs related to the implementation of the Initial Interstate 64 Express Lanes Network, (ii) the T&R Study (about \$1,500,000), *I*(iii) the existing pledge regarding transit funding in Hampton Roads (about \$3,500,000)*J*,⁸ and (iv) any amounts advanced by the Department pursuant to Section 4.03 (Handling of Toll Revenues and Tolling O&M Costs Before Transition Date; Establishment of Reserves) (about \$6,000,000). For the avoidance of doubt, the Applicable Revolving Account Costs will be measured based on funds actually advanced by the Department for such purposes and are not capped at the estimates noted above.

“**Balancing Principle**” is defined in Section 6.04 (Balancing Principle; Substitution of Source).

“**Barrier Section**” means a single-direction section of the Applicable Facility where the HOT lanes and general purpose lanes are barrier-separated, excluding in each case any portion thereof that by operation of the Non-Barrier Section definition is considered a Non-Barrier Section.

“**Board**” means the Commonwealth Transportation Board.

“**Bowers Hill Project**” means [●]

⁸ **Note to VDOT:** To be discussed.

“Chair of the Commission” means the Chair of the Commission.

“Commission” means the Hampton Roads Transportation Accountability Commission.

“Commission-Controlled Moneys” means */those funds received by the Commission from whatever source/*.

“Commission Damages” has the meaning given under Section 6.05(b)(i).

“Commissioner” means the Commissioner of Highways for the Commonwealth.

“Commonwealth” means the Commonwealth of Virginia.

“Commonwealth Transportation Board” or “Board” means a policy board of the Commonwealth with certain powers that complement, or otherwise interoperate with, the powers conferred upon the Department.

“Compensable Maintenance Event” means any maintenance activities, under the control of the Department (*i.e.*, performed by the Department or one of its contractors or otherwise performed at the Department’s direction), to the general purpose lanes or HOT lanes, as applicable (including, without limitation, on ramps and other points of entry), whether relating to routine or major maintenance (including, without limitation, major maintenance, replacement, rehabilitation, and/or reconstruction), that results in the closure (including, without limitation, individual lane closures) in a single direction of the general purpose lanes and/or HOT lanes (including, without limitation, on ramps and other points of entry) within any System Segment for, in the aggregate:

- (1) more than sixty (60) consecutive days, or
- (2) more than one thousand eighty (1,080) hours during any one hundred eighty (180) day period, without counting the hours of closure between 10 p.m. and 4 a.m. toward such one thousand eighty (1,080) hours,

in all cases, excluding any such maintenance resulting from an Exempt Event. For the avoidance of doubt, (A) for any Compensable Maintenance Event, the applicable Commission Damages, if any, shall be measured beginning from the 61st day or 1,081st hour, as applicable, and (B) when assessing whether the maintenance in a subject System Segment has exceeded the applicable days or hours threshold, the aggregation principle will include only days or hours of maintenance within that System Segment and will not include days or hours relating to maintenance in any other System Segment.

“Compensation Event Notice” has the meaning given in Section 6.05(a).

“Compensation Events” means any of the following events, circumstances or conditions:

- (1) the Department’s lack of good and sufficient title or right to enter or occupy any parcel that the Department owns as of the Effective Date;

- (2) The Department or the Board issues or obtains an order or directive suspending tolls on, or diverting traffic from general purpose lanes onto, the HOT lanes, excluding a temporary order made in accordance with Section 5.07(a), Section 5.07(b), Section 5.07(e), or, except in the case of a Compensable Maintenance Event, Section 5.07(c); or
- (3) any loss or impairment of (a) use of the facility (*e.g.*, vehicles are unable to access and use the facility and/or pay tolls relating to the use), or (b) the Commission's ability to impose or collect tolls relating to such use, in each case, that arises out of or results from any:
 - (i) act or omission by Department in breach of the provisions of this Agreement,
 - (ii) negligence, illegal act, or willful misconduct by Department (including without limitation, any such negligence, illegal act, or willful misconduct in planning, preparing for, procuring, managing, or performing maintenance relating to, an Exempt Event), and/or
 - (iii) maintenance activities performed by the Department or its contractors that either (A) breach the Maintenance Protocol, or (B) relate to a Compensable Maintenance Event;

provided, that no Compensation Event may arise by reason of:

- (A) the negligence, illegal acts, or willful misconduct of the Commission; or
- (B) any act or omission by the Commission in breach of the provisions of this Agreement.

“Conceptual Funding Plan” is defined in Section 3.01(b).

“Concession Agreement” means a contractual relationship with a private entity that establishes a concession or similar arrangement with respect to a transportation facility involving a transfer or assignment of risks or responsibilities to, or an assumption of risks or responsibilities by, the private entity with regard to the development or operation of such facility. For the avoidance of doubt, “Concession Agreement” does not include a services-for-fee operations and maintenance contract or subcontract under which the contractor or subcontractor does not bear the financial risk that Toll Revenues will be less than forecasted (even if a component of contractor or subcontractor compensation under such services-for-fee operations and maintenance contract or subcontract is based on the volume of transactions occurring within the Express Lanes Network).

“Coverage Financing Covenants” means those typical and customary Financing Covenants that pertain to (A) debt service coverage requirements (without giving effect to any “soft default” or retention of consultant provisions), or (B) deposits (which, for the avoidance of doubt, include all payments and funding) required under clauses (i) and (ii) in the Revenues Waterfall.

“Covered Costs” means costs *[of the type]* for which Commission-Controlled Moneys are to be used under the HRBT PAFA.

“Crash Rate” means a crash rate calculated using the industry standard methodology set forth in the *AASHTO Highway Safety Manual* or, if such manual is no longer in publication or the parties otherwise agree, a then-current industry standard methodology established by a similar, nationally-recognized, standard setting body or organization.

“Definitive Funding Plan” is defined in Section 3.01(b).

“Definitive Project Budget” is defined in Section 3.01(b).

“Department” means the Virginia Department of Transportation.

“Department E-ZPass Back Office Operations” means, for any E-ZPass transaction (whether initiated by transponder or by license plate image), the electronic process of drawing funds from the toll-paying user account maintained by the Department or other state transportation agency. For the avoidance of doubt, Department E-ZPass Back Office Operations does not include customer transactions that are not connected to an E-ZPass account.

“Effective Date” has the meaning given in the Preamble.

“Executive Director” means the executive director of the Commission.

“Exempt Event” means the occurrence of an event, act, omission, condition, or circumstance that arises by reason of:

- (1) the negligence or misconduct of a third party not under the control of the Department; or
- (2) any act of God (including, without limitation, an earthquake, hurricane, tsunami, tornado, flood, or other weather condition).

“Express Lanes Network” means (i) the Initial Interstate 64 Express Lanes Network plus (ii) any Additional Tolled Lane(s), if any, added by mutual agreement of the Parties under Section 2.03.

“Financing Covenants” means the governing covenants of the financing agreements related to Toll-Backed Debt.

“Governmental Authority” means any court, Federal, state, or local government, department, commission, board, bureau, agency or other regulatory or governmental authority, *[but will not include the Department]*.

“Hampton Roads” means the area within the geographical boundaries of the counties and cities embraced by the Commission.

“Hampton Roads Beltway” means the loop created by Interstate 64 and Interstate 664 which, for the avoidance of doubt, includes the portion of Interstate 64 containing the Initial Interstate 64 Express Lanes Network.

“High Rise Bridge Expansion Project” has the meaning given in the Recitals.

“High Rise Bridge Segment” means any HOT lanes on Interstate 64 between the interchange of Interstate 64 with Interstate 464 located in the City of Chesapeake and the interchange of Interstate 64 with Interstate 664 located in the City of Chesapeake.

“HNTB” means HNTB Corporation.

“HOT lanes” means high-occupancy toll lanes or other dynamically-priced travel lane.

“HOV” means high-occupancy vehicle.

“HRB Funding Agreements” has the meaning given in the Recitals.

“HRTF-Backed Funding” is defined in Section 6.04 (Balancing Principle; Substitution of Source).

“HRBT Expansion Project” has the meaning given in the Recitals.

“HRBT PAFA” has the meaning given in the Recitals.

“HRBT Segment” means any HOT lanes on Interstate 64 between Exit 267 located in the City of Hampton and Exit 276 located in the City of Norfolk.

“HRBT Segment Toll Day One” is defined in Section 2.02(c).

“HREL Project Costs” means the actual costs to deliver the HREL Project, which are estimated at a conceptual level within Exhibit 6 to be about \$940,000,000 (but are not capped at such amount).

“HREL Project” is defined in Section 3.01(a).

“HREL SPA” is defined in Section 3.01(c).

“HRTF Revenues” is defined in Section 3.05(b).

“HRTPO” means the Hampton Roads Transportation Planning Organization.

“Incremental TFRA Funding” is defined in Section 4.03(a).

“Initial Funding Agreement” means any Standard Project Agreement entered into between the Department and the Commission before such Parties entered into the HRBT PAFA.

“Initial Interstate 64 Express Lanes Network” or “Initial Network” has the meaning given in the Recitals.

“Initial Tolling Policies” is defined in Section 5.02(a).

“Initial Tolling Policies Effective Date” is defined in Section 5.02(a).

“Intentional Policy Modification Breach” means the Commission intentionally breaches Section 5.02(d) or Section 5.02(g) (applied subject to Section 5.02(e)), in connection with the implementation of a modified Tolling Policy.

“Legal Requirements” means all laws, treaties, ordinances, judgments, federal requirements, decrees, injunctions, writs and orders of any Governmental Authority, and all rules, regulations, orders, formal interpretations and permits of any Governmental Authority having jurisdiction over the Express Lanes Network, including without limitation, jurisdiction over the environmental condition of the Express Lanes Network, and the health and safety of the travelers of the Express Lanes Network.

“Maintenance Protocol” is defined in Section 5.07(c).

“Net Cost Impact”, which shall not be less than zero (\$0), means any net increase in the Commission’s costs directly attributable to a Compensation Event, determined based upon what the Commission’s costs would have been absent the occurrence of the Compensation Event, which “net increase” is determined taking into account, without duplication, any savings attributable to or arising from the relevant Compensation Event.

“Net Revenue Impact,” which shall not be less than zero (\$0), means: (a) any net decrease in Toll Revenues attributable to a Compensation Event, determined based upon what the Toll Revenues would have reasonably been expected to be absent the occurrence of the Compensation Event; and (b) less any savings in operating and maintenance costs resulting directly from the Compensation Event (excluding any savings in costs subtracted from Net Cost Impact for the same Compensation Event), and (c) less any Toll Revenues that were actually lost as a direct result of the Commission’s failure to use commercially reasonable efforts to mitigate the loss of Toll Revenues.

“Non-Barrier Section” means a single-direction section of the Applicable Facility where the HOT lanes and general purpose lanes are not barrier-separated, including in each case a five hundred-foot influence area both before the non-barrier-separated section begins and after the non-barrier-separated section ends, provided that any HOT lane entrance or exit ramps within 0.25 miles of one another will be considered within the same, continuous Non-Barrier Section.⁹

⁹ **Note to VDOT:** Language subject to further review/comment.

“Open Road Tolling” means an electronic toll collection system without toll plazas, where drivers will be charged the toll without having to stop, slow down, or stay in a given lane.

“Operational Analysis” is defined in Section 3.04(b).

“PPPA” means the Virginia Public Procurement Act, Va. Code § 2.2-4300 *et seq.*

“PPTA” means the Public-Private Transportation Act of 1995, Va. Code § 33.2-1800 *et seq.*

“Party” or **“Parties”** has the meaning given in the Preamble.

“Peak Periods” means both (i) a daily window of time during which the Applicable Facility experiences peak a.m. traffic and (ii) a daily window of time during which the Applicable Facility experiences peak p.m. traffic, in each case, as established by */the Commission and Department in collaboration, by mutual agreement.*¹⁰

“Permitted Vehicles” will be defined under the Tolling Policies in accordance with applicable laws.

“Person” means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, limited partnership, joint stock company, unincorporated association or other entity or a Governmental Authority.

“Proceeds Waterfall” is defined in Section 6.02.

“Required Tolling Policy Modification” is defined in Section 5.02(d).

“Revenues Waterfall” is defined in Section 6.03.

“Reversible HOT Lanes” means the HOT lanes in the Reversible HOT Lanes Segment.

“Reversible HOT Lanes Segment” has the meaning given in the Recitals.

“Roadway O&M Work” is defined in Section 4.02(a).

“Scheduled Expiration Date” is defined in Section 8.01(a).

“Scheduled Toll-Backed Debt” is defined in Section 6.07.

“Segment 2” has the meaning given in the Recitals.

¹⁰ **Note to VDOT:** Language subject to further review/comment.

“Segment 2 Toll Day One” means the first date there are continuous and contiguous operational HOT lanes open to the public on Interstate 64 between (i) Interstate 564 and (ii) the interchange of Interstate 64, Interstate 264 and Interstate 664 in the Bowers Hill section of Chesapeake.

“System Segment” means each of the following:¹¹

- (i) in the eastbound direction:
 - a. Interstate 64 from the western terminus of the Express Lanes Network (anticipated to be in the vicinity of Jefferson Avenue in Newport News) to immediately before the interchange of Interstate 664 in Hampton,
 - b. Interstate 64 from Interstate 664 in Hampton (and including such interchange) to immediately before the interchange of 564 in Norfolk,
 - c. Interstate 64 from the interchange of 564 in Norfolk (and including such interchange) to immediately before the interchange of 264 in Norfolk,
 - d. Interstate 64 from the interchange of 264 in Norfolk (and including such interchange) to immediately before the interchange of 464 in Chesapeake, and
 - e. Interstate 64 from the interchange of Interstate 464 in Chesapeake (and including such interchange) to and including the eastern terminus of the Initial Interstate 64 Express Lanes Network (anticipated to be near Bowers Hill interchange in Chesapeake); and
- (ii) in the westbound direction:
 - a. Interstate 64 from the eastern terminus of the Initial Interstate 64 Express Lanes Network (anticipated to be near Bowers Hill interchange in Chesapeake) to immediately before the interchange of Interstate 464 in Chesapeake;
 - b. Interstate 64 from the interchange of Interstate 464 in Chesapeake (and including such interchange) to immediately before the interchange of Interstate 264 in Norfolk;
 - c. Interstate 64 from the interchange of Interstate 264 in Norfolk (and including such interchange) to immediately before the interchange of Interstate 564 in Norfolk;
 - d. Interstate 64 from the interchange of Interstate 564 in Norfolk (and including such interchange) to immediately before the interchange of Interstate 664 in Hampton; and

¹¹ **Note to VDOT:** To be conformed based on final changes to MAE insert.

- e. Interstate 64 from the interchange of Interstate 664 in Hampton to the western terminus of the Initial 64 Express Lanes Network (anticipated to be in the vicinity of Jefferson Avenue in Newport News).

“TIFIA” means the Transportation Infrastructure Finance and Innovation Act program administered by the United States Department of Transportation.

“Toll-Backed Debt” means (i) any bonds, promissory notes, loan, financing or credit agreements, including, without limitation, TIFIA loans, under which the Commission is obligated to repay money borrowed and secured by the Toll Revenues, and (ii) all installment sales, conditional sales, and capital lease obligations incurred or assumed by the Commission and secured by the Toll Revenues.

“Toll-Backed Debt Service” means for a fiscal year or other measurement period the aggregate of the payments to be made in respect of the principal of and interest on any Toll-Backed Debt and the associated financing or trustee's fees or charges and required deposits to any reserve funds.

“Toll Facilities Revolving Account” means the subaccount established pursuant § 33.2-1529 of the Code of Virginia.

“Tolling Infrastructure and System” means, collectively, the (i) electronic toll gantries, shelters, high-tech sensors, signage, and other tolling infrastructure, and (ii) the comprehensive electronic tolling solution, in each case with respect to the *Express Lanes Network*.

“Tolling O&M Cost Study” is defined in Section 3.04(c).

“Tolling O&M Costs” means, subject to Section 4.02(a), the costs incurred by the entity performing the Tolling O&M Duties with respect to performing such duties *plus*, without duplication, (i) any compensation due to the Department under an Electronic Toll Collection Agreement(s) with respect to the Express Lanes Network, and (ii) any amounts due under Sections 5.02(f), 5.06(c), 8.01(d), 9.02(b), and/or 9.03 (again, without duplication). For the avoidance of doubt, Tolling O&M Costs shall not include highway, bridge, or tunnel operations and maintenance costs, and if Tolling O&M Duties are performed by the Department, the Tolling O&M Costs shall not include an administrative charge applied by the Department.,.

“Tolling O&M Duties” means those duties relating to the operation and maintenance of the Tolling Infrastructure and System set forth in Exhibit 16 (Tolling O&M Duties); it does not include the Department E-ZPass Back Office Operations.

“Tolling Policies” means, at any point in time, the tolling policies applicable to the Express Lanes Network, including the Initial Tolling Policies during the time they are applicable to the Express Lanes Network.

“Tolling Policy Material Adverse Effect” means, with respect to a proposed element of the Initial Tolling Policies or a proposed modification to the Tolling Policies, an effect caused by the

proposed element or proposed modification that is material and adverse to the safety or operations of the Applicable Facility, determined as follows using then-current industry standard predictive tools as described below:

- (i) in the case of safety, the implementation of the element or modification would cause the Crash Rate in either a Barrier Section (where the Crash Rate for the HOT lanes would be calculated separately from the general purpose lanes, resulting in two independent Crash Rates) or in a Non-Barrier Section (where the Crash Rate for the HOT lanes and general purpose lanes would be calculated collectively, resulting in a single Crash Rate) to increase by more than five percent (5%) as compared to the average Crash Rate in the applicable Barrier Section or Non-Barrier Section during the then immediately-preceding five (5) year period; or
- (ii) in the case of operations, the implementation of the element or modification would cause a change in operational conditions whereby (A) the person throughput in two or more System Segments for one or more Peak Periods will decrease by more than five percent (5%), or (B) the person throughput in any single System Segment for one or more Peak Periods will decrease by more than ten percent (10%), in each case (whether (A) or (B)) as compared to a baseline operational condition established by an operational analysis, performed in accordance with industry standards for micro-simulation analysis and investment grade traffic and revenue studies, completed sufficiently before the planned effective date of the proposed element or modification to reflect the operating conditions of the Applicable Facility before the element or modification would be implemented; *provided that*, person throughput will be measured by analyzing the applicable general purpose lanes and HOT lanes in combination.

“Toll Policy Committee” means a six-member advisory committee consisting of: (i) three members appointed by the Secretary of Transportation, with one being the member of the Board representing the Hampton Roads District (the “District Member”), and (ii) three members appointed by the Commission from its voting members. The Secretary of Transportation and the Commission each (A) shall notify the other in writing of its appointed members, and (B) may replace its appointed members (other than the District Members) at any time necessary or desirable, in the discretion of the appointing individual or entity, by notifying the other of the applicable replacement(s).

“Toll Revenue Interruption Insurance” is defined in Section 10.03.

“Toll Revenues” means:

- (a) all amounts received by or on behalf of the Commission (or by the Board with respect to the Reversible HOT Lanes) for use of the Express Lanes Network, including without limitation fees, tolls, rates, incidental charges, and other charges (including administrative charges such as late fees, insufficient funds fees, etc.), and

(b) amounts received pursuant to any collection or enforcement action, judgment or settlement with respect to any of the foregoing revenues, including fines and penalties and interest thereon collected as a result of failure to pay any such amounts;

(c) amounts [●] received as contractual liquidated, other contract damages, insurance proceeds, third party recoveries, condemnation awards or any other amounts in lieu of or with respect to the Express Lanes Network or any of the foregoing revenues; and

(d) all other amounts derived from or with respect to the operation of the Express Lanes Network or any part thereof.¹²

“**Toll Studies**” is defined in Section 3.04(b).

“**T&R Study**” has the meaning given in the Recitals.

“**Transition Date**” is defined in Section 4.01(a).

“**Truck**” means [●].¹³

¹² **Note to VDOT:** Under review generally, including to ensure it will work consistently with the Financing Covenants.

¹³ **Note to VDOT:** Please provide proposed definition.

EXHIBIT 5

Implementation Map



Exhibit 5-1

I-1675374.38

EXHIBIT 6

Conceptual Scope and Estimate for HREL Project

I-64 HREL NETWORK SEGMENT NO.	CONCEPTUAL SCOPE	CONCEPTUAL ESTIMATE
1 (I-564 to I-264)	<ol style="list-style-type: none">1. conversion of the inside shoulder lanes (eastbound and westbound) along Interstate 64 to a part-time HOT lane2. widening in spot locations to maintain minimum shoulder width in both directions3. replacement of four bridges as follows:<ol style="list-style-type: none">a) Tidewater Drive bridges (eastbound and westbound)b) Chesapeake Boulevard bridges (eastbound and westbound)4. additional right-of-way acquisition (approximately 30 parcels) and utility relocations5. installation of tolling gantries, signage, and other physical assets to support the tolling solution.6. any additional related work necessary to accomplish the above-defined scope	\$193,147,774
3 (Settlers Landing Road to I-564)	<ol style="list-style-type: none">1. installation of tolling gantries, signage, and other physical assets to support the tolling solution2. any additional related work necessary to accomplish the above-defined scope	\$24,630,792

I-64 HREL NETWORK SEGMENT NO.	CONCEPTUAL SCOPE	CONCEPTUAL ESTIMATE
4A & 4B (Jefferson Ave. to LaSalle Ave.)	<ol style="list-style-type: none"> 1. conversion of existing HOV lanes into HOT lanes (one eastbound and one westbound) 2. conversion of existing general purpose lanes into HOT lanes (one eastbound and one westbound) 3. pavement widening for buffer between HOT and general purpose lanes and to maintain minimum shoulder widths 4. replacement of bridge carrying Interstate 64 over LaSalle Ave. (eastbound only) 5. installation of tolling gantries, signage, and other physical assets to support the tolling solution 6. Interstate ramp realignment, as needed 7. right-of-way acquisition and utility relocations 8. any additional related work necessary to accomplish the above-defined scope 	\$156,199,948

I-64 HREL NETWORK SEGMENT NO.	CONCEPTUAL SCOPE	CONCEPTUAL ESTIMATE
4C (LaSalle Ave. to Settlers Landing Road)	<ol style="list-style-type: none"> 1. widening of eastbound and westbound lanes from about MM265.5 to about MM267.8; rehabilitation of existing lanes and an additional 12' wide travel lane in each direction 2. conversion of one general purpose lane to a HOT lane in each direction (for 2 general purpose + 2 HOT final configuration) 3. bridge replacement and rehabilitation¹⁴ as follows: <ol style="list-style-type: none"> a) eastbound Hampton River bridges (replacement) b) westbound Hampton River bridge (widen and rehabilitate) c) eastbound and westbound portions of the bridge over King Street (widen and rehabilitate) d) westbound portion of bridge over Settlers Landing Road (widen and rehabilitate) 4. installation of tolling gantries, signage, and other physical assets to support the tolling solution 5. realignment of Interstate ramps, as needed 6. right-of-way acquisition (estimated 92 parcels impacted) and utility relocations 7. installation of sound barriers 8. any additional related work necessary to accomplish the above-defined scope 	\$526,537,729

¹⁴ Each bridge will be investigated during scoping and preliminary design to determine the appropriate recommendations for this project. This analysis will include the bridge over Rip Rap Road, which is currently anticipated to remain in place without widening, rehabilitation, or replacement.

I-64 HREL NETWORK SEGMENT NO.	CONCEPTUAL SCOPE	CONCEPTUAL ESTIMATE
Overall Segments 1, 3, and 4	1. network toll system integration by toll solution provider	\$39,156,350
GRAND TOTAL HREL PROJECT CONCEPTUAL ESTIMATE		\$939,672,593¹⁵

POTENTIAL ADDITIONAL HREL PROJECT SCOPE		
2C (Battlefield Boulevard to Bowers Hill Interchange) pursuant to Sec. 3.03(b) (<i>High Rise Bridge Additional Work</i>) of the <i>Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network</i>	<ol style="list-style-type: none"> 1. modifications to roadway, pavement, and drainage infrastructure along the Interstate 64 median to accommodate the conversion of the shoulders into part-time HOT lanes 2. any additional related work necessary to accomplish the above-defined scope 	\$34,200,000 ¹⁶

¹⁵ Grand total does not include estimated (i) \$25,000,000 for civil costs associated with Segments 2A and 2B, and (ii) \$13,000,000 for tolling integration costs associated with Segment 2. In each case, these will be funded as Applicable Revolving Account Costs, advanced by the Department and repaid in accordance with Section 6.03(a) (*Revenues Waterfall*) of the *Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network*.

¹⁶ Not included to the extent this portion is funded by residual contingency reserve funds from earlier projects under Section 3.03(a) (*High Rise Bridge Additional Work*) of the *Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network*.

EXHIBIT 7

[intentionally omitted]

EXHIBIT 8
Conceptual Funding Plan

Exhibit 8-1

I. HRTAC HRTF and Toll Funds Allocation (HRTAC Funds ONLY and Exclude Financing Costs)

II. Debt Issuance Plan

	Total	Six Initial Projects		HRBT Expansion Project		HREL Project		Bower's Hill	
		Series 2018	Series 2019	Series 2020	Series 2021	Series 2022	Series 2023	Series 2033	
HRTF Revenue Debt - Senior Lien		[actual]							
Sources									
Current Interest Bonds	1,556,130,000	500,000,000		400,965,000	346,605,000	308,560,000		133,969,500	
Current Interest Bonds (Premium)	83,270,073	83,270,073							
Total Sources	1,639,400,073	583,270,073		400,965,000	346,605,000	308,560,000		133,969,500	
Uses									
Construction Fund	1,635,059,656	582,098,046		399,762,105	345,565,185	307,634,320		133,522,935	
COI/UWD	4,340,417	1,172,027		1,202,895	1,039,815	925,680		446,565	
Total Uses	1,639,400,073	583,270,073		400,965,000	346,605,000	308,560,000		133,969,500	

HRTF Revenue Debt - Intermediate Lien								
Sources								
Current Interest Bonds	416,165,000						267,310,000	
Current Interest Bonds (Premium)								
Total Sources	416,165,000						267,310,000	
Uses								
Construction Fund (Bonds)	373,300,005						239,777,070	
Intermediate Debt Service Reserve Fund	41,616,500						26,731,000	
COI/UWD	1,248,495						801,930	
Total Uses	416,165,000						267,310,000	

*Intermediate Lien 2019A Notes will be taken out by 2019 TIFIA Loan - NOT shown here

HRTF Revenue Debt - Subordinate Lien (TIFIA)		[actual]						
Sources								
TIFIA Loan	1,243,010,361		500,789,463		742,220,898			
Uses								
BAN Takeout	414,345,000		414,345,000		742,220,898			
Direct Construction Cost Draw	742,220,898							
Paygo Reimbursement	86,444,463		86,444,463					
Total Uses	1,243,010,361		500,789,463		742,220,898			

Toll Revenue Debt								
Sources								
TIFIA Loan	900,000,000				575,000,000	325,000,000		
Uses								
Construction Cost	900,000,000				575,000,000	325,000,000		

III. HRTF Cash Flow and Debt Coverage Ratios

	Total	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
HRTF Flow of Funds											
HRTF Revenue Fund											
PLEDGED REVENUES [A]	16,712,284,379	211,051,221	177,504,909	184,742,844	192,067,802	197,535,522	203,791,794	206,089,825	208,857,462	212,688,707	216,595,619
HRTF Senior Lien Obligation											
Gross Debt Service [B]	(3,749,910,768)	(25,854,075)	(25,854,075)	(40,557,472)	(54,012,861)	(67,931,382)	(67,931,382)	(72,676,382)	(82,989,132)	(86,226,117)	(89,606,881)
HRTF Intermediate Lien Obligation											
Gross Debt Service [C]	(667,830,674)				(22,134,767)		(13,944,647)	(13,944,647)	(16,699,647)	(16,697,161)	(16,697,814)
Intermediate Lien DSRF Earnings	17,335,841					240,579	240,579	374,549	374,549	374,549	374,549
HRTF Subordinate Lien Obligation (TIFIA)											
Gross Debt Service [D]	(2,000,604,512)							(14,197,579)	(32,515,431)	(33,019,862)	(33,543,206)
Subordinate Lien DSRF Ongoing Deposit	0				(28,675,339)	(868,950)	(923,259)	(982,824)	(43,792,315)	(1,081,200)	(1,130,615)
Subordinate Lien DSRF Earnings	30,002,547				286,753	295,443	304,675	314,504	752,427	763,239	774,545
Operating Fund - Operating Account	(600,870,298)	(4,447,512)	(5,817,390)	(5,962,825)	(6,111,895)	(6,264,693)	(6,421,310)	(6,581,843)	(6,746,389)	(6,915,049)	(7,087,925)
Operating Fund - Operating Reserve Fund	(21,994,502)	(1,506,866)	(159,978)	(163,978)	(168,077)	(172,279)	(176,586)	(181,001)	(185,526)	(190,164)	(194,918)
Residual HRTF Revenue (Transferred to General Fund)	9,718,412,012	179,242,768	145,673,465	138,058,569	81,251,616	122,593,662	114,939,865	98,080,633	27,055,998	69,696,942	69,483,354
HRTF Senior Lien Coverage Ratio [A/B]		8.16x	6.87x	4.56x	3.56x	2.91x	3.00x	2.84x	2.52x	2.47x	2.42x
HRTF Intermediate Lien Coverage Ratio [A/(B+C)]					2.52x		2.49x	2.38x	2.10x	2.07x	2.04x
HRTF Subordinate Lien Coverage Ratio [A/(B+C+D)]								2.04x	1.58x	1.56x	1.55x
 HRTF General Fund											
Beginning Balance	0	787,255,522	997,367,494	644,268,064	460,960,605	567,879,891	148,373,274	99,743,397	140,883,036	149,384,932	220,924,209
Annual Deposit	9,718,412,012	179,242,768	145,673,465	138,058,569	81,251,616	122,593,662	114,939,865	98,080,633	27,055,998	69,696,942	69,483,354
Investment and Interest Earnings	1,090,732,536	30,869,204	8,167,341	5,498,650	4,688,537	3,563,449	1,294,113	1,463,152	1,444,119	1,842,334	2,556,659
Paygo Payments to Construction	(2,388,085,201)		(506,940,236)	(326,864,678)	(65,465,331)	(545,663,727)	(152,863,855)	(4,936,969)	(19,998,221)		
Paygo Payments to Financing Costs (Toll TIFIA DSRF Initial Deposit)	(53,467,178)							(53,467,178)			
Paygo Payments to Financing Costs (Tolling M&R Reserve Initial Deposit)	(12,000,000)						(12,000,000)				
Paygo Reimbursement from 2019 HRTF TIFIA Loan*	86,444,463					86,444,463					
Paygo Reimbursement from Toll Revenue	65,467,178										
Ending Balance		997,367,494	644,268,064	460,960,605	567,879,891	148,373,274	99,743,397	140,883,036	149,384,932	220,924,209	292,964,222

III. HRTF Cash Flow and Debt Coverage Ratios

III. HRTF Cash Flow and Debt Coverage Ratios

	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051
HRTF Flow of Funds												
HRTF Revenue Fund												
PLEDGED REVENUES [A]	269,983,153	275,028,488	280,174,608	285,423,605	290,777,615	296,238,819	301,809,444	307,491,765	313,288,104	319,200,834	325,232,377	331,385,205
HRTF Senior Lien Obligation												
Gross Debt Service [B]	(98,151,709)	(98,156,559)	(98,151,169)	(98,147,454)	(98,148,888)	(98,150,979)	(98,154,144)	(98,157,653)	(99,000,161)	(99,002,050)	(98,999,314)	(99,000,193)
HRTF Intermediate Lien Obligation												
Gross Debt Service [C]	(16,698,493)	(16,699,225)	(16,699,455)	(16,698,714)	(16,696,010)	(16,695,950)	(16,697,308)	(16,697,476)	(16,697,918)	(16,697,503)	(16,695,093)	(16,695,355)
Intermediate Lien DSRF Earnings	374,549	374,549	374,549	374,549	374,549	374,549	374,549	374,549	374,549	374,549	374,549	374,549
HRTF Subordinate Lien Obligation (TIFIA)												
Gross Debt Service [D]	(56,256,523)	(58,431,427)	(60,693,354)	(63,045,856)	(65,492,635)	(68,037,542)	(70,684,590)	(73,437,957)	(76,301,994)	(79,281,231)	(82,380,386)	(85,604,372)
Subordinate Lien DSRF Ongoing Deposit	(1,198,313)	(1,186,231)	(1,165,868)	(1,134,888)	(1,090,165)	(1,027,440)	(617,486)					
Subordinate Lien DSRF Earnings	916,728	928,590	940,249	951,598	962,500	972,774	978,949	978,949	978,949	978,949	978,949	978,949
Operating Fund - Operating Account												
Operating Fund - Operating Reserve Fund	(9,532,471)	(9,770,783)	(10,015,052)	(10,265,429)	(10,522,064)	(10,785,116)	(11,054,744)	(11,331,112)	(11,614,390)	(11,904,750)	(12,202,369)	(12,507,428)
Operating Fund - Operating Reserve Fund	(262,143)	(268,697)	(275,414)	(282,299)	(289,357)	(296,591)	(304,005)	(311,606)	(319,396)	(327,381)	(335,565)	(343,954)
Residual HRTF Revenue (Transferred to General Fund)	89,174,778	91,818,706	94,489,095	97,175,112	99,875,545	102,592,524	105,650,664	108,909,459	110,707,743	113,341,417	115,973,147	118,587,400
HRTF Senior Lien Coverage Ratio [A/B]	2.75x	2.80x	2.85x	2.91x	2.96x	3.02x	3.07x	3.13x	3.16x	3.22x	3.29x	3.35x
HRTF Intermediate Lien Coverage Ratio [A/(B+C)]	2.35x	2.39x	2.44x	2.49x	2.53x	2.58x	2.63x	2.68x	2.71x	2.76x	2.81x	2.86x
HRTF Subordinate Lien Coverage Ratio [A/(B+C+D)]	1.58x	1.59x	1.60x	1.60x	1.61x	1.62x	1.63x	1.63x	1.63x	1.64x	1.64x	1.65x
HRTF General Fund												
Beginning Balance	431,326,167	531,977,718	639,029,410	754,683,613	876,851,928	999,917,862	1,113,022,527	1,230,331,669	1,352,088,992	1,476,871,163	1,605,547,998	1,738,156,491
Annual Deposit	89,174,778	91,818,706	94,489,095	97,175,112	99,875,545	102,592,524	105,650,664	108,909,459	110,707,743	113,341,417	115,973,147	118,587,400
Investment and Interest Earnings	4,759,136	5,778,871	6,862,740	8,032,712	9,267,897	10,512,141	11,658,479	12,847,864	14,074,429	15,335,419	16,635,346	17,974,502
Paygo Payments to Construction												
Paygo Payments to Financing Costs (Toll TIFIA DSRF Initial Deposit)												
Paygo Payments to Financing Costs (Tolling M&R Reserve Initial Deposit)												
Paygo Reimbursement from 2019 HRTF TIFIA Loan*												
Paygo Reimbursement from Toll Revenue	6,717,637	9,454,116	14,302,369	16,960,491	13,922,492	999,917,862	1,113,022,527	1,230,331,669	1,352,088,992	1,476,871,163	1,605,547,998	1,738,156,491
Ending Balance	531,977,718	639,029,410	754,683,613	876,851,928	999,917,862	1,113,022,527	1,230,331,669	1,352,088,992	1,476,871,163	1,605,547,998	1,738,156,491	1,874,718,393

III. HRTF Cash Flow and Debt Coverage Ratios

	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063
HRTF Flow of Funds												
HRTF Revenue Fund												
PLEDGED REVENUES [A]	337,661,846	344,064,879	350,596,938	357,260,714	364,058,953	370,994,462	378,070,107	385,288,812	392,653,566	400,167,421	407,833,494	415,654,968
HRTF Senior Lien Obligation												
Gross Debt Service [B]	(98,994,472)	(99,001,605)	(98,993,590)	(98,995,547)	(98,991,895)	(98,994,009)	(95,399,215)	(95,396,882)	(26,329,228)	(26,326,316)	(8,546,927)	(8,546,810)
HRTF Intermediate Lien Obligation												
Gross Debt Service [C]	(16,695,570)	(16,699,300)	(16,694,830)	(16,697,010)	(16,698,950)	(16,697,550)	(16,696,500)	(16,698,875)	(16,697,475)	(16,695,375)	(16,695,375)	
Intermediate Lien DSRF Earnings	374,549	374,549	374,549	374,549	374,549	374,549	374,549	374,549	374,549	374,549	374,549	374,549
HRTF Subordinate Lien Obligation (TIFIA)												
Gross Debt Service [D]	(87,516,594)	(91,537,350)	(95,127,375)	(97,894,880)	(58,467,358)	(59,716,069)	(63,519,115)					
Subordinate Lien DSRF Ongoing Deposit	756,933	3,456,748	6,307,005	23,855,079			63,519,115					
Subordinate Lien DSRF Earnings	978,949	971,379	936,812	873,742	635,191	635,191	635,191					
Operating Fund - Operating Account	(12,820,114)	(13,140,616)	(13,469,132)	(13,805,860)	(14,151,007)	(14,504,782)	(14,867,401)	(15,239,086)	(15,620,064)	(16,010,565)	(16,410,829)	(16,821,100)
Operating Fund - Operating Reserve Fund	(352,553)	(361,367)	(370,401)	(379,661)	(389,153)	(398,881)	(408,854)	(419,075)	(429,552)	(440,291)	(451,298)	(462,580)
Residual HRTF Revenue (Transferred to General Fund)	122,636,041	125,427,501	130,709,718	137,043,051	200,225,410	181,692,911	188,188,761	321,428,557	333,951,796	341,069,423	366,103,613	390,199,027
HRTF Senior Lien Coverage Ratio [A/B]	3.41x	3.48x	3.54x	3.61x	3.68x	3.75x	3.96x	4.04x	14.91x	15.20x	47.72x	48.63x
HRTF Intermediate Lien Coverage Ratio [A/(B+C)]	2.92x	2.97x	3.03x	3.09x	3.15x	3.21x	3.37x	3.44x	9.13x	9.30x	16.16x	
HRTF Subordinate Lien Coverage Ratio [A/(B+C+D)]	1.66x	1.66x	1.66x	1.67x	2.09x	2.12x	2.15x					
HRTF General Fund												
Beginning Balance	1,874,718,393	2,016,714,798	2,162,936,585	2,315,929,217	2,476,816,775	2,702,811,480	2,912,440,971	3,130,695,086	3,485,037,736	3,855,509,668	4,236,839,535	4,647,142,062
Annual Deposit	122,636,041	125,427,501	130,709,718	137,043,051	200,225,410	181,692,911	188,188,761	321,428,557	333,951,796	341,069,423	366,103,613	390,199,027
Investment and Interest Earnings	19,360,364	20,794,285	22,282,914	23,844,507	25,769,295	27,936,579	30,065,354	32,914,094	36,520,136	40,260,444	44,198,913	48,422,416
Paygo Payments to Construction												
Paygo Payments to Financing Costs (Toll TIFIA DSRF Initial Deposit)												
Paygo Payments to Financing Costs (Tolling M&R Reserve Initial Deposit)												
Paygo Reimbursement from 2019 HRTF TIFIA Loan*												
Paygo Reimbursement from Toll Revenue												
Ending Balance	2,016,714,798	2,162,936,585	2,315,929,217	2,476,816,775	2,702,811,480	2,912,440,971	3,130,695,086	3,485,037,736	3,855,509,668	4,236,839,535	4,647,142,062	5,085,763,504

III. HRTF Cash Flow and Debt Coverage Ratios

	2064	2065	2066	2067	2068	2069	2070
HRTF Flow of Funds							
HRTF Revenue Fund							
PLEDGED REVENUES [A]	423,635,092	431,777,187	440,084,643	448,560,922	457,209,560	466,034,168	475,038,435
HRTF Senior Lien Obligation							
Gross Debt Service [B]	(8,545,865)	(8,548,340)	(8,548,763)	(8,549,528)	(8,545,973)	(8,546,355)	(8,549,438)
HRTF Intermediate Lien Obligation							
Gross Debt Service [C]							
Intermediate Lien DSRF Earnings	374,549	374,549	374,549	374,549	374,549	374,549	374,549
HRTF Subordinate Lien Obligation (TIFIA)							
Gross Debt Service [D]							
Subordinate Lien DSRF Ongoing Deposit							
Subordinate Lien DSRF Earnings							
Operating Fund - Operating Account	(17,241,627)	(17,672,668)	(18,114,485)	(18,567,347)	(19,031,531)	(19,507,319)	(19,995,002)
Operating Fund - Operating Reserve Fund	(474,145)	(485,998)	(498,148)	(510,602)	(523,367)	(536,451)	
Residual HRTF Revenue (Transferred to General Fund)	397,748,004	405,444,730	413,297,796	421,307,994	429,483,238	437,818,592	446,868,544
HRTF Senior Lien Coverage Ratio [A/B]	49.57x	50.51x	51.48x	52.47x	53.50x	54.53x	55.56x
HRTF Intermediate Lien Coverage Ratio [A/(B+C)]							
HRTF Subordinate Lien Coverage Ratio [A/(B+C+D)]							
HRTF General Fund							
Beginning Balance	5,085,763,504	5,536,357,883	5,999,193,416	6,474,549,635	6,962,709,666	7,463,967,417	7,978,614,775
Annual Deposit	397,748,004	405,444,730	413,297,796	421,307,994	429,483,238	437,818,592	446,868,544
Investment and Interest Earnings	52,846,375	57,390,802	62,058,423	66,852,036	71,774,513	76,828,767	82,020,490
Paygo Payments to Construction							
Paygo Payments to Financing Costs (Toll TIFIA DSRF Initial Deposit)							
Paygo Payments to Financing Costs (Tolling M&R Reserve Initial Deposit)							
Paygo Reimbursement from 2019 HRTF TIFIA Loan*							
Paygo Reimbursement from Toll Revenue							
Ending Balance	5,536,357,883	5,999,193,416	6,474,549,635	6,962,709,666	7,463,967,417	7,978,614,775	8,507,503,810

*2019 TIFIA Loan Draw after 2019A Notes take out

IV. HRTF Debt Service

	Total	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033	FY 2034	FY 2035
HRTF Revenue Debt - Senior Lien																				
Series 2018	1,268,799,787		9,838,912	25,854,075	25,854,075	25,854,075	25,854,075	25,854,075	30,599,075	30,601,825	30,602,575	30,600,825	30,601,075	30,602,575	30,599,575	30,601,575	30,602,575	30,601,825	30,603,575	
Series 2019																				
Series 2020	792,733,194						14,703,397	14,703,397	14,703,397	14,703,397	18,403,397	20,260,495	22,200,520	22,200,075	22,200,088	22,200,418	22,197,960	22,201,029	22,199,450	22,198,434
Series 2021	696,286,321						13,455,389	13,455,389	13,455,389	13,455,389	16,200,389	17,581,274	19,023,674	19,021,634	19,023,292	19,022,816	19,020,117	19,023,637	19,019,781	19,023,751
Series 2022	681,895,710						13,918,521	13,918,521	13,918,521	13,918,521	17,783,521	17,781,773	17,781,862	17,783,598	17,781,375	17,779,295	17,781,671	17,783,066	17,781,376	17,783,296
Series 2023																				
Series 2024																				
Series 2025																				
Series 2033	310,195,757																	7,030,100	7,030,100	
Total	3,749,910,768		9,838,912	25,854,075	25,854,075	40,557,472	54,012,861	67,931,382	67,931,382	72,676,382	82,989,132	86,226,117	89,606,881	89,606,382	89,607,329	89,602,103	89,601,322	89,610,307	96,632,532	96,639,156
HRTF Revenue Debt - Intermediate Lien																				
Series 2018																				
Series 2019	22,134,767																			
Series 2020																				
Series 2021																				
Series 2022																				
Series 2023	645,695,907																			
Series 2024																				
Series 2025																				
Series 2033																				
Total	667,830,674						22,134,767		13,944,647	13,944,647	16,699,647	16,697,161	16,697,814	16,695,993	16,696,561	16,698,874	16,696,924	16,695,196	16,698,298	16,699,554
HRTF Revenue Debt - Subordinate Lien TIFIA Loan (Net DS)																				
Series 2019A	779,969,218									14,197,579	14,694,188	15,209,022	15,742,771	16,296,147	16,869,893	17,464,779	18,081,605	18,721,202	19,384,430	20,072,187
Series 2021	1,220,635,294									17,821,243	17,810,839	17,800,436	17,790,032	21,735,936	22,612,786	23,526,076	24,477,347	25,468,208	26,500,335	
Total	2,000,604,512									14,197,579	32,515,431	33,019,862	33,543,206	34,086,179	38,605,829	40,077,565	41,607,681	43,198,549	44,852,638	46,572,522

IV. HRTF Debt Service

	FY 2036	FY 2037	FY 2038	FY 2039	FY 2040	FY 2041	FY 2042	FY 2043	FY 2044	FY 2045	FY 2046	FY 2047	FY 2048	FY 2049	FY 2050	FY 2051	FY 2052	FY 2053	FY 2054	FY 2055
HRTF Revenue Debt - Senior Lien																				
Series 2018	30,601,825	30,600,825	30,599,575	30,602,075	30,602,075	30,598,575	30,600,575	30,601,575	30,600,325	30,600,575	30,600,825	30,599,575	40,000,325	40,001,325	40,002,325	40,000,325	40,002,325	39,999,825	40,001,550	40,000,600
Series 2019																				
Series 2020	22,197,182	22,199,871	22,200,485	22,198,155	22,198,035	22,204,109	22,201,272	22,198,911	22,198,618	22,199,021	22,199,271	22,203,516	13,648,709	13,645,371	13,646,339	13,645,982	13,644,583	13,646,754	13,646,914	13,644,676
Series 2021	19,020,271	19,018,909	19,023,857	19,019,096	19,019,147	19,023,809	19,022,057	19,019,162	19,019,328	19,019,537	19,022,781	19,023,181	19,020,051	19,021,826	19,022,842	19,022,185	19,018,935	19,023,545	19,019,785	19,022,040
Series 2022	17,783,462	17,781,755	17,782,531	17,779,916	17,783,232	17,781,346	17,779,220	17,780,956	17,781,156	17,783,948	17,781,594	17,781,444	17,782,504	17,783,774	17,782,959	17,783,005	17,783,485	17,779,290	17,779,480	
Series 2023																				
Series 2024																				
Series 2025																				
Series 2033	7,030,100	7,030,100	8,546,600	8,545,350	8,549,220	8,548,721	8,548,046	8,546,850	8,549,461	8,547,899	8,549,674	8,549,937	8,548,572	8,549,753	8,548,425	8,548,741	8,545,624	8,547,996	8,546,051	8,548,751
Total	96,632,839	96,631,460	98,153,047	98,144,591	98,151,709	98,156,559	98,151,169	98,147,454	98,148,888	98,150,979	98,154,144	98,157,653	99,000,161	99,002,050	98,999,314	99,000,193	98,994,472	99,001,605	98,993,590	98,995,547
HRTF Revenue Debt - Intermediate Lien																				
Series 2018																				
Series 2019																				
Series 2020																				
Series 2021																				
Series 2022																				
Series 2023	16,699,549	16,697,963	16,699,514	16,698,262	16,698,493	16,699,225	16,699,455	16,698,714	16,696,010	16,695,950	16,697,308	16,697,476	16,697,918	16,697,503	16,695,093	16,695,355	16,695,570	16,699,300	16,694,830	16,697,010
Series 2024																				
Series 2025																				
Series 2033																				
Total	16,699,549	16,697,963	16,699,514	16,698,262	16,698,493	16,699,225	16,699,455	16,698,714	16,696,010	16,695,950	16,697,308	16,697,476	16,697,918	16,697,503	16,695,093	16,695,355	16,695,570	16,699,300	16,694,830	16,697,010
HRTF Revenue Debt - Subordinate Lien T1																				
Series 2019A	20,785,401	21,525,039	22,292,103	23,087,634	23,912,714	24,768,465	25,656,053	26,576,690	27,531,632	28,522,186	29,549,709	30,615,607	31,721,345	32,868,442	34,058,474	35,293,081	36,573,964	37,902,891	39,281,697	40,712,288
Series 2021	27,575,475	28,695,451	29,862,164	31,077,594	32,343,809	33,662,962	35,037,301	36,469,167	37,961,003	39,515,356	41,134,882	42,822,350	44,580,649	46,412,790	48,321,912	50,311,291	50,942,629	53,634,459	55,845,678	57,182,593
Total	48,360,876	50,220,490	52,154,267	54,165,229	56,256,523	58,431,427	60,693,354	63,045,856	65,492,635	68,037,542	70,684,590	73,437,957	76,301,994	79,281,231	82,380,386	85,604,372	87,516,594	91,537,350	95,127,375	97,894,880

IV. HRTF Debt Service

V. Toll Revenue Flow of Funds

V. Toll Revenue Flow of Funds

	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054
Revenue Fund	89,067,820	95,185,340	101,742,780	107,550,100	113,661,040	120,087,820	126,844,540	133,946,240	141,407,960	149,244,740	157,472,560	166,104,580	175,163,360	184,664,880	194,627,940	205,065,700	216,003,540
Tolling O&M Fund																	
Annual Expenditure	37,115,900	37,676,140	40,468,880	41,105,260	41,752,920	43,765,460	44,466,700	47,343,100	48,119,540	48,910,080	51,236,580	52,091,040	55,394,200	56,336,080	57,294,880	59,982,340	61,015,400
Paid by Toll Revenues	37,115,900	37,676,140	40,468,880	41,105,260	41,752,920	43,765,460	44,466,700	47,343,100	48,119,540	48,910,080	51,236,580	52,091,040	55,394,200	56,336,080	57,294,880	59,982,340	61,015,400
Tolling O&M Reserve																	
Balance Requirement	9,419,035	10,117,220	10,276,315	10,438,230	10,941,365	11,116,675	11,835,775	12,029,885	12,227,520	12,809,145	13,022,760	13,848,550	14,084,020	14,323,720	14,995,585	15,253,850	16,202,075
Beginning Balance	9,278,975	9,419,035	10,117,220	10,276,315	10,438,230	10,941,365	11,116,675	11,835,775	12,029,885	12,227,520	12,809,145	13,022,760	13,848,550	14,084,020	14,323,720	14,995,585	15,253,850
Initial Deposit from HRTF																	
Ongoing Deposits From Toll Revenues	47,270	603,995	57,923	59,152	398,753	65,896	607,933	75,752	77,336	459,350	85,524	695,562	96,985	98,860	528,628	108,309	795,687
Transfer Out to Tolling O&M Fund																	
Interest Earnings	92,790	94,190	101,172	102,763	104,382	109,414	111,167	118,358	120,299	122,275	128,091	130,228	138,486	140,840	143,237	149,956	152,539
Transfers In From Toll Revenue General Fund																	
Ending Balance	9,419,035	10,117,220	10,276,315	10,438,230	10,941,365	11,116,675	11,835,775	12,029,885	12,227,520	12,809,145	13,022,760	13,848,550	14,084,020	14,323,720	14,995,585	15,253,850	16,202,075
Pledged Revenues	51,904,650	56,905,205	61,215,977	66,385,688	71,509,367	76,256,464	81,769,907	86,527,388	93,211,084	99,875,310	106,150,456	113,317,978	119,672,176	128,229,940	136,804,432	144,975,051	154,192,454
Toll-Backed Debt Service Fund (TIFIA Loans)																	
Payment Due	28,505,792	31,059,879	32,796,142	35,280,163	38,188,910	40,351,680	43,745,048	45,706,200	49,537,517	53,287,215	56,217,863	60,548,029	63,286,809	68,149,021	72,939,911	76,827,527	82,312,708
Paid with DSRF Earnings	725,658	743,715	761,324	779,089	797,546	816,311	835,142	854,598	873,834	894,001	900,000	900,000	900,000	900,000	900,000	900,000	900,000
Paid with Toll Revenues	27,780,134	30,316,164	32,034,819	34,501,074	37,391,364	39,535,369	42,909,906	44,851,602	48,663,683	52,393,214	55,317,863	59,648,029	62,386,809	67,249,021	72,039,911	75,927,527	81,412,708
Paid with TIFIA DSRF Draws																	
TIFIA Coverage Ratios	1.82x	1.83x	1.87x	1.88x	1.87x	1.89x	1.87x	1.89x	1.88x	1.87x	1.89x	1.87x	1.89x	1.88x	1.89x	1.87x	
TIFIA Debt Service Reserve Fund																	
Balance Requirement	74,371,478	76,132,352	77,908,900	79,754,586	81,631,133	83,514,188	85,459,752	87,383,405	89,400,115	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000
Beginning Balance	72,565,783	74,371,478	76,132,352	77,908,900	79,754,586	81,631,133	83,514,188	85,459,752	87,383,405	89,400,115	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000
Initial Deposit from HRTF																	
Ongoing Deposits from Toll Revenues	1,805,695	1,760,874	1,776,548	1,845,686	1,876,546	1,883,055	1,945,564	1,923,653	2,016,710	599,885							
Transfer Out to TIFIA DSRF																	
Transfer In From Toll Revenue General Fund																	
Excess Balance Releases to Toll Revenue General Fund																	
Ending Balance	74,371,478	76,132,352	77,908,900	79,754,586	81,631,133	83,514,188	85,459,752	87,383,405	89,400,115	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000
Residual Revenues after Debt Obligations	22,318,821	24,828,167	27,404,611	30,038,928	32,241,457	34,838,039	36,914,437	39,752,133	42,530,691	46,882,211	50,832,593	53,669,948	57,285,366	60,980,919	64,764,522	69,047,524	72,779,746
Tolling M&R Reserve																	
Annual Expenditure	1,054,000	2,309,000	2,596,000	12,312,000													27,038,000
Balance Requirement	9,383,600	15,822,600	34,358,800	52,691,200	58,845,200	77,311,200	71,792,600	5,833,600	5,396,000	11,091,800	16,787,600	26,013,000	39,522,800	64,379,400	70,836,600	92,900,800	83,037,800
Beginning Balance	5,729,400	9,383,600	15,822,600	34,358,800	52,691,200	58,845,200	77,311,200	71,792,600	5,833,600	5,396,000	11,091,800	16,787,600	26,013,000	39,522,800	64,379,400	70,836,600	92,900,800
Initial Deposit from HRTF																	
Ongoing Deposits From Toll Revenues	3,596,906	7,399,164	20,686,974	20,584,812	17,939,088	17,877,548	13,956,288	2,393,074	2,516,064	5,641,840	5,584,882	10,622,524	24,227,670	24,790,372	21,420,406	21,355,834	16,245,992
Interest Earnings	57,294	93,836	158,226	343,588	526,912	588,452	773,112	717,926	58,336	53,960	110,918	167,876	260,130	395,228	643,794	708,366	929,008
Draws to Pay Expenditure	(1,054,000)	(2,309,000)	(2,596,000)	(12,312,000)				(20,248,000)	(69,070,000)	(3,012,000)						(1,565,000)	(10,978,000)
Transfers In From Toll Revenue General Fund*																(329,000)	(15,607,000)
Ending Balance	9,383,600	15,822,600	34,358,800	52,691,200	58,845,200	77,311,200	71,792,600	5,833,600	5,396,000	11,091,800	16,787,600	26,013,000	39,522,800	64,379,400	70,836,600	92,900,800	83,037,800
*Available for current period expenditure payment and build the b																	
Residual Revenues after Tolling M&R Reserve	18,721,915	17,429,003	6,717,637	9,454,116	14,302,369	16,960,491	22,958,149	37,359,059	40,014,627	41,240,371	45,247,711	43,047,424	33,057,696	36,190,547	43,344,116	47,691,690	56,533,754
HREL Project Cost Payment Fund																	
VDOT Repayment Fund	Deposits from Revenues																
	18,721,915																
HRTAC HRTF Repayment Fund																	
Residual Revenues after HRTAC HRTF Repayment Fund	Deposits from Revenues																
	4,110,074																
Remaining Revenues																	
	9,035,656																
Toll Revenue General Fund																	
Beginning Balance	50,075,623	50,576,379	51,082,143	51,592,965	52,108,894	52,629,983	53,156,283	62,723,502	100,709,796	141,731,521	184,389,208	231,480,811	276,843,043	312,669,170	351,986,409	398,850,388	450,530,582
Deposits From Remaining Revenues							9,035,656	37,359,059	40,014,627	41,240,371	45,247,711	43,047,424	33,057,696	36,190,547	43,344,116	47,691,690	56,533,754
Transfers Out to Tolling O&M Reserve																	
Transfers Out to TIFIA DSRF																	
Transfers Out to Tolling M&R Reserve																	
Transfers In From TIFIA DSRF (releases)																	
Interest Earnings	500,756	505,764	510,821	515,930	521,089	526,300	531,563	627,235	1,007,098	1,417,315	1,843,892	2,314,808	2,768,430	3,126,692	3,519,864	3,988,504	4,505,306
Ending Balance	50,576,379	51,082,143	51,592,965	52,108,894	52,629,983	53,156,283</											

V. Toll Revenue Flow of Funds

	2055	2056	2057	2058	2059	2060
Revenue Fund	227,456,500	239,448,080	251,995,200	265,123,240	278,853,820	293,204,800
Tolling O&M Fund						
Annual Expenditure	64,808,300	65,942,880	67,097,200	70,199,200	71,441,880	75,793,140
Paid by Toll Revenues	64,808,300	65,942,880	67,097,200	70,199,200	71,441,880	75,793,140
Paid by Tolling O&M Reserve Draws						
Tolling O&M Reserve						
Balance Requirement	16,485,720	16,774,300	17,549,800	17,860,470	18,948,285	
Beginning Balance	16,202,075	16,485,720	16,774,300	17,549,800	17,860,470	18,948,285
Initial Deposit from HRTF						
Ongoing Deposits From Toll Revenues	121,624	123,723	607,757	135,172	909,210	
Transfer Out to Tolling O&M Fund						
Interest Earnings	162,021	164,857	167,743	175,498	178,605	189,483
Transfers In From Toll Revenue General Fund						
Ending Balance	16,485,720	16,774,300	17,549,800	17,860,470	18,948,285	19,137,768
Pledged Revenues	162,526,576	173,381,477	184,290,243	194,788,868	206,502,730	217,411,660
Toll-Backed Debt Service Fund (TIFIA Loans)						
Payment Due	86,023,051	92,145,724	98,206,749	103,274,639	110,044,618	
Paid with DSRF Earnings	900,000	900,000	900,000	900,000	900,000	
Paid with Toll Revenues	85,123,051	91,245,724	97,306,749	102,374,639	109,144,618	
Paid with TIFIA DSRF Draws						
TIFIA Coverage Ratios	1.89x	1.88x	1.88x	1.89x	1.88x	
TIFIA Debt Service Reserve Fund						
Balance Requirement	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	
Beginning Balance	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000
Initial Deposit from HRTF						
Ongoing Deposits from Toll Revenues						
Transfer Out to TIFIA DSF						
Transfer In From Toll Revenue General Fund						
Excess Balance Releases to Toll Revenue General Fund						(90,000,000)
Ending Balance	90,000,000	90,000,000	90,000,000	90,000,000	90,000,000	
Residual Revenues after Debt Obligations	77,403,524	82,135,753	86,983,494	92,414,229	97,358,112	217,411,660
Tolling M&R Reserve						
Annual Expenditure	79,465,000	3,818,000			2,592,000	34,126,000
Balance Requirement	11,680,000	15,205,600	22,549,200	29,892,800	34,126,000	
Beginning Balance	83,037,800	11,680,000	15,205,600	22,549,200	29,892,800	34,126,000
Initial Deposit from HRTF						
Ongoing Deposits From Toll Revenues	7,276,822	7,226,800	7,191,544	7,118,108	6,526,272	
Interest Earnings	830,378	116,800	152,056	225,492	298,928	341,260
Draws to Pay Expenditure	(79,465,000)	(3,818,000)			(2,592,000)	(34,126,000)
Transfers In From Toll Revenue General Fund*						
Ending Balance	11,680,000	15,205,600	22,549,200	29,892,800	34,126,000	34,126,000
*Available for current period expenditure payment and build the balance						
Residual Revenues after Tolling M&R Reserve	70,126,702	74,908,953	79,791,950	85,296,121	90,831,840	217,411,660
HREL Project Cost Payment Fund						
VDOT Repayment Fund						
Deposits from Revenues						
HRTAC HRTF Repayment Fund						
Deposits from Revenues						
Remaining Revenues	70,126,702	74,908,953	79,791,950	85,296,121	90,831,840	217,411,660
Toll Revenue General Fund						
Beginning Balance	511,569,642	586,812,041	667,589,114	754,056,956	846,893,647	946,194,423
Deposits From Remaining Revenues	70,126,702	74,908,953	79,791,950	85,296,121	90,831,840	217,411,660
Transfers Out to Tolling O&M Reserve						
Transfers Out to TIFIA DSF						
Transfers Out to Tolling M&R Reserve						
Transfers In From TIFIA DSRF (releases)						90,000,000
Interest Earnings	5,115,696	5,868,120	6,675,891	7,540,570	8,468,936	9,461,944
Ending Balance	586,812,041	667,589,114	754,056,956	846,893,647	946,194,423	1,263,068,027

Applicable Revolving Account Costs*

Total VDOT Contribution

VI. HRTF and Toll TIFIA Loan Amounts

Six Initial Projects

Eligible Project Cost	1,396,262,190
Eligible Financing Cost*	<u>121,281,639</u>
Total	<u>1,517,543,830</u>
33% of Eligible Cost Rounded Down to the nearest \$1.00	500,789,463.00
Loan to Take Out BAN	414,345,000
Loan to Reimburse Interest Paygo Payments	86,444,463
HRTF 2019 Loan	500,789,463.00
[Requested TIFIA Loan/Eligible Costs]	33.0%
Total Federal Assistance/Eligible Costs	33.0%
<i>*Approved Loan Amount from the Loan Application.</i>	502,859,656

HRBT Expansion Project

Eligible Project Cost	3,861,997,227
Eligible Financing Cost	
Bonds Issuance Costs	2,242,710
Bonds Interest During Construction	<u>127,338,542</u>
Sub-total	129,581,252
Total Eligible Costs	3,991,578,479
Maximum TIFIA Amount (33%)	1,317,220,898
2021 HRTF Loan	742,220,898
2021 Toll Revenue Loan	575,000,000
Total	1,317,220,898

HREL Project

Eligible Project Cost	939,692,595
Eligible Financing Cost	
Bonds Issuance Costs	1,727,610
Bonds Debt Service Reserve Fund	26,731,000
Bonds Interest During Construction	<u>69,644,855</u>
Sub-total	98,103,465
Total Eligible Costs	1,037,796,060
Maximum TIFIA Amount (33%)	342,472,700
Toll Revenue 2022 Loan	325,000,000

Bower's Hill

Eligible Project Cost	600,393,054
Eligible Financing Cost	
Total	600,393,054
Maximum TIFIA Amount (33%)	198,129,708
Toll Revenue 2035 Loan	

Total Toll Loan **900,000,000**

VIII. TIFIA Loan Payments Detail:

2019 HRTF TIFIA Loan (Fund the Six Initial Projects)									
Period Ending	Loan Draw Amount	Loan Beginning Balance	Interest Due	Semi-Annual Payment	Interest Paid	Principal Paid	Annual Payment	Unpaid Interest	Loan Ending Balance
1/1/2019									
7/1/2019									
1/1/2020									
7/1/2020									
1/1/2021									
7/1/2021									
1/1/2022									
7/1/2022	500,789,463	500,789,463	5,680,187		5,680,187	506,469,650			500,789,463
1/1/2023	500,789,463	5,680,187							
7/1/2023	506,469,650	5,650,952							
1/1/2024	512,120,603	5,792,840							
7/1/2024	517,913,442	5,794,687							
1/1/2025	523,708,130	5,940,142	(5,940,142)	(5,940,142)	(2,414,146)	(14,197,579)			523,708,130
7/1/2025	523,708,130	5,940,142	(5,940,142)	(5,940,142)	(2,414,146)	(14,197,579)			521,293,983
1/1/2026	521,293,983	5,912,759	(5,912,759)	(5,912,759)	(2,407,149)	(16,296,147)			521,293,983
7/1/2026	521,293,983	5,816,355	(8,781,429)	(5,816,355)	(2,965,073)	(14,694,188)			518,328,910
1/1/2027	518,328,910	5,879,128	(5,879,128)	(5,879,128)	(2,965,073)	(14,694,188)			518,328,910
7/1/2027	518,328,910	5,783,273	(9,329,894)	(5,783,273)	(3,546,622)	(15,209,022)			514,782,288
1/1/2028	514,782,288	5,822,947	(5,822,947)	(5,822,947)	(2,027,446)	(17,464,779)			514,782,288
7/1/2028	514,782,288	5,759,654	(9,919,823)	(5,759,654)	(4,160,169)	(15,742,771)			510,622,119
1/1/2029	510,622,119	5,791,714	(5,791,714)	(5,791,714)	(2,407,149)	(16,296,147)			510,622,119
7/1/2029	510,622,119	5,697,284	(10,504,433)	(5,697,284)	(2,407,149)	(16,296,147)			505,814,970
1/1/2030	505,814,970	5,737,189	(5,737,189)	(5,737,189)	(2,407,149)	(16,296,147)			505,814,970
7/1/2030	505,814,970	5,643,648	(11,132,704)	(5,643,648)	(5,489,056)	(16,869,893)			500,325,914
1/1/2031	500,325,914	5,674,930	(5,674,930)	(5,674,930)	(2,407,149)	(16,296,147)			500,325,914
7/1/2031	500,325,914	5,582,404	(11,789,850)	(5,582,404)	(2,027,446)	(17,464,779)			494,118,468
1/1/2032	494,118,468	5,589,209	(5,589,209)	(5,589,209)	(2,407,149)	(16,296,147)			494,118,468
7/1/2032	494,118,468	5,528,457	(12,492,396)	(5,528,457)	(6,963,940)	(18,081,605)			487,154,528
1/1/2033	487,154,528	5,525,534	(5,525,534)	(5,525,534)	(2,407,149)	(16,296,147)			487,154,528
7/1/2033	487,154,528	5,435,443	(13,195,668)	(5,435,443)	(2,760,225)	(18,721,202)			479,394,303
1/1/2034	479,394,303	5,437,513	(5,437,513)	(5,437,513)	(2,407,149)	(16,296,147)			479,394,303
7/1/2034	479,394,303	5,348,858	(13,946,917)	(5,348,858)	(8,598,058)	(19,384,430)			470,796,245
1/1/2035	470,796,245	5,339,990	(5,339,990)	(5,339,990)	(2,407,149)	(16,296,147)			470,796,245
7/1/2035	470,796,245	5,252,925	(14,732,197)	(5,252,925)	(9,479,271)	(20,072,187)			461,316,973
1/1/2036	461,316,973	5,218,176	(5,218,176)	(5,218,176)	(2,407,149)	(16,296,147)			461,316,973
7/1/2036	461,316,973	5,161,456	(15,567,226)	(5,161,456)	(10,405,770)	(20,785,401)			450,911,204
1/1/2037	450,911,204	5,114,445	(5,114,445)	(5,114,445)	(2,407,149)	(16,296,147)			450,911,204
7/1/2037	450,911,204	5,031,057	(16,410,594)	(5,031,057)	(11,379,537)	(21,525,039)			439,531,667
1/1/2038	439,531,667	4,985,373	(4,985,373)	(4,985,373)	(2,407,149)	(16,296,147)			439,531,667
7/1/2038	439,531,667	4,904,090	(17,306,730)	(4,904,090)	(12,402,641)	(22,292,103)			427,129,026
1/1/2039	427,129,026	4,844,696	(4,844,696)	(4,844,696)	(2,407,149)	(16,296,147)			427,129,026
7/1/2039	427,129,026	4,765,707	(18,242,938)	(4,765,707)	(13,477,231)	(23,087,634)			413,651,795
1/1/2040	413,651,795	4,679,012	(4,679,012)	(4,679,012)	(2,407,149)	(16,296,147)			413,651,795
7/1/2040	413,651,795	4,628,153	(19,233,702)	(4,628,153)	(14,605,548)	(23,912,714)			399,046,247
1/1/2041	399,046,247	4,526,168	(4,526,168)	(4,526,168)	(2,407,149)	(16,296,147)			399,046,247
7/1/2041	399,046,247	4,452,372	(20,242,296)	(4,452,372)	(15,789,924)	(24,768,465)			383,256,323
1/1/2042	383,256,323	4,347,023	(4,347,023)	(4,347,023)	(2,407,149)	(16,296,147)			383,256,323
7/1/2042	383,256,323	4,276,196	(21,308,981)	(4,276,196)	(17,032,786)	(25,656,053)			366,223,537
1/1/2043	366,223,537	4,153,878	(4,153,878)	(4,153,878)	(2,407,149)	(16,296,147)			366,223,537
7/1/2043	366,223,537	4,086,152	(22,422,812)	(4,086,152)	(18,336,660)	(26,576,690)			347,886,877
1/1/2044	347,886,877	3,935,114	(3,935,114)	(3,935,114)	(2,407,149)	(16,296,147)			347,886,877
7/1/2044	347,886,877	3,892,341	(23,596,518)	(3,892,341)	(19,704,177)	(27,531,632)			328,182,700
1/1/2045	328,182,700	3,722,401	(3,722,401)	(3,722,401)	(2,407,149)	(16,296,147)			328,182,700
7/1/2045	328,182,700	3,661,710	(24,778,248)	(3,661,710)	(25,867,140)	(31,721,345)			307,044,624
1/1/2046	307,044,624	3,482,643	(3,482,643)	(3,482,643)	(2,407,149)	(16,296,147)			307,044,624
7/1/2046	307,044,624	3,425,861	(26,067,065)	(3,425,861)	(22,641,204)	(29,549,709)			284,403,420
1/1/2047	284,403,420	3,225,836	(3,225,836)	(3,225,836)	(2,407,149)	(16,296,147)			347,886,877
7/1/2047	284,403,420	3,173,241	(27,389,771)	(3,173,241)	(24,216,530)	(30,615,607)			260,186,889
1/1/2048	260,186,889	2,943,098	(2,943,098)	(2,943,098)	(2,407,149)	(16,296,147)			260,186,889
7/1/2048	260,186,889	2,911,107	(28,778,248)	(2,911,107)	(25,867,140)	(31,721,345)			234,319,749
1/1/2049	234,319,749	2,657,764	(2,657,764)	(2,657,764)	(2,407,149)	(16,296,147)			234,319,749
7/1/2049	234,319,749	2,614,431	(30,210,678)	(2,614,431)	(27,596,247)	(32,868,442)			206,723,502
1/1/2050	206,723,502	2,344,754	(2,344,754)	(2,344,754)	(2,407,149)	(16,296,147)			206,723,502
7/1/2050	206,723,502	2,306,525	(31,713,720)	(2,306,525)	(29,407,195)	(34,058,474)			177,316,306
1/1/2051	177,316,306	2,011,204	(2,011,204)	(2,011,204)	(2,407,149)	(16,296,147)			177,316,306
7/1/2051	177,316,306	1,978,413	(33,281,877)	(1,978,413)	(31,303,464)	(35,293,081)			146,012,842
1/1/2052	146,012,842	1,651,621	(1,651,621)	(1,651,621)	(2,407,149)	(16,296,147)			146,012,842
7/1/2052	146,012,842	1,633,668	(34,922,344)	(1,633,668)	(33,288,675)	(36,573,964)			112,724,167
1/1/2053	112,724,167	1,257,724	(36,624,321)	(1,257,724)	(35,366,597)	(37,902,891)			112,724,167
7/1/2053	77,357,569	877,426	(877,426)	(877,426)	(877,426)	(877,426)			77,357,569
1/1/2054	77,357,569	863,120	(38,404,271)	(863,120)	(37,541,151)	(39,281,697)			39,816,418
7/1/2054	39,816,418	451,616	(451,616)	(451,616)	(44,253)	(39,816,418)			39,816,418
1/1/2055	39,816,418	444,253	(40,260,671)	(44,253)	(39,816,418)	(40,712,288)			0
Total	500,789,463	279,179,755	(779,969,218)	(256,261,088)	(523,708,130)	(779,969,218)			22,918,667

2021 HRTF TIFIA Loan (Fund HRBT)									
Period Ending	Loan Draw Amount	Loan Beginning Balance	Interest Due	Semi-Annual Payment	Interest Paid	Principal Paid	Annual Payment	Unpaid Interest	Loan Ending Balance
7/1/2021	153,549,809	153,549,809	167,029						153,716,838
1/1/2022	356,801,684	153,716,838	3,289,072						513,807,594
7/1/2022	231,869,406	513,807,594	6,973,975						752,650,974
1/1/2023		752,650,974	8,195,441						760,846,415
7/1/2023		760,846,415	8,149,603						8,149,603
1/1/2024		768,996,019	8,350,540						8,350,540
7/1/2024		777,346,559	8,349,467						8,349,467
1/1/2025		785,696,026	8,555,261						8,555,261
7/1/2025		794,251,287	8,507,410						8,507,410
1/1/2026		802,758,697	8,741,053	(8,741,053)	(8,741,053)	(8,741,053)			802,758,697
7/1/2026		802,758,697	8,598,535	(9,080,191)	(8,598,535)	(481,655)	(17,821,243)		802,277,042
1/1/2027		802,277,042	8,735,808	(8,735,808)	(8,735,808)	(8,735,808)	(17,821,243)		802,277,042
7/1/2027		802,277,042	8,593,376	(9,075,031)	(8,593,376)	(481,655)	(17,810,839)		801,795,387
1/1/2028		801,795,387	8,706,709	(8,706,709)	(8,706,709)	(8,706,709)	(8,706,709)		801,795,387
7/1/2028		801,795,387	8,612,071	(8,932,726)	(8,612,071)	(8,612,071)	(8,612,071)		801,313,73

2021 Toll Revenue TIFIA Loan (Fund HRBT)									
Period Ending	Loan Draw Amount	Loan Beginning Balance	Interest Due	Semi-Annual Payment	Interest Paid	Principal Paid	Annual Payment	Unpaid Interest	Loan Ending Balance
1/1/2023									
7/1/2023									
1/1/2024	108,283,544	206,372					206,372	108,489,916	
7/1/2024	199,938,300	108,489,916	2,108,807				2,108,807	310,537,023	
1/1/2025	145,515,358	310,537,023	4,040,131				4,040,131	460,092,512	
7/1/2025	121,262,798	460,092,512	5,579,748				5,579,748	586,935,058	
1/1/2026	586,935,058	6,390,999					6,390,999	593,326,057	
7/1/2026	593,326,057	6,355,254					6,355,254	599,681,311	
1/1/2027	599,681,311	6,529,790					6,529,790	606,211,101	
7/1/2027	606,211,101	6,493,268					6,493,268	612,704,369	
1/1/2028	612,704,369	6,653,367	(1,500,000)	(1,500,000)			5,153,367	617,385,736	
7/1/2028	617,857,736	6,636,400	(4,505,886)	(4,505,886)			(6,005,886)	2,130,513	619,988,249
1/1/2029	619,988,249	6,750,908	(4,377,758)	(4,377,758)			(8,755,516)	2,373,150	622,361,399
7/1/2029	622,361,399	6,666,258	(4,377,758)	(4,377,758)			(2,228,500)	624,649,899	
1/1/2030	624,649,899	6,801,667	(4,578,111)	(4,578,111)			(2,223,556)	626,873,455	
7/1/2030	626,873,455	6,714,588	(4,578,111)	(4,578,111)			(9,156,223)	2,136,476	629,009,931
1/1/2031	629,009,931	6,849,143	(5,419,537)	(5,419,537)			(1,429,606)	630,439,537	
7/1/2031	630,439,537	6,752,785	(5,419,537)	(5,419,537)			(10,839,074)	1,333,248	631,772,784
1/1/2032	631,772,784	6,860,431	(5,958,658)	(5,958,658)			(901,773)	632,674,557	
7/1/2032	632,674,557	6,795,547	(5,958,658)	(5,958,658)			(11,917,316)	836,884	633,511,446
1/1/2033	633,511,446	6,898,159	(6,532,789)	(6,532,789)			(365,369)	633,876,816	
7/1/2033	633,876,816	6,789,602	(6,532,789)	(6,532,789)			(13,065,578)	256,813	634,133,629
1/1/2034	634,133,629	6,904,933	(6,904,933)	(6,904,933)			(634,133,629)		
7/1/2034	634,133,629	6,792,353	(6,792,353)	(6,792,353)			(13,697,286)	634,133,629	
1/1/2035	634,133,629	6,904,933	(6,904,933)	(6,904,933)			(500,000)	(4,197,286)	
7/1/2035	634,133,629	6,792,353	(7,292,353)	(7,292,353)			(633,633,629)		
1/1/2036	633,633,629	6,880,638	(6,880,638)	(6,880,638)			(633,633,629)		
7/1/2036	633,633,629	6,805,848	(7,805,848)	(1,000,000)			(14,686,486)	632,633,629	
1/1/2037	632,633,629	6,888,600	(6,888,600)	(6,888,600)			(632,633,629)		
7/1/2037	632,633,629	6,776,286	(7,776,286)	(7,776,286)			(1,000,000)	(14,664,886)	
1/1/2038	631,633,629	6,877,711	(6,877,711)	(6,877,711)			(631,633,629)		
7/1/2038	631,633,629	6,765,575	(11,489,226)	(6,765,575)	(4,723,651)	(18,366,938)	(626,909,977)		
1/1/2039	626,909,977	6,826,277	(6,826,277)	(6,826,277)			(626,909,977)		
7/1/2039	626,909,977	6,714,979	(13,259,790)	(6,714,979)	(6,544,812)	(20,086,067)	(620,365,166)		
1/1/2040	620,365,166	6,736,556	(6,736,556)	(6,736,556)			(620,365,166)		
7/1/2040	620,365,166	6,663,332	(13,363,349)	(6,663,332)	(7,700,017)	(21,099,904)	(612,665,149)		
1/1/2041	612,665,149	6,671,168	(6,671,168)	(6,671,168)			(612,665,149)		
7/1/2041	612,665,149	6,562,399	(16,452,709)	(6,562,399)	(9,890,310)	(23,123,877)	(602,774,839)		
1/1/2042	602,774,839	6,563,475	(6,563,475)	(6,563,475)			(602,774,839)		
7/1/2042	602,774,839	6,456,462	(18,198,150)	(6,456,462)	(11,741,689)	(24,761,625)	(591,033,151)		
1/1/2043	591,033,151	6,435,622	(6,435,622)	(6,435,622)			(591,033,151)		
7/1/2043	591,033,151	6,330,694	(20,020,749)	(6,330,694)	(13,690,055)	(26,456,371)	(577,343,095)		
1/1/2044	577,343,095	6,269,378	(6,269,378)	(6,269,378)			(71,000,154)	(577,343,095)	
7/1/2044	577,343,095	6,052,203	(28,822,277)	(5,605,203)	(23,217,074)	(34,520,384)	(500,084,293)		
1/1/2045	500,084,293	5,430,424	(5,430,424)	(5,430,424)			(500,084,293)		
7/1/2045	500,084,293	5,371,397	(31,347,221)	(5,371,397)	(25,975,824)	(36,777,645)	(474,108,469)		
1/1/2046	474,108,469	5,162,457	(5,162,457)	(5,162,457)			(474,108,469)		
7/1/2046	474,108,469	5,078,286	(34,045,658)	(5,078,286)	(28,967,371)	(39,208,114)	(445,141,098)		
1/1/2050	445,141,098	4,847,038	(4,847,038)	(4,847,038)			(445,141,098)		
7/1/2050	445,141,098	4,768,010	(36,370,500)	(4,768,010)	(31,602,490)	(41,217,537)	(413,538,608)		
1/1/2051	413,538,608	4,502,926	(4,502,926)	(4,502,926)			(413,538,608)		
7/1/2051	413,538,608	4,429,508	(40,040,155)	(4,429,508)	(35,610,647)	(44,543,081)	(377,927,961)		
1/1/2052	377,927,961	4,103,926	(4,103,926)	(4,103,926)			(377,927,961)		
7/1/2052	377,927,961	4,059,318	(43,282,350)	(4,059,318)	(39,223,032)	(47,386,276)	(338,704,930)		
1/1/2053	338,704,930	3,688,079	(3,688,079)	(3,688,079)			(338,704,930)		
7/1/2053	338,704,930	3,627,947	(46,663,205)	(3,627,947)	(43,035,258)	(50,351,284)	(295,669,672)		
1/1/2054	295,669,672	3,219,478	(3,219,478)	(3,219,478)			(295,669,672)		
7/1/2054	295,669,672	3,166,987	(50,302,049)	(3,166,987)	(47,135,062)	(53,521,527)	(248,534,609)		
1/1/2055	248,534,609	2,706,235	(2,706,235)	(2,706,235)			(248,534,609)		
7/1/2055	248,534,609	2,662,112	(53,523,841)	(2,662,112)	(50,861,729)	(56,230,076)	(197,672,880)		
1/1/2056	197,672,880	2,146,533	(2,146,533)	(2,146,533)			(197,672,880)		
7/1/2056	197,672,880	2,123,201	(58,301,096)	(2,123,201)	(56,177,895)	(60,447,629)	(141,494,985)		
1/1/2057	141,494,985	1,540,706	(1,540,706)	(1,540,706)			(141,494,985)		
7/1/2057	141,494,985	1,515,586	(62,583,126)	(1,515,586)	(61,067,541)	(64,123,832)	(80,427,445)		
1/1/2058	80,427,445	875,756	(875,756)	(875,756)			(80,427,445)		
7/1/2058	80,427,445	861,477	(67,085,634)	(861,477)	(66,224,157)	(67,961,389)	(14,203,288)		
1/1/2059	14,203,288	154,656	(154,656)	(154,656)			(14,203,288)		
7/1/2059	14,203,288	152,135	(14,355,423)	(152,135)	(14,203,288)	(14,510,079)			
Total	575,000,000	377,068,626	(952,068,626)	(317,934,998)	(634,133,629)	(952,068,626)	59,133,629		

2022 Toll Revenue TIFIA Loan (Fund HREL)									
Period Ending	Loan Draw Amount	Loan Beginning Balance	Interest Due	Semi-Annual Payment	Interest Paid	Principal Paid	Annual Payment	Semi-Annual Sinking Fund Deposit	Loan Ending Balance
7/1/2023	15,271,718								15,271,718
7/1/2024	15,271,718								
1/1/2025	121,250,512	15,271,718	803,239					803,239	137,325,469
7/1/2025	129,734,120	137,325,469	2,309,599					2,309,599	269,369,189
1/1/2026	58,743,650	129,734,120	3,795,990					3,795,990	331,908,829
7/1/2026	331,908,829	331,908,829	3,966,629					3,966,629	335,875,457
1/1/2027	335,875,457	335,875,457	4,080,565					4,080,565	339,956,022
7/1/2027	339,956,022	339,956,022	4,062,800					4,062,800	344,018,823
1/1/2028	344,018,823	344,018,823	4,168,079					4,168,079	348,186,902
7/1/2028	348,186,902	348,186,902	4,172,725					4,172,725	352,359,627
1/1/2029	352,359,627	348,186,902	4,280,832					4,280,832	356,640,459
7/1/2029	356,640,459	352,359,627	4,262,195					4,262,195	360,902,654
1/1/2030	360,902,654	356,640,459	4,384,621					4,384,621	365,287,275
7/1/2030	365,287,275	360,902,654	4,365,533					4,365,533	369,652,809
1/1/2031	369,652,809	365,287,275	4,490,927					4,490,927	374,143,736
7/1/2031	374,143,736	369,652,809	4,471,376					4,471,376	378,615,112
1/1/2032	378,615,112	374,143,736	4,587,243	(3,841,626)	(3,841,626)		(3,841,626)	(3,841,626)	380,065,419
7/1/2032	379,360,729	378,615,112	4,546,317	(3,841,626)	(3,841,626)		(3,841,626)	(3,841,626)	380,065,419
1/1/2033	380,065,419	379,360,729	4,617,430	(4,013,316)	(4,013,316)		(4,013,316)	(4,013,316)	380,065,419
7/1/2033	380,065,419	380,065,419	4,549,366	(4,013,316)	(4,013,316)		(4,013,316)	(4,013,316)	381,205,583
1/1/2034	381,205,583	380,065,419	4,631,282	(4,631,282)	(4,631,282)		(4,631,282)	(4,631,282)	381,205,583
7/1/2034	381,205,583	381,205,583	4,555,772	(4,555,772)	(4,555,772)		(4,555,772)		

EXHIBIT 9

Model Standard Project Agreement for Funding and Administration

EXHIBIT 9

**Standard Project Agreement for Funding and Administration
between
Hampton Roads Transportation Accountability Commission
and
Virginia Department of Transportation
(Hampton Roads Express Lanes Network Project Elements)**

HRTAC Project Title: _____

HRTAC Project Number: _____

This Standard Project Agreement for Funding and Administration (the "Agreement") is made and executed in duplicate on this _____ day of _____, 20____, as between the Hampton Roads Transportation Accountability Commission ("HRTAC") and the Virginia Department of Transportation ("VDOT").

WITNESSETH

WHEREAS, Chapter 766 of the 2013 Acts of Assembly established the Hampton Roads Transportation Fund (the "HRTF"), and provides that moneys deposited in the HRTF are to be used solely for new construction projects on new or existing highways, bridges, and tunnels in the localities comprising Planning District 23;

WHEREAS, Chapter 678 of the 2014 Acts of Assembly (now codified in Section 33.2-2600 *et seq.* of the Code of Virginia, as amended) (the "HRTAC Act") created HRTAC as a political subdivision of the Commonwealth of Virginia, and moved the responsibility to determine the projects that will be funded by the HRTF from the Hampton Roads Transportation Planning Organization to HRTAC;

WHEREAS, under Sections 33.2-2606 and 33.2-2607 of the Code of Virginia, HRTAC is also authorized to issue bonds and other evidences of debt, and to impose and collect certain tolls;

WHEREAS, under Chapter 703 of the 2020 Acts of Assembly (H1438)(the "HREL Tolling Legislation"), HRTAC is also authorized to impose and collect tolls in designated high-occupancy toll lanes on certain portions of Interstate 64;

WHEREAS, HRTAC is required to use all moneys that it receives, whether from the HRTF, bond proceeds, collections from any tolls imposed by HRTAC or otherwise (collectively, "HRTAC-Controlled Moneys"), for the benefit of those counties and cities that are embraced by HRTAC and in accordance with applicable law;

WHEREAS, VDOT is the Virginia state agency responsible for building, maintaining and operating the interstate, primary, and secondary state highway systems ("VDOT Highways");

WHEREAS, in light of (i) VDOT's responsibilities with respect to VDOT Highways and HRTAC's responsibilities with respect to the application of the HRTAC-Controlled Moneys, and (ii) the determinations of VDOT and HRTAC to coordinate their efforts with respect to, among other things, the development, tolling, financing, procurement and delivery of the Hampton Roads Express Lanes Network Project (the "HREL Project"), VDOT and HRTAC entered into a Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network dated _____, 2020 (the "Master Agreement");

WHEREAS, the Master Agreement contemplates that HRTAC may from time to time enter into Project Agreements for Funding and Administration pursuant to which VDOT will procure all goods and services necessary to design and construct elements of the HREL Project;

WHEREAS, pursuant to the Master Agreement, the parties are prepared to have VDOT proceed with the services described on Appendix A in respect of the project set forth and described on Appendix A to this Agreement (the "Project");

WHEREAS, HRTAC has determined that the Project would benefit the cities and counties that are embraced by HRTAC, it otherwise satisfies the requirements of the HRTAC Act, and it is consistent with the HREL Tolling Legislation;

WHEREAS, VDOT agrees to administer and/or develop the Project in accordance with the budget (the "Project Budget") and cashflow and construction schedule (the "Project Schedule") set forth and described on Appendix B to this Agreement (this Agreement and its appendices may be amended from time to time by mutual agreement of the parties to address mutually agreed changes relating to, among other things, Project scope, design, funding and regulatory approvals);

WHEREAS, HRTAC desires to provide funding for the administration and/or development of the Project out of HRTAC-Controlled Moneys, subject to the terms, conditions and limitations set forth herein;

WHEREAS, the Commonwealth Transportation Board ("CTB") has the authority, pursuant to Section 33.2-214 of the Code of Virginia, to cause VDOT to enter into this Agreement and has authorized the Commissioner of Highways to enter into agreements with HRTAC for project administration and development purposes, and Section 33.2-2608 of the Code of Virginia authorizes HRTAC to enter into this Agreement;

WHEREAS, the CTB, by resolution passed on January 14, 2015, resolved that any agreement between VDOT and HRTAC for project services shall provide that overruns or other additional project costs shall be prorated between HRTAC and VDOT so that each party bears a proportionate share of the additional costs based on each party's percentage responsibility of the project budget; and

WHEREAS, HRTAC's governing body and the CTB have each authorized that their respective designee(s) execute this Agreement on their respective behalf(s) as evidenced by copies of each such entity's clerk's minutes or such other official authorizing documents which are appended hereto as Appendix E.

NOW THEREFORE, in consideration of the foregoing premises and the mutual promises, covenants, and agreements contained herein, the parties hereto agree as follows:

1. VDOT's Obligations

VDOT shall:

- a. Complete or perform or cause to be completed or performed all work relating to the Project, as described in Appendix A, advancing such work diligently and ensuring that all work is completed in accordance with (i) any and all applicable federal, state, and local laws and regulations, and (ii) all terms and conditions of the Master Agreement and this Agreement, including, without limitation, the Project Budget and Project Schedule reflected in Appendix B, which Project Budget and Project Schedule (A) VDOT represents have been prepared in good faith, in accordance with the practices and procedures that VDOT uses for projects where the state or VDOT bears the cost of the project (including, without limitation, the practices used to price and budget services that may be internally sourced, such as Construction Engineering Inspection/CEI), and (B) the parties acknowledge may be amended pursuant to Section 1.h below or as follows:
 - i. In the event that VDOT determines, after receipt of proposals or bids for any work related to the Project, that the cost of the contract for said work will result in a significant reduction in costs associated with a portion of the Project Budget reflected in Appendix B that is allocated to work covered by the contract, then VDOT shall notify HRTAC's Executive Director of the significant reduction in costs. For purposes of this Section 1.a.i, HRTAC and VDOT agree that a "significant reduction in costs" shall mean a reduction in costs that has the effect of reducing, in Appendix B, (x) the costs for the particular portion of the Project Budget allocated to work covered by the contract by more than 20 percent or (y) the entire Project Budget either by more than 10 percent or \$10,000,000, whichever applies. In the event there is a significant reduction in costs, VDOT and HRTAC will work reasonably and in good faith to amend Appendix B to fairly reflect the effect of the reduction (by way of example, if the Appendix B costs are to be paid initially from both HRTAC-Controlled Moneys and state or federal contributions, then the commitment of each funding source would be reduced by its proportionate share of the reduction in costs, which proportionate

share will be based on the funding source's proportionate responsibility for the total budgeted costs before the reduction was realized) (for the avoidance of doubt, the amount by which a commitment is reduced shall be considered deobligated from the Project).

- ii. In the event that any federal or state funding not previously available for the Project becomes available for any portion of the Project Budget reflected in Appendix B, then VDOT and HRTAC will work reasonably and in good faith to amend Appendix B to fairly reflect the benefit of the additional funding (by way of example, if the Appendix B costs are to be paid initially from both HRTAC-Controlled Moneys and state contributions, but federal funding subsequently becomes available, then the respective commitments of HRTAC and the state would be reduced by each party's proportionate share of the additional funds, which proportionate share will be based on the party's proportionate responsibility for the total budgeted cost before the additional funding became available).
- iii. In the event that application is made for federal or state funding or loans not previously available for the Project, then VDOT will, to the extent within its reasonable control, provide reasonable support to such application and, if any such funding or loans are awarded or otherwise become available, take action to satisfy conditions and comply with requirements of such funding or loans, in each case as may be reasonably requested by HRTAC.

b. Without limiting the foregoing, VDOT shall:

- i. Select contractors, contract with contractors, and administer and enforce contracts all in a manner that is consistent in all material respects with the policies, procedures and practices that VDOT uses where the state or VDOT bears the cost of a project; for example, VDOT shall use its customary policies, procedures and practices relating to requesting bids/proposals, negotiating/finalizing terms and conditions of contracts (using, where applicable, standard terms/forms), and monitoring and enforcing performance of contracts;
- ii. Not enter into any contract to perform the work related to the Project if (i) the cost of that contract would exceed the portion of the Project Budget reflected in Appendix B that is allocated to the work covered by that contract, (ii) the cost of that contract, when aggregated with the cost of all other contracts relating to the Project that have been, or are expected to be, entered into would exceed the Project Budget reflected in Appendix B, or (iii) the schedule in

the contract for performing and paying for the work related to the Project would be materially different (whether accelerated or delayed) from the Project Schedule set forth in Appendix B; in addition, if the bids or proposals received for any portion of the Project are not qualitatively consistent with VDOT's standards for that work or quantitatively within VDOT's projections for that work, each as determined by VDOT in its good faith judgment, VDOT shall (i) undertake a new procurement, or (ii) recommend alternative measures to HRTAC, and seek HRTAC's advice and consent regarding pursuit of those alternative measures. If HRTAC grants its written consent to a modification to the Project Budget and/or Project Schedule in order to permit VDOT to enter into a contract to perform the work, VDOT and HRTAC will work reasonably and in good faith to amend Appendix B to reflect the modified Project Budget and Project Schedule.

- iii. Involve HRTAC in any procurement consistent with the terms of the Master Agreement.
- c. Perform or have performed in accordance with VDOT's standards for highways, bridges and tunnels all design and engineering, all environmental work, and all right-of-way acquisition, construction, contract administration, testing services, inspection services, or capital asset acquisitions, as is required by this Agreement or that may be necessary for completion of the Project pursuant to the terms of this Agreement. If VDOT determines that a delay will more likely than not prevent the completion of a material phase of the Project (e.g., PE or ROW acquisition), or the entire Project, in accordance with the Project Schedule, VDOT shall notify HRTAC in writing and provide HRTAC with such information as HRTAC may reasonably request, including information pertaining to potential corrective measures and remedies against the contractor (if VDOT and HRTAC mutually develop a model notice for such purposes, VDOT's notice will follow the format of the model).
- d. Not use any funds provided by HRTAC, including the funds specified on Appendix B, to pay any Project cost if, as applicable, the HRTAC Act or HREL Tolling Legislation does not permit such Project cost to be paid with HRTAC funds.
- e. Recognize that, if the Project contains "multiple funding phases" (as such "multiple funding phases" are set out for the Project on Appendix A), for which HRTAC will provide funding for such multiple funding phases (as scheduled on Appendix B), HRTAC may not have sufficient cash flows to permit accelerated funding to VDOT and to advance the funding schedule for the Project. In any circumstance where VDOT seeks to advance the funding schedule for the Project, VDOT shall submit a written request to HRTAC's Executive Director explaining VDOT's reasons why HRTAC

should authorize acceleration to the next funding phase. (As used in this Agreement, “Executive Director” shall mean HRTAC’s Chairman if at any applicable time, HRTAC has not engaged a dedicated, full-time Executive Director.) HRTAC’s Executive Director will thereafter review the circumstances underlying the request in conjunction with Appendix B and HRTAC’s current and projected cash flow position and make a recommendation to HRTAC whether to authorize VDOT’s requested accelerated funding. The foregoing shall not prohibit VDOT from providing its own funds to advance a future funding phase of the Project and from requesting reimbursement from HRTAC for having advance funded a future phase of the Project; however, VDOT further recognizes that HRTAC’s reimbursement to VDOT for having advance funded a phase of the Project will be dependent upon HRTAC’s cash flow position at the time such a request for reimbursement is submitted and may be dependent upon the extent to which the reimbursement of any such advanced funding is otherwise consistent with the terms of this Agreement, including Appendix B.

- f.
 - i. Permit and assist HRTAC’s Executive Director to periodically update HRTAC’s cash flow estimates for the Project with the objective toward keeping those estimates accurate throughout the performance of the Project. VDOT shall provide all available information reasonably required by HRTAC so as to ensure and facilitate accurate cash flow estimates and accurate updates to those cash flow estimates throughout the performance of the Project as described in Appendix B.
 - ii. Provide HRTAC’s Executive Director with the monthly reports described on Appendix D.
- g. Provide to HRTAC’s Executive Director requests for payment consistent with Appendix C (and the most recently approved HRTAC cash flow estimates) that include (a) HRTAC’s standard payment requisition(s), containing detailed summaries of actual project costs incurred with supporting documentation as determined by HRTAC, and (b) certifications that all such costs were incurred in the performance of work for the Project as authorized by this Agreement. Each payment requisition shall be in substantially the same form as set forth in Appendix C of this Agreement. If approved by HRTAC, VDOT can expect to receive payment within twenty (20) days upon receipt by HRTAC. Approved payments may be made by means of electronic transfer of funds from HRTAC to or for the account of VDOT.
- h.
 - i. Promptly notify HRTAC’s Executive Director if VDOT determines that any additional, unbudgeted costs may be incurred to perform and complete the Project (“Additional Costs”), which notice shall include a description of the Additional Costs, an explanation of how

they arose and the assumptions in the initial budget regarding those costs, and a detailed estimate of the Additional Costs. VDOT shall make recommendations regarding any curative actions that may be available relating to such Additional Costs, including any potential modification or reduction that may be made to the Project scope or design, or any other action, in order to stay within the initial budget for the Project. If the Additional Costs can be absorbed in the Project Budget by modifying or reducing the scope or design of the Project (or avoided by cancelling the Project or any portion thereof), HRTAC may, in its sole discretion, elect to (i) authorize VDOT to proceed with such modifications or reductions, (ii) authorize the Additional Costs (or if a combination of (i) and (ii) is feasible, HRTAC may elect such combination), or (iii) elect to cancel the Project or a portion thereof; provided, however, in any case, the respective obligations of VDOT and HRTAC, as modified by the elected alternative, shall be set forth in an amendment to this Agreement (VDOT and HRTAC shall work in good faith to finalize and execute such amendment). If the Additional Costs cannot be absorbed in the initial budget by modifying or reducing the scope or design of the Project (and HRTAC elects option (ii) above), then, subject to Section 6 below, such Additional Costs shall be paid from HRTAC-Controlled Moneys and state and federal funds prorated based on the respective proportionate share of HRTAC-Controlled Moneys and state and federal funds in the Project Budget. In the event that HRTAC elects to cancel the Project (or any portion thereof) pursuant to this Section 1.h.i(iii), (A) all compensation due and owing to any and all contractors for work on the Project that has been completed at the time of cancellation, shall be paid in accord with Appendix B, and (B) subject to Section 6, all reasonable costs associated with the cancellation due and owing to said contractors pursuant to the terms of the contracts with the contractors, which terms shall be consistent with VDOT's standard contract terms relating to contract cancellation and termination, (the "Breakage Compensation"), shall be paid with HRTAC-Controlled Moneys, unless VDOT and HRTAC mutually determine that cancellation of the Project is necessary or warranted, in which case, the Breakage Compensation shall be paid from HRTAC-Controlled Moneys and state and federal funds prorated based on the respective proportionate share of HRTAC-Controlled Moneys and state and federal funds in the Project Budget.

- ii. VDOT shall not include in any contract with a contractor working on the Project any term, condition or remedy in respect of Additional Costs that is more favorable to the contractor than the terms, conditions or remedies VDOT includes in standard contracts where the state or VDOT bears the cost of the project.

- iii. The Additional Costs may include costs incurred by VDOT as a result of contractor claims relating to the Project made pursuant to the VDOT Roads and Bridge Specifications and §§ 33.2-1101 through 33.2-1105 of the Code, as amended. VDOT shall promptly notify HRTAC if any such claims are made or VDOT receives a notice of intent to file a claim or other written communication from a contractor relating to a claim or contractual dispute that could result in increased contract costs, and whether in each such case the claimed amount is expected to become, or result in, Additional Costs (and the estimate thereof) or is expected to have a material adverse effect on the contingency reserves established as part of the Project Budget (and the estimated effect thereon). VDOT shall be responsible to handle all such claims and notices of intent, but VDOT may not settle any claim or notice of intent to file a claim and thereafter submit it as an Additional Cost pursuant to Section 1.h.i unless the settlement has been approved by HRTAC. Funding for the settlement will be prorated based on the respective proportionate share of the HRTAC-Controlled Moneys and state and federal funds in the Project Budget. Should the claim not be settled, any final judgment from a court of competent jurisdiction shall be paid in accordance with the proration rule set forth in the preceding sentence.
- iv. Notwithstanding anything to the contrary set forth herein, if any additional cost (including, without limitation, any additional cost relating to a contractor claim described in Section 1.h.iii above) arises out of or results from VDOT's negligence, breach of contract, willful misconduct or violation of law ("VDOT Fault"), HRTAC shall not be responsible for such additional costs. Any notice provided by VDOT to HRTAC pursuant to Section A.8(c) above shall be accompanied by a certification from VDOT that it has determined in good faith that any Additional Costs do not arise out of or result from VDOT Fault.

- i. Release or return any unexpended funds to HRTAC no later than 90 days after final payment has been made in respect of the Project.
- j. Maintain complete and accurate financial records relative to the Project for all time periods as may be required by the Virginia Public Records Act and by all other applicable state or federal records retention laws or regulations.
- k. Maintain all original conceptual drawings and renderings, architectural and engineering plans, site plans, inspection records, testing records, and as built drawings for the Project for the time periods required by the Virginia Public Records Act and any other applicable records retention laws or regulations.

- I. Reimburse HRTAC (or such other entity as may have provided funds) for all funds provided by HRTAC (or on behalf of HRTAC) and, to the extent applicable and permitted by law, with interest earned at the rate earned by HRTAC, (a) that VDOT misapplied, used or requisitioned in contravention of the HRTAC Act or any other applicable law, or any term or condition of this Agreement or (b) the expenditure of which arose out of VDOT Fault.
- m. Be solely responsible for the administration and/or development of the Project and all engagements, commitments and agreements with contractors (and, without limiting the foregoing, shall ensure that such engagements, commitments and agreements contain all terms that, pursuant to the Master Agreement or this Agreement, are required to be included therein). VDOT shall ensure that VDOT's contractors maintain surety bonds and insurance in amounts and with coverages that VDOT requires under its Road and Bridge Specifications for all work to be performed for the Project, and name HRTAC and its members, officers, employees and, if applicable, any HRTAC bond trustee, as additional insureds on any such insurance policy, and present HRTAC with satisfactory evidence thereof before any work on the Project commences.
- n. If in connection with the work VDOT engages outside legal counsel approved by the Attorney General (as opposed to utilizing the services of the Office of the Attorney General), VDOT will give HRTAC notice of the engagement so as to ensure that no conflict of interest may arise from any such representation (VDOT also shall ensure that such engagements are consistent with the practices and terms that VDOT uses where it is solely responsible for project costs).
- o. Subject to and consistent with the requirements of Section E of this Agreement, upon final payment to all contractors for the Project, if the Project is or is part of a VDOT Highway, VDOT will use the Project (a) for its intended purposes for the duration of the Project's useful life, and (b) in accordance with, and subject to, the terms of the Master Agreement. If the Project is or is part of a VDOT Highway, VDOT shall be responsible to operate and/or maintain the Project (which duty and obligation excludes the Tolling O&M Duties, as defined in the Master Agreement, except as otherwise provided in the Master Agreement or in any other contract between VDOT and HRTAC under which VDOT is responsible to perform such duties as a contractor to HRTAC) after its completion (including responsibility to correct any defects or to cause any defects to be corrected)(and, without limiting the foregoing, shall perform its operations and maintenance obligations in accordance with the terms of the Master Agreement), and, except as and to the extent provided under the Master Agreement (with respect to Tolling O&M Duties), under no circumstances will HRTAC have any responsibility or obligation to operate and/or maintain the Project (or correct defects with respect to the Project).

- p. Comply with all applicable federal, state and local laws and regulations, including without limitation requirements of the Virginia Public Procurement Act.
- q. Recognize that VDOT or its contractors are solely responsible for obtaining, and shall obtain, all permits, permissions and approvals necessary to construct and/or operate the Project, including, but not limited to, obtaining all required VDOT and local land use permits, zoning approvals, environmental permits, and regulatory approvals.
- r. Recognize that if the Project is being funded, in whole or in part, with federal and/or state funds (in addition to HRTAC-Controlled Moneys), that VDOT shall (a) take any and all necessary actions to satisfy any conditions to such additional federal and/or state funding (provided that such actions are within the control of VDOT) and to enforce any commitments made in connection therewith, (b) comply with all applicable federal and Commonwealth funding requirements within the control or purview of VDOT, and (c) include in its contracts with contractors provisions that permit such contracts to be terminated, without penalty, if the funding is rescinded or otherwise becomes unavailable (for clarification, a provision shall not be deemed to include a penalty solely as a result of terms that require payment of compensation due and owing at the time of cancellation and reasonable costs associated with cancellation provided that such costs are consistent with costs paid pursuant to VDOT's standard contract terms relating to contract cancellation and termination). VDOT acknowledges and agrees that if funding from such an additional federal or state source is rescinded or otherwise becomes unavailable HRTAC (i) shall not be responsible for any amount in excess of its commitment set forth on Appendix B, and (ii) may (A) replace said reduced funding with HRTAC Controlled-Moneys or (B) may request VDOT to immediately suspend or discontinue all work relating to the Project, provided if HRTAC requests suspension HRTAC shall be responsible for the costs reasonably incurred in connection with such suspension. Should HRTAC not replace the reduced funding or request VDOT to suspend or discontinue work, VDOT may reduce the Project scope or take any other actions needed to reduce the Project costs to the Project Budget.
- s. Provide a certification to HRTAC no later than 90 days after final payment for the Project that VDOT adhered to all applicable laws and regulations and all requirements of this Agreement.
- t. Notify HRTAC if VDOT determines that a delay will more likely than not prevent the timely completion of a material phase of the Project, including information regarding potential corrective measures and remedies against the contractor.

- u. With respect to modifications to any agreement with a contractor, concede to HRTAC any resulting savings, if HRTAC is funding 100% of the applicable work, or if the cost savings relate to work funded with HRTAC-Controlled Moneys and state and/or federal funds, concede such savings to such parties *pro rata*, based on the respective proportionate share of HRTAC-Controlled Moneys and state and federal funds in the Project Budget for such work.
- v. Include in any agreement with a contractor an assessment of liquidated damages if either substantial completion or final acceptance is not achieved by the applicable deadline. Unless otherwise agreed by the parties acting reasonably, the benefit of any liquidated damages (as well as other damages paid by a contractor, insurance proceeds, or recoveries from third parties) received by VDOT in relation to (a) Project costs that HRTAC funded or (b) adverse effects to toll revenues, shall be for the benefit of HRTAC.
- w. Terminate any agreement with a contractor upon the written request of HRTAC if (a) VDOT has failed to exercise the right to terminate such agreement for cause, but only (i) if such failure is reasonably expected to have a material adverse effect on HRTAC and (ii) following consultation between HRTAC and VDOT regarding the reasons, if any, for VDOT's failure to exercise such right; or (b) HRTAC determines in good faith that either HRTAC has suffered a material adverse change in its ability to satisfy its obligations under this Agreement and it is in HRTAC's best interests for VDOT to terminate the contractor's agreement for convenience.

2. HRTAC's Obligations

HRTAC shall:

- a. Subject to the limitations as to amounts set forth in Appendix B (and subject to Section 6 of this Agreement), provide to VDOT the funding authorized by HRTAC for the Project, on a reimbursement basis as set forth in this Agreement and as specified in Appendix B to this Agreement or the most updated amendment thereto, as approved by HRTAC.
- b. Assign a person to serve as a Program Coordinator for the Project, who will be responsible for review of the Project on behalf of HRTAC for purposes of ensuring it is being completed in compliance with this Agreement and all HRTAC requirements. (In the absence of an assigned person, HRTAC's Executive Director shall serve as the Program Coordinator.) HRTAC's Program Coordinator will be responsible for overseeing, managing, reviewing, and processing, in consultation with HRTAC's Executive Director and its Chief Financial Officer ("CFO"), all payment requisitions submitted by VDOT for the Project. HRTAC's

Program Coordinator will have no independent authority to direct changes or make additions, modifications, or revisions to the scope of the Project as set forth on Appendix A or to the Project Budget and Project Schedule as set forth on Appendix B.

- c. Route to HRTAC's assigned Program Coordinator all VDOT payment requisitions and the summaries of actual costs submitted to HRTAC for the Project. After submission to HRTAC, HRTAC's Program Coordinator will conduct an initial review of all payment requisitions and supporting documentation for the Project in order to determine the submission's legal and documentary sufficiency. HRTAC's Program Coordinator will then make a recommendation to the HRTAC's CFO and Executive Director whether to authorize payment, refuse payment, or seek additional information from VDOT. If the payment requisition is sufficient as submitted, payment will be made within twenty (20) days from receipt. If the payment requisition is, in HRTAC's reasonable judgment, deemed insufficient, within twenty (20) days from receipt, HRTAC's Program Coordinator will notify VDOT in writing and set forth the reasons why the payment requisition was declined or why and what specific additional information is needed in order to authorize the payment request. Payment will be withheld until all deficiencies identified by HRTAC have been corrected to HRTAC's reasonable satisfaction. Under no circumstances will HRTAC authorize payment for any work performed by or on behalf of VDOT that is not in conformity with the requirements of the HRTAC Act or this Agreement.
- d. Route all of VDOT's accelerated or supplemental requests for funding from HRTAC under Sections 1.e and 1.h, respectively, of this Agreement to HRTAC's Executive Director. HRTAC's Executive Director will initially review those requests and all supporting documentation with HRTAC's CFO. After such initial review, HRTAC's Executive Director will make a recommendation to HRTAC's Finance Committee for its independent consideration and review. HRTAC's Finance Committee will thereafter make a recommendation on any such request to HRTAC for final determination by HRTAC.
- e. Conduct periodic compliance reviews scheduled in advance for the Project so as to determine whether the work being performed remains within the scope of this Agreement, the HRTAC Act and other applicable law. Such compliance reviews may entail (i) review of VDOT's financial records for the Project, (ii) on-Project site inspections and (iii) review of a contractor's books and records in relation to the Project to the extent VDOT has access thereto.
- f. Acknowledge that if, as a result of HRTAC's review of any payment requisition or of any HRTAC compliance review, HRTAC staff determines that VDOT is required under Section 1.l of this Agreement to reimburse

funds to HRTAC, HRTAC staff will promptly advise HRTAC's Executive Director and will advise VDOT's designated representative in writing. VDOT will thereafter have thirty (30) days to respond in writing to HRTAC's initial findings. HRTAC's staff will review VDOT's response and make a recommendation to HRTAC's Finance Committee. HRTAC's Finance Committee will thereafter conduct its own review of all submissions and make a recommendation to HRTAC. If HRTAC makes a final determination that VDOT is required under Section 1.I of this Agreement to reimburse funds to HRTAC, the parties should engage in dispute resolution as provided in Section 4 of this Agreement. Pending final resolution of the matter, HRTAC will withhold further funding on the Project. Nothing herein shall, however, be construed as denying, restricting or limiting the pursuit of either party's legal rights or available legal remedies.

- g. Upon making final payment to VDOT for the Project, retain copies of all contracts, financial records, design, construction, and as-built project drawings and plans, if any, developed pursuant to or in association with the Project for the time periods required by the Virginia Public Records Act and as may be required by other applicable records retention laws and regulations.
- h. Be the sole determinant of the amount and source of HRTAC funds to be provided and allocated to the Project and the amounts of any HRTAC funds to be provided in excess of the amounts specified in Appendix B.
- i. Have no obligation to pay or reimburse VDOT for any cost (including, without limitation, compensation paid or payable to any contractor) arising out of VDOT Fault.

3. Term

- a. This Agreement shall (i) be effective upon adoption and execution by both parties and (ii) unless terminated earlier in accordance with its terms, expire ninety (90) days after the date on which VDOT makes final payment to Project contractor(s) and all contractor claims have been resolved or are barred.
- b. VDOT may terminate this Agreement, for cause, in the event of a material breach by HRTAC of this Agreement. If so terminated, HRTAC shall pay for all Project costs incurred in accordance with the terms of this Agreement through the date of termination and all reasonable costs incurred by VDOT to terminate all Project-related contracts. The Virginia General Assembly's failure to appropriate funds to HRTAC as described in Section 6 of this Agreement and/or repeal or amendment of the legislation establishing the HRTF or HRTAC's powers shall not be considered material breaches of this Agreement by HRTAC if such failure to

appropriate or such repeal or amendment eliminates funds in the HRTF to be used for the Project or renders HRTAC without legal authority to provide funding for the Project. Before initiating any proceedings to terminate under this Section, VDOT shall give HRTAC sixty (60) days written notice of any claimed material breach of this Agreement and the reasons for termination; thereby allowing HRTAC an opportunity to investigate and cure any such alleged breach.

- c. HRTAC may terminate this Agreement, for cause, resulting from VDOT's material breach of this Agreement. If so terminated, VDOT shall refund to HRTAC all funds HRTAC provided to VDOT for the Project and, to the extent permitted by law, with interest earned at the rate earned by HRTAC. HRTAC will provide VDOT with sixty (60) days written notice that HRTAC is exercising its rights to terminate this Agreement and the reasons for termination. Prior to termination, if VDOT has substantially completed the Project or a portion that is severable (meaning it is subject to independent use), VDOT may request that HRTAC excuse VDOT from refunding funds paid in respect of the substantially completed Project or portion, and HRTAC may, in its sole discretion, excuse VDOT from refunding all or a portion of the funds HRTAC provided to VDOT for the substantially completed Project or portion thereof. No such request to be excused from refunding will be allowed where VDOT has either misused or misapplied HRTAC funds in contravention of this Agreement or applicable law.
- d. Upon (a) expiration or earlier termination of this Agreement and (b) payment of all eligible expenses as set forth in Section 3.c above, VDOT will release or return to HRTAC all unexpended HRTAC funds and, to the extent permitted by law, with interest earned at the rate earned by HRTAC, no later than sixty (60) days after the date of such expiration or earlier termination.

4. Dispute

In the event of a dispute under this Agreement, the parties agree to meet and confer promptly in order to ascertain if the dispute can be resolved informally without the need of a third party or judicial intervention. HRTAC's Executive Director and the Commissioner shall be authorized to conduct negotiations on behalf of their respective entities. If a resolution of the dispute is reached via a meet and confer dispute resolution method, it shall be presented to HRTAC and to the Commissioner for formal confirmation and approval. If no satisfactory resolution can be reached via the meet and confer method, either party is free to pursue whatever remedies it may have at law or in equity, including all judicial remedies. The foregoing dispute resolution method shall not bar either party's right to seek equitable relief on an emergency basis. Neither party will seek or accept an award of attorneys' fees or costs incurred in connection with resolution of a dispute.

5. HRTAC's Interest in Project Assets

VDOT agrees to use the real property and appurtenances and fixtures thereto, capital assets, equipment and all other transportation facilities that are part of the Project and funded by HRTAC under this Agreement ("Assets") for the designated transportation purposes of the Project, in accordance with applicable law throughout the useful life of each such Asset, and in accordance with, and subject to, the terms of the Master Agreement. If VDOT intends to sell, convey, or dispose any Asset funded with HRTAC funds or intends to use any Asset for a purpose inconsistent with this Agreement or the Master Agreement, VDOT shall notify HRTAC's Executive Director in writing of any such intent before further action is taken by VDOT in furtherance thereof. Upon receiving notification from VDOT, HRTAC's Executive Director shall notify HRTAC of VDOT's intended action(s). The parties shall, thereafter, meet and confer to discuss what measures need to be taken regarding VDOT's proposed sale, conveyance, disposition, or use of any such Asset(s) so as to ensure compliance with all applicable requirements and terms of the HRTAC Act (without limiting the foregoing, VDOT acknowledges that (i) under the HRTAC Act and applicable law, HRTAC is vested with the right to impose and collect tolls on facilities constructed by the Commission), and (ii) under the HREL Tolling Legislation, HRTAC is vested with the right to impose and collect tolls on the portion of the HREL Project facility that has been designated by the CTB for use as high-occupancy toll lanes). All recommendations and/or proposed remedial actions developed by the parties' designated representatives during the meet and confer process shall be formally presented to HRTAC and the Commissioner for their respective approval.

6. Appropriations Requirements

- a. Nothing herein shall require or obligate HRTAC to commit or obligate funds to the Project beyond those funds that have been duly authorized and appropriated by its governing body for the Project.
- b. The parties acknowledge that all funding provided by HRTAC pursuant to the HRTAC Act is subject to appropriation by the Virginia General Assembly. The parties further acknowledge that: (i) the moneys allocated to the HRTF pursuant to applicable provisions of the Code of Virginia and any other moneys that the General Assembly appropriates for deposit into the HRTF are subject to appropriation by the General Assembly and (ii) HRTAC's obligations under this Agreement are subject to such moneys being appropriated to the HRTF by the General Assembly.
- c. The parties agree that VDOT's obligations under this Agreement are subject to funds being appropriated by the General Assembly and allocated by the Commonwealth Transportation Board and otherwise legally available to VDOT for HRTAC projects.

d. Should VDOT be required to provide additional funds in order to proceed or complete the funding necessary for the Project, VDOT shall certify to HRTAC that such additional funds have been allocated and authorized by the CTB and/or appropriated by the Virginia General Assembly as may be applicable or have been obtained through another independent, lawful source.

7. Representations and Warranties

- a. VDOT hereby represents and warrants to HRTAC as of the date of this Agreement as follows:
 - i. VDOT is an agency of the Commonwealth of Virginia, and it has full power, right, and authority to execute, deliver, and perform its obligations under, in accordance with, and subject to the terms and conditions of this Agreement;
 - ii. VDOT has taken or caused to be taken all requisite action to authorize the execution and delivery of, and the performance of its obligations under, this Agreement, and each person executing this Agreement on behalf of VDOT has been duly authorized to execute and deliver it on behalf of VDOT;
 - iii. the execution and delivery by VDOT of this Agreement, and the performance of its obligations hereunder, will not conflict with, and will not result, at the time of execution, in a default under or violation of, (i) any other agreements or instruments to which it is a party or by which it is bound or (ii) to its knowledge, any law, where such violation will have a material adverse effect on the ability of VDOT to perform its obligations under this Agreement;
 - iv. this Agreement has been duly authorized, executed, and delivered by VDOT and constitutes a valid and legally binding obligation of VDOT, enforceable against it in accordance with the terms hereof, subject to (i) bankruptcy, insolvency, reorganization, moratorium and other laws affecting the rights of creditors generally, (ii) principles of equity, whether considered at law or in equity, and (iii) sovereign immunity under the law of the Commonwealth of Virginia; *provided, however, that, for the avoidance of doubt, sovereign immunity shall not bar an action to enforce a claim based on a breach of this Agreement presented in accordance with the law of the Commonwealth of Virginia;; and*
 - v. there is no action, suit, proceeding, investigation, or litigation pending and served on VDOT which challenges VDOT's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement, or which challenges the authority of the VDOT

official executing this Agreement, and VDOT has disclosed to HRTAC any pending and unserved or threatened action, suit, proceeding, investigation, or litigation with respect to such matters of which VDOT is aware.

- b. HRTAC hereby represents and warrants to VDOT as of the date of this Agreement as follows:
 - i. HRTAC is a body politic and a political subdivision of the Commonwealth of Virginia, and it has full power, right, and authority to execute, deliver, and perform its obligations under, in accordance with, and subject to the terms and conditions of this Agreement;
 - ii. HRTAC has taken or caused to be taken all requisite action to authorize the execution and delivery of, and the performance of its obligations under, this Agreement, and each person executing this Agreement on behalf of HRTAC has been duly authorized to execute and deliver it on behalf of HRTAC;
 - iii. the execution and delivery by HRTAC of this Agreement, and the performance of its obligations hereunder, will not conflict with, and will not result, at the time of execution, in a default under or violation of, (i) any other agreements or instruments to which it is a party or by which it is bound or (ii) to its knowledge, any law, where such violation will have a material adverse effect on the ability of HRTAC to perform its obligations under this Agreement;
 - iv. this Agreement has been duly authorized, executed, and delivered by HRTAC and constitutes a valid and legally binding obligation of HRTAC, enforceable against it in accordance with the terms hereof, subject to (i) bankruptcy, insolvency, reorganization, moratorium and other laws affecting the rights of creditors generally, (ii) principles of equity, whether considered at law or in equity, and (iii) sovereign immunity under the law of the Commonwealth of Virginia; *provided, however,* that, for the avoidance of doubt, sovereign immunity shall not bar an action to enforce a claim based on a breach of this Agreement presented in accordance with the law of the Commonwealth of Virginia;; and
 - v. there is no action, suit, proceeding, investigation, or litigation pending and served on HRTAC which challenges HRTAC's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement, or which challenges the authority of the HRTAC official executing this Agreement, and HRTAC has disclosed to VDOT any pending and unserved or threatened action, suit, proceeding, investigation, or litigation with respect to such matters of which HRTAC is aware.

8. Tax Covenants for Bond-Funded Projects

VDOT shall comply in all material respects with the Tax Covenants for Bond-Funded Projects set forth in Appendix F (*Tax Covenants for Bond-Funded Projects*).

9. Notices

All notices under this Agreement to either party shall be in writing and forwarded to the other party by U.S. mail, care of the following authorized representatives:

1) to: HRTAC, to the attention of its Executive Director and Chairman;

723 Woodlake Drive
Chesapeake, VA 23320

2) to: VDOT, to the attention of:

Commissioner, Virginia Department of Transportation
1401 East Broad Street
Richmond, VA 23219

10. Assignment

This Agreement shall not be assigned by either party unless express written consent is given by the other party.

11. Modification or Amendment

(a) This Agreement may not be modified or amended, except pursuant a written agreement that is duly authorized, executed and delivered by both parties.

(b) If HRTAC is able to obtain a source of funding for the Project that would reduce or replace the amount of HRTAC-Controlled Moneys expended on the Project, VDOT and HRTAC will work in good faith to amend this Agreement so it takes into account that other funding.

(c) VDOT and HRTAC will work in good faith to adopt such amendments to this Agreement as VDOT and HRTAC may mutually agree are necessary and desirable in connection with any bond financing.

12. No Personal Liability or Creation of Third Party Rights

This Agreement shall not be construed as creating any personal liability on the part of any officer, member, employee, or agent of the parties; nor shall it be construed as giving any rights or benefits to anyone other than the parties hereto.

13. No Agency

VDOT represents that it is not acting as a partner or agent of HRTAC; and nothing in this Agreement shall be construed as making any party a partner or agent with any other party.

14. Sovereign Immunity

This Agreement shall not be construed as a waiver of either party's sovereign immunity rights.

15. Incorporation of Recitals and Appendices

The recitals and Appendices to this Agreement are hereby incorporated into this Agreement and are expressly made a part hereof. The parties to this Agreement acknowledge and agree that the recitals are true and correct.

16. Mutual Preparation and Fair Meaning

The parties acknowledge that this Agreement has been prepared on behalf of all parties thereto and shall be construed in accordance with its fair meaning and not strictly construed for or against either party.

17. Governing Law

This Agreement is governed by the laws of the Commonwealth of Virginia.

Q. Survival

The following provisions shall survive the expiration or earlier termination of this Agreement: Sections 1.d, 1.i, 1.l, 1.o, 1.q, 1.s, 1.v, 2.e and 2.g, and Sections 3 through 17.

[Signature page follows]

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed as of the day, month, and year first herein written by their duly authorized representatives.

Hampton Roads Transportation Accountability Commission

By: _____

Name: _____

Title: _____

Date: _____

Virginia Department of Transportation

By: _____

Name: _____

Title: _____

Date: _____

APPENDIX A
PROJECT

APPENDIX B

PROJECT BUDGET AND PROJECT SCHEDULE

APPENDIX C

FORM OF PAYMENT REQUISITION

HRTAC Project Title and Number: _____

Project Scope/Services Description: [From Appendix B] _____

Draw Request Number: _____

Date: _____, 20____

Hampton Roads Transportation Accountability Commission
723 Woodlake Drive
Chesapeake, VA 23320

Attention _____, Program Coordinator:

This requisition is submitted in connection with the Standard Project Agreement for Funding and Administration for the project services noted above and dated _____, 20____ (the "Agreement") between the Hampton Roads Transportation Accountability Commission ("HRTAC") and the Virginia Department of Transportation ("VDOT"). VDOT hereby requests \$_____ of HRTAC funds, to pay the costs of the project services described and set forth in Appendices A and B of the Agreement ("Project Services") and in accordance with the Agreement. Also included are copies of each invoice relating to the items for which this requisition is requested.

The undersigned certifies (i) the amounts included within this requisition will be applied solely and exclusively for the payment or the reimbursement of VDOT's costs of the Project Services, (ii) VDOT is responsible for payment to vendors/contractors, (iii) VDOT is not in breach or default with respect to any of its obligations under the Agreement, including without limitation (but only if applicable) the tax covenants set forth in another Appendix to the Agreement, (iv) the representations and warranties made by VDOT in the Agreement are true and correct as of the date of this Requisition and (v) to the knowledge of VDOT, no condition exists under the Agreement that would allow HRTAC to withhold the requested advance.

VIRGINIA DEPARTMENT OF TRANSPORTATION

By: _____

Name: _____

Title: _____

Recommended For Payment

By: _____

Name: _____

Title: HRTAC Program Coordinator

DETAILED PAYGO REQUEST

Draw Request Number: _____ Request Date: _____
 HRTAC Project Number: _____ Project Title: _____

Cost Category	HRTAC Approved Project Costs	Total PayGo Requests Previously Received	PayGo Requisition Amount this Period	Remaining PAYGO Project Budget (Calculation)
Project Starting Balance	\$ -			\$ -
Design Work	\$ -	\$ -	\$ -	\$ -
Engineering	-	-	-	\$ -
Environmental Work	-	-	-	\$ -
Right-of-Way Acquisition	-	-	-	\$ -
Construction	-	-	-	\$ -
Contract Administration	-	-	-	\$ -
Testing Services	-	-	-	\$ -
Inspection Services	-	-	-	\$ -
Capital Asset Acquisitions	-	-	-	\$ -
Other (please explain)	-	-	-	\$ -
TOTALS	\$ -	\$ -	\$ -	\$ -

LISTING OF ATTACHED INVOICES

Vendor/Contractor Name	Item Number	Invoice Number	Cost Category	Amount
	1			\$ -
	2			-
	3			-
	4			-
	5			-
	6			-
	7			-
	8			-
	9			-
	10			-
	11			-
	12			-
Requisition Amount				\$ -

Instructions

1. Column B-Please list approved PayGo Project Cost per category.
2. Column C-Please list Total PayGo Amounts per Category Previously Reimbursed by HRTAC
3. Column D- Please list invoice amounts summarized by Category from the Listing of Attached Invoices
4. Column E - Is a calculation of the Remaining PAYGO Budget per Category

Instructions-Listing of Attached Invoices: (please list each invoice separately)

1. Column A- Please list the name as it appears on the Invoice
2. Column B- Please manually number the invoices attached with the corresponding Item number in this schedule.

3. Column C- Please list the invoice number as it appears on the Invoice
4. Column D- Please list the appropriate Cost Category based on the Project Category breakout above
5. Column E- Please enter the dollar amount listed on the invoice.
6. The calculated Requisition Amount should equal the total in Column D in the Schedule above.

APPENDIX D

REPORTS TO BE PROVIDED BY VDOT

- 1) Monthly Project Expenditure Report which lists, by category of expense (e.g., engineering, ROW, utility relocations, construction), (a) information regarding expenditures to date against the budget, both monthly and for the life of the project, and a statement of the percent completed; and (b) such other information as VDOT customarily provides with monthly expenditure reports.

- 2) Monthly Project Report which provides (a) an overview of progress on major project tasks; (b) information regarding the budget (such as, the baseline planned forecast, any approved changes thereto, the monthly expenditures, the cumulative expenditures, and the cumulative forecasted expenditures); (c) future key tasks; and (d) significant issues.

APPENDIX E

OFFICIAL AUTHORIZING DOCUMENTS

APPENDIX F

TAX COVENANTS FOR BOND-FUNDED PROJECTS

1. (A) VDOT (the Department) shall not permit the "Proceeds" of any "Commission Bonds" or any "Financed Property" to be used in any manner that would result in either: (1) 5% or more of such proceeds being considered as having been used in any trade or business carried on by any person other than a governmental unit as provided in Section 141(b) of the "Code;" (2) 5% or more of such Proceeds being used with respect to any "output facility" (other than a facility for the furnishing of water) within the meaning of Section 141(b)(4) of the Code; (3) 5% or more of such Proceeds being considered as having been used directly or indirectly to make or finance loans to any person other than a governmental unit, as provided in Section 141(c) of the Code; or (4) more than an aggregate of \$15,000,000 of Proceeds of any single Commission Bond issue being considered as having been used in any trade or business, any output facility or to make or finance loans as described in (1), (2) or (3) above; **provided, however,** that if HRTAC (the Commission) and the Department receive an opinion of nationally recognized bond counsel concluding that such use or action will not affect the exclusion of interest on the Commission Bonds from gross income of the holders thereof for federal tax purposes under existing law, the Department need not comply with such restrictions.

(B) Notwithstanding the foregoing, the Department and the Commission agree that the provisions herein shall not apply to Proceeds of Commission Bonds derived from "qualified bonds" (as defined in Section 141(e) of the Code (or any successor provisions thereto or regulations thereunder)) the Commission may from time to time issue. In the event any such "qualified bonds" are issued by the Commission, the Department agrees that it will not permit Proceeds of Commission Bond derived from such "qualified bonds" to be used in a manner that fails to comply with the provisions of Section 141(e) and 142(a) of the Code (or any successor provisions thereto or regulations thereunder). The provisions of this subparagraph (B) shall not negate any provision in the Agreement or other agreement between the Commission and the Department that requires mutual consent of the parties or Commission approval of a concession arrangement in respect of the Project.

2. the Department agrees not to requisition or spend the proceeds of any the Commission Bond for any cost of the Project not constituting a "Capital Expenditure."

3. Except as may be described in writing to the Commission, the Department neither has on the date of this Agreement nor expects to have after this date any funds that are restricted, segregated, legally required or otherwise intended to be used, directly or indirectly, for the purposes for which the Department is receiving or may receive Proceeds of Commission Bonds.

4. The Department acknowledges that it may have to provide detailed information about the investment of the amount of any requisition unless (i) payments are remitted directly by the Commission to the contractors/vendors, or (ii) the

Department remits payment to the contractors/vendors within five banking days after the date on which the Commission advances the amount of the requisition. The Commission may request the detailed information in order to compute the rebate liability to the U.S. Treasury on the Commission's bonds or other debt financing pursuant to Section 148 of the Code. In addition, the Department shall provide the Commission with any further information reasonably requested by the Commission from time to time concerning the matters described in this Appendix F.

5. The following terms have the meanings assigned to them below whenever they are used in this Appendix F.

“Capital Expenditure” means any cost of a type that is properly chargeable to capital account (or would be so chargeable with (or but for) a proper election or the application of the definition of “placed in service” under Treas. Reg. § 1.150-2(c)) under general federal income tax principles, determined at the time the expenditure is paid.

“Code” means the Internal Revenue Code of 1986, as amended.

“Financed Property” means any property financed in whole or in part by any allocation of Commission Bond Proceeds.

“Commission Bond” means any Commission bond or other debt instrument that is a “tax-exempt bond” or a “tax-advantaged bond” (as defined in Treasury Regulations Section 1.150-1(a)).

“Proceeds” means the sale proceeds of any Commission Bond, together with the investment earnings on such proceeds, to the extent allocated to the Project.

EXHIBIT 10

Additional High Rise Bridge Work

Purpose: The purpose of the Additional High Rise Bridge Work is to modify the roadway and drainage infrastructure of the High Rise Bridge Expansion Project to accommodate the future conversion of the HOT lane shoulders to Part-Time Shoulder (PTS) HOT lanes.

Scope: The project scope includes:

- (i) shifting roadway crown locations between Route 17 and Great Bridge Boulevard two feet towards the outside (as a result of hard shoulder running being eliminated from the scope of the High Rise Bridge Expansion Project),
- (ii) changing inside shoulder cross slopes to Interstate travel lane standards to accommodate future lane reconfiguration from twelve-foot HOT lane and fourteen-foot shoulder to two eleven-foot HOT lanes and four-foot shoulder,
- (iii) adding drainage structures in median to prevent design event spread from encroaching into PTS HOT lanes,
- (iv) extending acceleration lanes to VDOT standard lengths on (a) Route 17 northbound to Interstate 64 westbound ramp and (b) Interstate 464 southbound to Interstate 64 eastbound ramp, and
- (v) adding conduits for future ITS system.

Project Limits: The project limits are along Interstate 64 between 0.295 miles east of Interstate 264 at Bowers Hill and 1.018 miles east of Interstate 464 (*i.e.*, 9.03 miles in total, and the same project limits as the High Rise Bridge Expansion Project).

EXHIBIT 11

[Intentionally Omitted]

EXHIBIT 12

Tolling Operations and Maintenance Standards

[TO COME]

EXHIBIT 13

Maintenance Protocol

[TO COME]

EXHIBIT 14

Form of Electronic Toll Collection Agreement

EXHIBIT 14

FORM OF ELECTRONIC TOLL COLLECTION AGREEMENT

This ELECTRONIC TOLL COLLECTION AGREEMENT (this “Agreement”) is made and entered into this [●] day of [●] 20[●], by and between the VIRGINIA DEPARTMENT OF TRANSPORTATION (“VDOT”) and the HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION (the “Participant”).

RECITALS

WHEREAS, VDOT is the owner and operator of the Virginia E-ZPass Toll Collection System;

WHEREAS, the Participant will operate the Facility (defined below);

WHEREAS, the Facility will operate and be compatible with the E-ZPass ETC System;

WHEREAS, pursuant to the E-ZPass Reciprocity Agreement attached hereto as Exhibit A, VDOT has joined the E-ZPass Interagency Group on behalf of itself and the Other Participants; and

WHEREAS, VDOT and the Participant desire to enter into this Agreement which will permit Participant to purchase the necessary equipment to operate the Facility to be compatible with the E-ZPass ETC System and to provide for, among other things, the provision by VDOT of ETC Services for the Participant for the Facility.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, VDOT and the Participant, intending to be legally bound, hereby agree as follows:

ARTICLE 1 – DEFINITIONS

Section 1.1 The terms set forth below will have the meanings set forth adjacent to them.

Agreement means this Electronic Toll Collection Agreement.

Agreement Date means the date hereof.

Authorized VDOT Representative means the person duly authorized to act on behalf of VDOT.

Authorized Participant Representative means the person duly authorized to act on behalf of the Participant.

CSC means a customer service center that will issue and provide services relating to the ETC System administration, prepaid account maintenance, and distribution of transponders.

ETC means electronic toll collection.

ETC Prepaid Account means an account for purposes of collecting prepaid tolls and account fees.

ETC Servicer means a third party with whom VDOT has contracted to provide the ETC Services to the Participant.

ETC Servicer Agreement means the agreement between VDOT and the ETC Servicer for the provision of the ETC Services to the Participant.

ETC Services means all of those services necessary for the administration and operation of an electronic toll collection system, including customer services, distribution of transponders, the collection of tolls from customer accounts, the payment/remittance to Participant in accordance with the terms of this Agreement of amounts collected, and the operation of E-ZPass CSCs.

ETC System means a system of electronic toll collection.

E-ZPass means the trademark for the regional ETC system operated by an Interagency Group (IAG) of participants.

E-ZPass ETC System means the overall system of hardware, software and networks that are used for processing E-ZPass transactions and managing E-ZPass accounts.

E-ZPass Reciprocity Agreement means the agreement requiring reciprocity among Other Participants in the E-ZPass ETC System attached to the Agreement as Exhibit A.

Facility means, within the Commonwealth of Virginia, a network of contiguous high-occupancy toll lanes or other dynamically-priced travel lanes, in each direction, between (i) the interchange of Interstate 64 and Jefferson Avenue in Newport News and (ii) the interchange of Interstate 64, Interstate 264 and Interstate 664 in the Bowers Hill section of Chesapeake.

Facility Transactions means the aggregate of the tolled transactions for the Facility.

Financing Provisions means the Financing Covenants (as defined in the Master Agreement) and the terms of the agreements and indentures that interoperate with such Financing Covenants, including, without limitation, the terms governing the administration of toll revenues.

Fiscal Year means any 12 month period beginning July 1st one year and ending June 30th the following year.

Master Agreement means the Master Agreement for Development and Tolling dated [●] between VDOT and Participant relating to, among other things, the tolling of the Facility.

Other Participant or **Other Participants** means those persons operating other ETC Systems in Virginia and who wish to participate in the E-ZPass network.

Participant means the Hampton Roads Transportation Accountability Commission.

Read-Only Access means permission only to view limited information in a database without ability to input or update data.

Statewide Transactions means the aggregate of electronic tolled transactions in the Commonwealth of Virginia processed by VDOT using the E-ZPass ETC System.

VDOT means the Virginia Department of Transportation.

VDOT E-ZPass Fees means the fees paid by the Participant to VDOT in an amount as calculated in accordance with Article 4.

VDOT Standard Operating Procedures means the VDOT Standard Operating Procedures for ETC Services set forth in Exhibit D.

Virginia E-ZPass Customer Database is defined in Section 2.3(d).

ARTICLE 2 – ETC SERVICES

Section 2.1 Provision of ETC Services. VDOT agrees to provide the ETC Services to the Participant for the Facility. All Participant policies and procedures that affect VDOT's E-ZPass CSC operations are subject to review and approval by VDOT (such approval not to be unreasonably withheld or delayed). To the extent that any of Participant's policies and procedures materially and adversely affect VDOT's E-ZPass CSC operations, VDOT and Participant will engage in good faith discussions regarding the implementation of such policies and procedures, including the cure by Participant of any adverse financial effect on VDOT or the E-ZPass CSC operations.

Section 2.2 – E-ZPass Customer Service Center(s). VDOT will establish, administer, and operate one or more CSCs either directly or through a contract with an ETC Servicer to establish, administer, and operate one or more CSCs. Unless otherwise provided herein, VDOT will provide the necessary data and communication lines, office supplies and equipment to support a CSC. VDOT will provide reasonable advance notice to the Participant, but not less than seven (7) days' notice, of any planned changes to any CSC, toll operations and service requirements that materially affect Participant and will, with good faith cooperation, seek the Participant's comments on any such changes and incorporate any mutually agreeable proposals.

Section 2.3 – ETC Prepaid Account.

(a) Notwithstanding anything contained in this Agreement, VDOT and the Participant acknowledge and agree that:

- (i) VDOT has established an ETC Prepaid Account;

(ii) VDOT is the sole owner of the ETC Prepaid Account itself and has the exclusive right, power and authority, at the exclusion of the Participant and all other persons, to exercise sole dominion and control of the ETC Prepaid Account itself, but the exercise of such rights, powers, authority, dominion and control shall at all times be consistent with the proper discharge by VDOT of its duties and obligations under this Agreement; and

(iii) the Participant will have no right, title, or interest in and to the ETC Prepaid Account itself, but (a) all funds in the ETC Prepaid Account in respect of Participant's tolls shall be held by VDOT for the benefit of Participant and transferred to Participant timely in accordance with this Agreement, and (b) VDOT shall not, nor does VDOT have the power or authority, to alienate those funds or subject them to a security interest or lien for the benefit of any third party. However, nothing in this section shall be construed to prohibit VDOT from investing such funds in accordance with its standard practice, provided that all returns on funds held for the benefit of Participant shall inure to the benefit of Participant.

(b) VDOT agrees to initiate payment by wire transfer to the Participant on or before the close of business of the next VDOT business day, an amount equal to the aggregate tolls and any applicable membership fees posted to patron accounts the previous day, less any amount that Participant agrees may be offset to effect payment of the VDOT E-ZPass Fees; provided, however that VDOT shall not be obligated to initiate payment pursuant to this Section 2.3(b) in cases of system failure that prevents Participant from sending E-ZPass transactions or VDOT from processing E-ZPass transactions for Participant. Payments which were not made in accordance with this Section 2.3(b) due to system failure will be made by VDOT to the Participant the next day following the correction of the system failure.

(c) In the event the Financing Provisions preclude netting of the VDOT E-ZPass Fees from the electronic toll receipts or Participant does not otherwise approve VDOT offsetting such fees, the VDOT E-ZPass Fees must be paid upon receipt of an invoice for services pursuant to Section 2.4.

(d) VDOT agrees to provide the Participant with Read-Only Access to the Virginia E-ZPass Customer Database via the customer service client application, subject to the Participant's agreement to comply with the then-current terms and conditions of the Virginia E-ZPass Database User Policy. VDOT reserves the right to reasonably limit the number of individual users from the Participant that are granted Read-Only Access. The Participant's use of the Virginia E-ZPass customer database shall be limited to the provision of direct customer service to address a customer service issue relating solely to the Participant. The Participant shall not use the Virginia E-ZPass customer database to contact customers for marketing purposes. Unless otherwise required by law, the Participant shall not disclose customer data from the Virginia E-ZPass Customer Database to any third party without the express written consent of VDOT.

Section 2.4 – Invoices for Services. Any fees for any services provided in accordance with the terms of this Agreement, including but not limited to ETC Services provided by VDOT to the Participant, that are not offset prior to wire transfer to the Participant under Section 2.3(b) above, will be invoiced to the Participant and paid by the Participant to VDOT within 30 days of receipt of such invoice.

Section 2.5 – Disputed Invoices. If either VDOT or the Participant disputes any invoice or payment transaction reported by the ETC Servicer, they will give prompt notice to the ETC Servicer and each other, effect payment of all amounts not in dispute, and resolve the amounts in dispute pursuant to Article 10. Participant will only reimburse questioned amounts to VDOT upon final resolution for any amounts in dispute.

Section 2.6 – Payments by the ETC Servicer. In the event that pursuant to an ETC Servicer Agreement, the ETC Servicer is obligated to pay VDOT lost revenues or any other sum resulting from the default of the ETC Servicer or the non-performance of the ETC Servicer's duties and obligations under the ETC Servicer Agreement, VDOT will promptly remit to the Participant its *pro rata* portion of such sums. Such *pro rata* payment will be based on the product of (i) the historical ratio of the Facility Transactions to Statewide Transactions over the applicable time period in question for the immediately preceding year (taking into account holiday and weekend travel days), multiplied by (ii) the average percentage traffic increase at the Facility during the immediately preceding twelve month period; *provided* that if by reason of an event or circumstance (e.g., newly-opened facility) during the time periods in either or both of the preceding items (i) and (ii), the foregoing calculation is not a fair approximation of the traffic flow for the Facility for the period in question, then VDOT will remit such other amount as Participant can establish to VDOT's reasonable satisfaction. Payment to the Participant by VDOT will be limited to revenues lost by Participant or other sums that Participant can show as a direct loss from any such non-performance.

ARTICLE 3 – ETC SYSTEMS

Section 3.1 – Independent Systems.

(a) The Participant operates or will operate an ETC System which is independent of but compatible with the VDOT E-ZPass ETC System and reads the same or E-ZPass-approved compatible type of transponder, and the Participant agrees that its ETC System will provide ETC transaction data in the format required by VDOT. The Participant agrees to purchase readers, antennas and other tolling hardware necessary comply with the E-ZPass Reciprocity Agreement from vendors approved by VDOT.

(b) VDOT will provide data formats, documentation, interface requirements and any other necessary design information to the Participant in a timely manner and at no additional cost to the Participant. This information is subject to change with reasonable advance written notice from VDOT (VDOT shall endeavor to provide not less than ninety (90) days' prior written notice). Participant will be required to conform to the new interface requirements at no cost to VDOT. Transaction processing problems which arise from the Participant not meeting these requirements will be resolved at the direction of VDOT on a time plus materials basis payment by the Participant to VDOT.

(c) VDOT and the Participant will each continue to be responsible for the maintenance, repair, and operation of all necessary lane and computer equipment for their respective ETC Systems. Specifically, the Participant will be responsible for the maintenance, repair and operation of all necessary lane and computer equipment for its ETC System through and including its host computer. VDOT will be responsible for the maintenance, repair and

operation of its ETC System commencing from the Participant's host router and extending through and including telephone lines, routers, black boxes and the CSC.

(d) In no event will VDOT have any liability to the Participant for any losses, including but not limited to lost toll revenue, suffered due to any equipment failure or error in the Participant's ETC System; provided, however, that should VDOT's failure to properly maintain, repair and operate its ETC System and the CSC cause a loss of revenue to the Participant, VDOT will pay the Participant the lost revenue and the Participant's direct costs associated therewith within 14 days after the Participant provides VDOT written notice. Such written notice will include adequate and detailed documentation of such lost revenues and costs. Neither party will have any liability to the other party for consequential damages.

Section 3.2 – Testing Procedures and Results. Participant will provide VDOT the opportunity to participate in the installation of upgrades or other modifications to the Participant's ETC System, as requested by VDOT. The Participant may participate in the installation of upgrades or other modifications to VDOT's CSC system. In any such event, each party will provide proposed test schedules and scripts for such upgrades or other modifications to the other party and the CSC at least 7 days in advance of testing, and will use reasonable commercial efforts to deliver such information 60 days in advance of testing. In the case of upgrades or modifications to Participant's ETC System, upon mutual agreement, VDOT may require additional tests to be undertaken at the Participant's expense in order to confirm the accuracy and reliability in all aspects of processing relating to ETC transactions. Copies of test results will be made available to the other party and the relevant CSC promptly. VDOT will participate in acceptance testing and must approve testing prior to processing of live traffic through the CSC.

Section 3.3 – Modifications to Systems.

(a) As equipment changes, modifications or upgrades occur to the ETC Systems, the Participant will use reasonable efforts to cause its ETC equipment used on the Facility to be compatible with that used by VDOT on its other ETC facilities and VDOT's ETC operations. The Participant will be responsible for any and all system maintenance, changes, modifications or upgrades to its ETC equipment or operations. If any changes, modifications or upgrades to any of the Participant's ETC equipment or other system modifications will adversely impact VDOT's ETC operations in any material respect, the parties agree to make good faith efforts to resolve such impact to each party's satisfaction; provided, however, that any such changes, modifications or upgrades will be ultimately compatible with the VDOT ETC operations. Either party will notify the other in writing at least 90 days in advance of any changes or modification to such party's ETC System equipment that may affect the other's ETC System equipment or operations in any material respect.

(b) VDOT will exercise due care and diligence in planning and implementing modifications, upgrades and associated testing of its ETC System at levels which are reasonable given the schedule, scope and budget for the ETC System and will not exceed what is considered customary and reasonable for hardware and software processing systems. However, there is no guarantee against adverse impacts to the performance of the hardware or software in Participant's or others' systems. While precautions will be taken by VDOT to

help mitigate the risk of occurrence of such adverse impacts, VDOT will not, unless it is in breach of its duty of due care and diligence, be financially responsible for the occurrence of adverse impact to the Participant or other third parties affected during such modifications, upgrades and associated testing.

Section 3.4 – System Performance.

(a) Both the Participant and VDOT will report as promptly as possible and no later than 72 hours from when the parties received notice therefor, of any system failure or degradation that may affect ETC operations. In the event that the Participant is unable to send E-ZPass transactions for the Facility for periods in excess of 24 hours, the Participant must notify the Authorized VDOT Representative prior to sending any backlogged E-ZPass transactions for the Facility. If VDOT is unable to process E-ZPass transactions for the Facility for the Participant for any period in excess of 24 hours, VDOT will notify the Participant within as promptly as possible and no later than 72 hours of such fact.

(b) Any E-ZPass transactions for the Facility not sent within 60 business days of occurrence are subject to deletion from the patron's account and related revenue may not be recorded or transferred unless the delay is due to failure by VDOT, in which case the related revenue will promptly be transferred to the Participant.

Section 3.5 – Disputed Transactions.

(a) Each business day, the Participant will forward by telecopy or e-mail to VDOT through a CSC, a report listing E-ZPass transactions by lane number from the previous day or weekend, as applicable. Each business day VDOT will post transactions to Participant's patron account and cause a CSC to send the Participant via telecopy or e-mail a disbursement report reflecting E-ZPass transaction revenue credited to Participant by transaction number.

(b) If at any time the Participant's E-ZPass revenue reflected in the disbursement report is out of balance with Participant's reported E-ZPass transactions by \$50 or more for any 3 consecutive days, the Participant will notify VDOT. VDOT will provide a detailed disbursement file within 5 business days of Participant's notification. The Participant will compare the detailed disbursement report to its detailed audit and provide details regarding the disputed transactions sufficient to update the patron accounts. If the Participant cannot provide detail sufficient to update the patron accounts within 20 business days of the occurrence of the transactions, those transactions will not be charged to patron accounts and will not result in revenue to the Facility. The Participant will send the detailed data to VDOT with comparisons of transactions to include the transaction sequence number(s) and the acknowledgement verification by the ETC System.

(c) E-ZPass transaction/revenue disputes will be resolved on a monthly basis. To the extent an amount is validly determined to be due from the Participant to VDOT, the CSC may adjust or offset such amount against the funds that are owed by VDOT to the Participant in a subsequent transfer. Any Participant's E-ZPass transactions rejected by their respective home agency will be identified in a report, which will be communicated to the Participant. Rejected transactions will be handled according to documented or generally accepted E-ZPass

reconciliation procedures. In the event an amount is determined to be due from VDOT to the Participant, VDOT shall promptly pay such amount to the Participant together with any interest accrued thereon while held by VDOT.

ARTICLE 4 - PAYMENT TERMS

Section 4.1 – VDOT E-ZPass Fees.

(a) Participant agrees to pay the VDOT E-ZPass Fees. The VDOT E-ZPass Fees will be due and payable as provided in Section 2.3. VDOT or the ETC Servicer will manage all responsibilities associated with collection and transmission of revenue back to the Participant.

(b) Subject to the Financing Provisions and Participant providing its affirmative agreement to do so, VDOT may offset against amounts to be transferred from the ETC Prepaid Account to the Participant amounts that are due to VDOT from Participant. VDOT and the Participant agree that the agreement to transfer Participant's tolls from the ETC Prepaid Account and the remittance by VDOT to the Participant of amounts from the ETC Prepaid Account in accordance with this Agreement is irrevocable unless amended, modified or waived by written agreement of both parties.

(c) The cost for any additional services provided by VDOT or the ETC Servicer for the Participant that have been agreed to by VDOT and the Participant in advance will be in addition to the VDOT E-ZPass Fees. Examples of additional services may include mailhouse services to customers and emails to customers. Pricing for the performance of such additional services shall be as agreed between the Participant and VDOT, with pricing for such services to be limited to a pass through of reasonably incurred costs to perform such services.

Section 4.2 – Basis for VDOT E-ZPass Fees.

(a) The VDOT E-ZPass Fees are intended to cover the Participant's share of VDOT's total annual ETC expenses and such fees shall be full compensation to VDOT to pay VDOT's normal and customary expenses incurred to process electronic toll collections through E-ZPass based on transactions transmitted electronically to the ETC Servicer. The VDOT E-ZPass Fees for each fiscal year will be determined by VDOT and will be deemed correct absent manifest error. The VDOT E-ZPass Fees consist of the following two amounts: the operating costs component and the processing fee component.

(b) The operating costs component of the VDOT E-ZPass Fees will be assessed by transaction and calculated as follows:¹⁷

(i) VDOT will determine the estimated operating costs component of the VDOT E-ZPass Fees for each fiscal year based on a two-year look ahead based upon:

¹⁷ Note to VDOT: VDOT to provide an example of how this calculation works.

(A) VDOT's estimated costs for operating the statewide ETC system, including, but not limited to, the amortized capital costs allocated to the statewide ETC system, the annual E-ZPass membership dues paid by VDOT to the E-ZPass Group, and additional transponder acquisition and distribution costs of VDOT's ETC operations;

(B) VDOT's estimated revenue collected from customer maintenance fees assessed per transponder and other miscellaneous customer charges (e.g., statement fees, lost/stolen transponder fees);

(C) VDOT's estimated transactions for all participants in the statewide ETC System; and

(D) The estimated baseline operating costs component of the VDOT E-ZPass Fees is an amount equal to the difference in the estimated amounts set forth in clause (A) above and clause (B) above, plus the amount set forth below in Section 4.2(b)(ii)(Z) for the most recently available fiscal year divided by the number of estimated transactions set forth in clause (C) above. $[(A - B + Z) \div C]$.

(ii) Following the end of each fiscal year, an adjustment to the estimated baseline operating costs component of the VDOT E-ZPass Fees calculated in Section 4.2(b)(i) will be made as follows:

(W) VDOT will calculate the difference between the estimated costs for operating the statewide ETC system set forth in Section 4.2(b)(i)(A) and the actual costs for operating the statewide ETC system for such fiscal year;

(X) VDOT will calculate the difference between the estimated revenue collected set forth in Section 4.2(b)(i)(B) and the actual revenues collected during such fiscal year; and

(Y) VDOT will calculate the difference between (1) the estimated number of transactions for all participants in the statewide ETC system, multiplied by the result in Section 4.2(b)(i)(D) above and (2) the actual number of transactions for such fiscal year, multiplied by the fee set forth in Section 4.2(b)(i)(D).

(Z) The baseline operating costs adjustment for a fiscal year is an amount equal to the sum of the amounts set forth in clause (W) above, clause (X) above and clause (Y) above, $[W + X + Y]$.

(c) The processing fee component of the VDOT E-ZPass Fees will consist of the sum of an amount equal to the average credit card processing fee (expressed in a percentage and calculated as set forth in the next sentence) multiplied by total revenue processed for the Participant each day. For the purposes of this calculation, the "average credit card processing fee" will equal the sum of the actual credit card processing fees and other related bank fees divided by credit card revenue, with the quotient thereof multiplied by the percentage of total E-ZPass revenue processed by credit card. In the event that the processing fee component of the VDOT E-ZPass Fees collected for the twelve month period immediately preceding the date of calculation are either less than or in excess of the actual costs for such period, the deficiency or

excess will then be applied to the calculation of the processing fee component of the VDOT E-ZPass Fees for the next twelve month period.

(d) Annually, VDOT will endeavor to provide to Participant written notice of the VDOT E-ZPass Fees to be charged the next Fiscal Year. Such information shall be provided to the Participant concurrently with its delivery to Other Participants, but not later than April 1st.

(e) A calculation of the estimated baseline operating costs component of the VDOT E-ZPass Fees and the adjustment thereto is set forth in Exhibit B. A calculation of the processing fee component of the VDOT Processing Fee for the current Fiscal Year is also set forth in Exhibit B.

Section 4.3. –Bank Account Information. Unless otherwise directed by the Participant by giving 10 business days prior written notice, VDOT shall deposit or cause to be deposited all revenues derived from E-ZPass transactions into the account set forth in Exhibit C, in accordance with the terms of this Agreement.

ARTICLE 5 – TERM

Section 5.1 – Term. Subject to Section 5.2 below, the term of this Agreement will be co-terminus with the Master Agreement, and will terminate automatically if the Master Agreement is terminated early (prior to its expiration date) for any reason.

Section 5.2. – Continuity of ETC Services. In order to insure continuity of ETC Services to the Participant, VDOT agrees that if the ETC Services Agreement will for any reason be terminated, or is materially changed or renegotiated, VDOT will (i) make a good faith attempt to give the Participant sufficient opportunity to obtain ETC Services from the current ETC Servicer or a substitute Servicer engaged by VDOT, as appropriate, under terms substantially the same as those set forth in the ETC Services Agreement and this Agreement pursuant to an amendment to this Agreement or a separate agreement, and (ii) in the case where VDOT is performing the ETC Services, make ETC Services available to the Participant under terms substantially the same as those set forth in the ETC Services Agreement and this Agreement. Further, if VDOT modifies its E-ZPass program in a manner that provides participants with the alternative to obtain ETC Services directly from an alternative Servicer, the Participant may terminate this Agreement for convenience upon not less than days' notice in order to contract directly with an alternative Servicer. In connection with any such termination, VDOT will work in good faith with the Participant to ensure an orderly transition to the alternative Servicer with continuity of service.

ARTICLE 6 – OPERATIONS

Section 6.1 – Standard Operational Procedures. VDOT Standard Operating Procedures¹⁸ for ETC Services are attached hereto as Exhibit E (the "Standard Operating Procedures"). Participant may establish and operate a customer service center to provide non-

¹⁸ **Note to VDOT:** Need to see.

ETC related services independently of VDOT or may procure such non-ETC related services from a third party, provided, however, that in each such case, the independent service center must be operated in a manner consistent with the VDOT Standard Operating Procedures.

Section 6.2 – Changes in Operational Procedures. Any anticipated changes that materially affect operating procedures will be presented and discussed at liaison meetings. VDOT will, in good faith cooperation, try to accommodate changes proposed by the Participant. However, VDOT has sole approval authority to amend operational procedures.

ARTICLE 7 – RESPONSIBILITIES OF VDOT

Section 7.1 – Generally. VDOT will use commercially reasonable efforts to cause the ETC Servicer to perform its duties and obligations in accordance with the ETC Servicer Agreement and the VDOT Standard Operating Procedures. If the Participant gives VDOT a written notice stating that the ETC Servicer is not performing its duties and obligations in accordance with the ETC Servicer Agreement or the VDOT Standard Operating Procedures, and specifying the reasons therefor, VDOT will promptly remedy the deficiency (including taking any remedial action available pursuant to the ETC Servicer Agreement) or give the ETC Servicer notice to such effect and cause it to perform in accordance with its agreement with VDOT. VDOT will include the Participant in all decisions relating to any such situation. The parties acknowledge that it is not necessary for Participant to be a party to the ETC Servicer Agreement, provided that VDOT will be obligated to provide all ETC Services pursuant to this Agreement.

Section 7.2 – Notices. VDOT will promptly notify the Participant of all changes and proposed changes in ETC Services that are anticipated to materially affect Participant's operations, including with respect to E-ZPass and the E-ZPass Reciprocity Agreement.

ARTICLE 8 – RESPONSIBILITIES OF PARTICIPANT

Section 8.1 – Generally. The Participant will use commercially reasonable efforts to maintain its ETC System to perform in accordance with the VDOT Standard Operating Procedures. If VDOT gives the Participant a written notice stating that its ETC System is not operating in accordance with approved operating procedures, and specifying the reasons, the Participant will promptly initiate appropriate corrective action. The Participant will include VDOT in all material decisions relating to any such corrective action. The Participant will take no actions that violate or affect any of the terms of the E-ZPass Reciprocity Agreement that is attached and incorporated as part of this Agreement.

Section 8.2 – Toll Rate Changes. The Participant is exclusively authorized to make and be responsible for any toll rate changes at the Facility in accordance with applicable law and the Master Agreement. The Participant will communicate any toll rate changes to VDOT and the ETC Servicer if required by and in accordance with the Master Agreement at least fifteen (15) business days prior to implementation to allow for modifications to the ETC systems and related charges and modifications.

Section 8.3 – Notices. The Participant will notify VDOT of all changes in its ETC Systems that are anticipated to materially affect VDOT and/or ETC operations.

ARTICLE 9 – MARKETING

Section 9.1 – Marketing. VDOT and the Participant will coordinate marketing for the ETC System of toll collections. VDOT and the Participant will mutually determine a marketing plan. VDOT will, in good faith cooperation, include the Participant in its marketing efforts. However, either party may implement, at its own cost, supplemental marketing efforts for the Facility which are in addition to those provided by the mutually agreed upon marketing plan. The Participant will be provided usage of, and is hereby granted, subject to the provisions of the Master Agreement, a license to use, the term “E-ZPass” and the “E-ZPass” logos at no charge for operational and marketing purposes and VDOT represents and covenants that it has lawful authority to grant such license; provided that VDOT will retain the right of prior approval of any such use, such approval not to be unreasonably withheld, conditioned or delayed.

ARTICLE 10 - DISPUTE RESOLUTION

Section 10.1 – Dispute Resolution Generally. VDOT and the Participant will resolve any disputes which arise between them under this Agreement pursuant to the dispute resolution provisions of the Master Agreement.

ARTICLE 11 - DEFAULT

Section 11.1 – Events of Default; Cure.

(a) A failure by either VDOT or Participant to fulfill their respective material responsibilities and obligations set forth herein shall constitute a breach.

(b) If a breach occurs pursuant to Section 11.1(a), the rights, remedies and procedures set forth in Article 9 of the Master Agreement shall apply as if they were set forth herein, *mutatis mutandi*; provided, however, that the cure period applicable to monetary breaches shall be ten (10) days.

ARTICLE 12 - MISCELLANEOUS

Section 12.1 – Waivers, Modifications and Amendments. No waiver, modification, or amendment of any term, condition or provision of this Agreement will be valid or of any force or effect unless made in writing and signed by both VDOT and the Participant. The effect of any such change will be limited to the extent specified and agreed to by VDOT and the Participant, as evidenced by signatures of duly appointed officers of each of the parties.

Section 12.2 – Captions. Captions, headings, cover pages and tables of contents contained in this Agreement are inserted for convenience of reference only and in no way define, limit or prescribe the scope, intent or meaning of any provisions of this Agreement. All appendices, exhibits, or schedules attached hereto are hereby incorporated herein and made a part of this Agreement.

Section 12.3 – Notices. All notices will be in writing and will be delivered personally, by telecopy, or by registered or certified mail, return receipt requested, addressed as follows:

Participant Mailing Address

Hampton Roads Transportation
Accountability Commission
723 Woodlake Drive
Chesapeake, Virginia 23320
Attention: Executive Director

VDOT Mailing Address

Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219
Attention: Commissioner of Highways
Telecopier: 804-780-6250

Section 12.4 - Entire Agreement. This Agreement constitutes the entire agreement between VDOT and the Participant concerning the subject matter hereof and supersedes all prior negotiations, representations, and agreements about them, either oral or written; *provided, however* that the provisions of the Master Agreement shall prevail in the event such provisions conflict with the terms of this Agreement.

Section 12.5 - Force Majeure/Emergency. In case by reason of force majeure, either party will be rendered unable wholly or in part to carry out its obligations under this Agreement, then, provided such party will give notice and full particulars of such force majeure in writing to the other within a reasonable time after occurrence of the event or cause relied on, the obligations of such party so far as they are affected by such force majeure, will be suspended during the continuance of the inability then claimed, which will include a reasonable time for the removal of the effect thereof, and such party will endeavor to remove or overcome such inability with all reasonable dispatch. Any time period specified herein for the performance by such party of an obligation will be appropriately adjusted and extended without the necessity for any amendment to this Agreement if a force majeure event occurs.

Section 12.6 – Assignment. Neither party may assign its rights and obligations under this Agreement except with the prior written consent of the other party.

Section 12.7 – Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia. All litigation between the parties arising out of or pertaining to this Agreement shall be filed, heard, and decided in either the Circuit Court for the City of Richmond, Virginia, Division I or the Circuit Court for the City of Chesapeake, Virginia, which courts will have exclusive jurisdiction and venue.

Section 12.8 - Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

Section 12.9 – Authorized Representatives. The Authorized VDOT Representative is David T. Caudill, Division Administrator of Tolling Operations Division, and the Authorized Participant Representative is Kevin B. Page, Executive Director. Either party may change its authorized representative at any time by written notice to the other party.

[Signature Page Follows]

IN WITNESS THEREOF, this Agreement has been entered into as of the first date set forth above, by the duly authorized officers of the parties hereto.

PARTICIPANT
HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION

VIRGINIA DEPARTMENT OF
TRANSPORTATION

By: _____
Kevin B. Page
Executive Director

By: _____
Name: David T. Caudill, P.E.
Title: Division Administrator
Tolling Operations Division

Exhibit A
E-ZPass Reciprocity Agreement

Exhibit B

VDOT E-ZPass Fees

[Note re: Completion in connection with execution: To be populated with then-current information based on the fees that apply on an across-the-board basis.]

For Fiscal Year 20[●], the processing fee component of the VDOT E-ZPass Fees will be [●]% of the revenue processed for each individual facility.

For Fiscal Year 20[●], the operating costs component of the VDOT E-ZPass Fees will be \$[●] per transaction.

The method of calculation for the future estimated baseline operating costs component of the VDOT E-ZPass Fees and the adjustment thereto is illustrated in the following example attached hereto as follows:

Example of baseline operating cost component calculation

Exhibit B - VDOT E-ZPass Fees and Adjustments				
Notes				
April 2018 Calculation for FY 2019 Toll Facility Transaction Fee				
Estimated Year: 2019				
2018 Transaction Fee Calculation Summary				
Operating cost component	Current Year Projection	Future Year Projection		
	Fiscal Year 2018	Fiscal Year 2019		
				Total
Toll Facility Transaction Fee	0.0639			
Total Costs for Operating the statewide ETC System (A)	\$ (16,317,480)	\$ (16,421,048)		\$ (32,738,528)
Total Estimated Revenue collected from customer maintenance fees and other miscellaneous fees	\$ 2,766,873	\$ 1,735,199		\$ 4,502,073
Toll facility transaction fee income	\$ 13,653,823			\$ 13,653,823
Total revenue/income (E)	\$ 16,420,696	\$ 1,735,199		\$ 18,155,895
Costs remaining (A+E)	\$ 103,216	\$ (14,685,849)		\$ (14,582,633)
ETC Transactions for all participants (C)	224,127,291	228,055,107		452,182,398
Projected transactions available for cost recovery (F)		228,055,107		228,055,107
Amount to be recovered via future transaction fee				(14,582,633)
Future transaction fee required to cover cost remaining (E/D)				\$ (0.0639)
Future projected transaction fee revenue	\$ -	\$ 14,582,633		\$ 14,582,633
Operating Profit / (Loss)	\$ 103,216	\$ (103,216)		(0.00)
				\$ (0.0639)
Revenue Summary				
Revenue anticipated from other revenues/fees	\$ 2,766,873	\$ 1,735,199		\$ 4,502,073
Transaction Fee	13,653,823	14,582,633		28,236,456
TOTAL	\$ 16,420,696	\$ 16,317,832		\$ 32,738,528
Anticipated Revenue less Total Estimated Costs for Operating ETC System (Profit/Loss))	\$ 103,216	\$ (103,216)		\$ -

Exhibit C

Bank Account Information

Bank:

Account Name:

Account No.

Re:

* If the Facility is not in operation, the Participant agrees to provide to VDOT the account information in this Exhibit C within 30 days prior to the planned commencement of tolling on the Facility.

Exhibit D

VDOT Standard Operating Procedures for ETC Services

EXHIBIT 15

Form of Violation Processing Services Agreement

EXHIBIT 15

FORM OF VIOLATIONS PROCESSING SERVICES AGREEMENT

This VIOLATIONS PROCESSING SERVICES AGREEMENT (this “Agreement”) is made and entered into this [●] day of [●] 20[●], by and between the VIRGINIA DEPARTMENT OF TRANSPORTATION (“VDOT”) and the HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION (the “Participant”).

RECITALS

WHEREAS, Participant is the operator of the Facility (defined below); and

WHEREAS, in connection with the Participant’s operation of the Facility, the Participant desires to contract with VDOT to obtain certain violation processing services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, VDOT and the Participant hereby agree as follows:

ARTICLE 1 – DEFINITIONS

Section 1.1 The terms set forth below will have the meanings set forth adjacent to them.

Facility means, within the Commonwealth of Virginia, the network of contiguous high-occupancy toll lanes or other dynamically-priced travel lanes, in each direction, between (i) the interchange of Interstate 64 and Jefferson Avenue in Newport News and (ii) the interchange of Interstate 64, Interstate 264 and Interstate 664 in the Bowers Hill section of Chesapeake.

Facility System means a violation enforcement system at the Facility.

Master Agreement means the Master Agreement for Development and Tolling dated [●] between VDOT and Participant relating to the tolling of the Facility.

Participant means the Hampton Roads Transportation Accountability Commission.

VDOT means the Virginia Department of Transportation.

Violations Processing Center means a facility established to provide the Violations Processing Services, including all necessary or convenient data and communication lines, office supplies, equipment, and personnel.

Violations Processing Effective Date means the date on which VDOT commences providing the Violations Processing Services to Participant which shall be the Transition Date (as defined in the Master Agreement), unless the parties otherwise agree in writing.

Violations Processing Services means the services identified in Exhibit A.

VPS Provider means a third-party provider of Violations Processing Services to VDOT.

ARTICLE 2 – VIOLATIONS PROCESSING SERVICES

Section 2.1 Provision of Violations Processing Services. VDOT agrees to provide the Violations Processing Services to the Participant for the Facility, beginning as of the Violations Processing Effective Date, subject to the terms of this Agreement, including, but not limited to the Business Rules and Procedures set forth in Exhibit B and the Fee Schedule and Payment Provisions set forth in Exhibit C. VDOT may contract with one or more private companies for the provision of such Violations Processing Services.

Section 2.2 Violations Processing Centers. Subject to the limitations of and in accordance with the Business Rules and Procedures, VDOT shall establish, maintain, administer and operate (or cause the establishment, maintenance, administration and operation of) one or more Violations Processing Centers. VDOT will provide reasonable advance notice to the Participant, but not less than thirty (30) days' notice of any planned changes to the Violations Processing Center location, its operations and/or service requirements that affect the Participant and will, with good faith cooperation, seek the Participant's comments on any such changes and incorporate mutually agreeable proposals.

Section 2.3 Toll Violations Records. VDOT shall maintain or cause to be maintained a record of all toll violations processed under this Agreement, including fees, charges and penalties for such toll violations, notices, collections, enforcement requests sent to a third party (such as a collection agency or law enforcement agency), administrative dispositions of such toll violations, correspondence relating to toll violation enforcement, and the outcome or resolution of such toll violations, all in accordance with the Business Rules and Procedures. VDOT shall handle, store and dispose of, or cause to be handled, stored, and disposed of, violation images and data in compliance with applicable laws, including Virginia Code §§ 46.2-819.1 *et seq.*, and the records retention and destruction provisions of the Business Rules and Procedures. To the extent permitted by applicable law, all such records shall be available for audit and inspection by the Participant during normal business hours and upon reasonable notice.

Section 2.4 Performance of Violations Processing Services. VDOT shall perform itself or shall cause the VPS Provider to perform the Violations Processing Services in accordance with this Agreement. If Participant gives VDOT a written notice stating that the VPS Provider is not performing its duties and obligations, and specifying the reasons, VDOT shall promptly give the VPS Provider notice to such effect and require VPS Provider to perform in accordance with the VSP Provider's agreement with VDOT. VDOT shall apprise the Participant of all decisions relating to any such situation and seek and take into consideration the Participant's advice and input relating to any such matters. Participant acknowledges and agrees that the VPS Provider has the discretion to pursue or not to pursue violations by initiation of legal proceedings, as provided by the Business Rules and Procedures. VDOT shall promptly notify Participant of such events or conditions that are anticipated to materially affect the provision of Violations Processing Services under this Agreement, including with respect to amendments or changes to or matters under the E-ZPass Operations Interagency Agreement and

the E-ZPass Reciprocity Agreement (a “Material Change Notice”). VDOT shall use commercially reasonable efforts to give Participant each applicable Material Change Notice not less than 120 days’ before the date upon which the event or condition is anticipated to occur. Upon receipt of any Material Change Notice, Participant may terminate this Agreement by giving written notice to VDOT, which termination will be effective upon the date specified by Participant, which shall not be less than 30 days or greater than 120 days after receipt of the Material Change Notice.

Section 2.5 Additional Plazas and Lanes. The parties acknowledge that this Agreement provides only for Violations Processing Services in respect of the Facility. Violations Processing Services for additional facilities may be added pursuant to mutual written agreement.

Section 2.6 VDOT Standard of Care. VDOT will exercise due care and diligence in providing Violations Processing Services, planning and implementing modifications, upgrades and associated testing of its Violations Processing system at levels which are reasonable given the schedule, scope and budget for such system. However, VDOT expressly disclaims any and all liability for, and provides no guarantee against, system failures, interruptions or other malfunctions; while industry standard precautions will be taken by VDOT to help mitigate the risk of occurrence of such adverse impacts, VDOT shall not be financially responsible for the occurrence of any adverse impact to the Participant or other third parties.

Section 2.7 Relationship to ETC Agreement. Violations Processing Services hereunder shall not constitute “ETC Services” under and as defined in the Electronic Toll Collection Agreement between the Participant and VDOT.

ARTICLE 3 – PARTICIPANT

Section 3.1 Participant Policies and Operating Procedures. Participant shall consult with VDOT regarding Participant’s policies and operating procedures that relate to and have an effect on the Violations Processing Services. To the extent that any of the Participant’s policies and operating procedures would have a material adverse effect on the operations of the Violations Processing Center, VDOT and the Participant shall engage in good faith discussions regarding the implementation of such policies and procedures in order to mitigate such effects. If Participant’s policies and operating procedures or any revisions thereto (a) deviate materially from those used by other participants contracting with VDOT for Violations Processing Services (the “Prevailing Policies and Procedures”), and (b) result in a material increase in VDOT’s direct costs of providing the Violations Processing Services, VDOT shall immediately provide the Participant with notice of, and reasonable detail regarding, such cost increases. Unless Participant otherwise conforms its practices to the Prevailing Policies and Procedures, Participant shall reimburse VDOT for VDOT’s associated direct costs within 30 days after VDOT provides the Participant written notice thereof. Such written notice shall include adequate and detailed documentation of the costs.

ARTICLE 4 – FACILITY SYSTEM

Section 4.1 Facility System.

(a) In order for VDOT to provide Violations Processing Services, the Participant shall provide, install, maintain and operate at its Facility a Facility System, which shall be compatible with VDOT's system, and shall be capable of capturing a video image of a license plate, and other pertinent information of a vehicle that does not pay the proper toll amount, and shall provide violation processing capabilities consistent with the further requirements of this Agreement. The Participant shall provide and install all equipment, components, hardware, software, cabling, and any other materials and services required for this function. VDOT and/or the VPS Provider shall provide data formats, documentation, interface requirements and any other necessary design information, including updates and modifications, to the Participant in a timely manner and at no additional cost to the Participant other than as noted in the Fee Schedule and Payment Provisions set forth in Exhibit C.

(b) Participant shall be responsible for ensuring that the Facility System provides transaction data related to the Facility in the format required by VDOT from its program participants generally, which information shall be provided to Participant upon request. Participant's Facility System shall be capable of capturing a violation transaction, consisting of transaction data and license plate images for each vehicle that does not pay the proper toll either manually or electronically. The captured image shall be associated with the correct transaction and sent to the Violations Processing Center for processing. No image captured by the Facility System shall include the face of any person in the vehicle after the image has been prepared for processing in accordance with applicable law. The license plate number and state shall be readable to a clerk during review on a violation processing workstation monitor.

(c) Should the Participant's Facility System send erroneous data that increases VDOT's cost of providing the Violations Processing Services, VDOT shall immediately provide the Participant with notice of such cost increases. The Participant shall reimburse VDOT for VDOT's associated direct costs within 30 days after VDOT shall have given the Participant written notice. Such written notice shall include adequate and detailed documentation of such costs.

Section 4.2 Testing Procedures and Results.

(a) Participant may make, and will be responsible for, any and all system maintenance, changes, modifications or upgrades to its Facility System, but such changes, modifications or upgrades shall be compatible with VDOT's operations and otherwise satisfy the requirements of this Agreement. Either party shall notify the other in writing at least 90 days in advance of any changes or modification to such party's violations processing system equipment that may affect the other's system, equipment, provision of services or operations in any material respect. VDOT's changes and modifications will be applied to its participants generally, and if any change or modification would materially increase Participant's costs or expenses relating to obtaining Violation Processing Services, then, in accordance with the principles in Section 2.4, VDOT shall provide Participant a Material Change Notice whereupon Participant shall have the right to terminate this Agreement.

(b) VDOT or its representatives will participate in acceptance testing and must approve testing of upgrades or other modifications to the Participant's Facility System, prior to processing of live violations through the Violations Processing Center. VDOT shall give the Participant reasonable advance notice of VDOT's testing of upgrades or other modifications to VDOT's violations processing system, including a successor to the then-current VPS Provider or Violations Processing Center, and shall allow the Participant or its representatives an opportunity to participate in such testing.

Section 4.3 Modifications. In the event that either party proposes upgrades or modifications, such party will provide proposed test schedules and scripts for such upgrades or other modifications to the other party and the VPS Provider at least 90 days in advance of testing. In the case of upgrades or modifications to the Participant's Facility System, VDOT may reasonably require additional tests to be undertaken at the Participant's expense in order to confirm the accuracy and reliability in all aspects of the processing of violations. Copies of test results shall promptly be made available to the other party and the VPS Provider.

Section 4.4 System Performance. Both the Participant and VDOT shall report to the other within two (2) business days any system failure or degradation that may affect Violations Processing Services. In the event that the Participant is unable to send transactions for periods in excess of two (2) business days, the Participant must notify the manager of the Violations Processing Center prior to sending any backlogged violations transactions. If the Violations Processing Center is unable to process violation transactions for the Participant for any period in excess of 24 hours, VDOT shall notify the Participant within two (2) business days of such occurrence.

Section 4.5 Disputed Transactions. Disputed transactions shall be resolved as set forth in the Business Rules and Procedures.

ARTICLE 5 – MAINTENANCE

Section 5.1 Participant Responsibility. The Participant shall be responsible for the maintenance, repair, and operation of all necessary lane and computer equipment for its Facility System through and including its host computer to ensure that it performs hereunder and in accordance with the Business Rules and Procedures.¹⁹ In no event shall VDOT have any liability to the Participant for any losses suffered due to equipment failure or error in the Participant's Facility System from the lane level through the Participant's host computer. If VDOT gives the Participant a written notice stating that the Facility System is not operating in accordance with this Agreement or the Business Rules and Procedures, and specifying the reasons, the Participant shall promptly initiate appropriate corrective action. The Participant shall include VDOT in all material decisions relating to any such corrective action. The Participant shall notify VDOT of all changes in the Facility Systems that can reasonably be anticipated to affect VDOT or its provision of Violations Processing Services under this Agreement.

¹⁹ **Note to VDOT:** Need to see.

Section 5.2 VDOT Responsibility. VDOT shall be responsible for the maintenance, repair and operation of its Violations Processing system commencing from (but excluding) the Participant's host router and extending through and including telephone lines, routers, black boxes within the Violations Processing Center.

ARTICLE 6 – PAYMENT TERMS

Section 6.1 Payment Terms. The Participant agrees to compensate VDOT for Violations Processing Services, by paying to VDOT the fees and charges set forth in Exhibit C (as amended from time to time) that are applicable to the services requested by the Participant in accordance with Section 2.1. The parties acknowledge that Exhibit C contains a non-refundable initial set-up payment, in addition to ongoing transaction fees and charges. VDOT reserves the right to amend Exhibit C to revise, from time to time, the charges and fees for providing Violations Processing Services under this Agreement, which revisions shall take effect on such date as established by VDOT, but in no event before the expiration of 90 days from the delivery of notice of the revised charges and fees to the Participant, during which time Participant shall have the right to terminate this Agreement for convenience. VDOT shall invoice the Participant on a monthly basis for the Violations Processing Services in accordance with Exhibit C. The Participant agrees to remit payment to VDOT within 30 days of delivery of each such invoice.

ARTICLE 7 – TERM

Section 7.1 Term. The term of this Agreement shall commence upon the date of this Agreement, and shall terminate on that date which is the earlier to occur of:

- (a) June 30, 20[●], subject to automatic renewal for successive one year extensions, unless and until terminated by written notice delivered by either party to the other party at least 120 days prior to the end of the then current term; or
- (b) the effective date on which this Agreement is terminated by either party in accordance with its terms, as specified by delivery of written notice to the other party.

ARTICLE 8 – OPERATIONS

Section 8.1 Termination of VPS Operations. VDOT shall notify Participant of VDOT's intention to terminate its existing agreements with VPS Providers, its operations of its Violations Processing Center, and/or the provision of Violations Processing Services at least 120 days prior to undertaking same, absent exigent circumstances, in which latter case, VDOT shall provide Participant such notice as promptly as is practicable under the circumstances.

Section 8.2 Business Rules and Procedures. VDOT shall establish, maintain and amend, from time to time, the Business Rules and Procedures for Violations Processing Services. The current Business Rules and Procedures are annexed to this Agreement as Exhibit B. Any anticipated amendments shall be presented by VDOT and discussed at liaison meetings. VDOT will, in good faith cooperation, try to accommodate changes proposed by the Participant. However, VDOT has sole authority to amend the Business Rules and Procedures, which

amendments shall take effect on the date established by VDOT, but no sooner than the expiration of 90 days after delivery of written notice of the amendments to the Participant.

Section 8.3 Liaison and Meetings. Participant and VDOT each agree to meet with each other and VPS Providers to coordinate the administration and performance of this Agreement with each other and to conduct periodic meetings and liaison sessions to ensure the efficient provision of Violations Processing Services and the resolution of disputes that may arise under this Agreement.

ARTICLE 9 – DISPUTE RESOLUTION

Section 9.1 Dispute Resolution Generally. VDOT and the Participant will resolve any disputes which arise between them under this Agreement pursuant to the dispute resolution provisions of the Master Agreement.

ARTICLE 10 - DEFAULT

Section 10.1 Events of Default; Cure; Termination.

(a) A failure by either VDOT or Participant to fulfill their respective material responsibilities and obligations set forth herein will give rise to an event of default, respectively. Following the provision of notice of default by the non-defaulting party to the defaulting party, and the failure to cure the event of default within the period agreed upon pursuant to Section 12.1(b), the Agreement may be terminated in accordance with Section 10.1(c).

(b) If an event of default occurs pursuant to Section 10.1(a), the defaulting party shall have 60 days to cure such default; provided, however, that the 60-day cure period may be extended by mutual agreement.

(c) Following expiration of the cure period, unless such cure period is extended by mutual agreement, the non-defaulting party will have the right to terminate this Agreement by notice thereof to the defaulting party.

(d) VDOT shall incur no liability to the Participant for any actual or purported failure to properly maintain, repair or operate its violations processing system and the Violations Processing Center or its inability to continue to provide Violations Processing Services hereunder. Notwithstanding anything to the contrary set forth herein, if a default arises by reason of the failure of a VPS Provider to perform its contractual obligations to VDOT and VDOT is able to recover damages from that VPS Provider with respect to such failure, VDOT shall remit to the Participant such portion of the recovered damages as VDOT determines in its reasonable judgment to be fairly apportionable to the Participant, and VDOT shall provide the Participant information reflecting the rationale for its determination.

(e) Except as otherwise expressly provided by this Agreement, neither party shall have any liability to the other party for consequential damages.

ARTICLE 11 - MISCELLANEOUS

Section 11.1 Waivers, Modifications and Amendments. No waiver, modification, or amendment of any term, condition or provision of this Agreement will be valid or of any force or effect unless made in writing and signed by both VDOT and the Participant. The effect of any such change will be limited to the extent specified and agreed to by VDOT and the Participant, as evidenced by signatures of duly appointed officers of each of the parties.

Section 11.2 Captions. Captions, headings, cover pages and tables of contents contained in this agreement are inserted for convenience of reference only and in no way define, limit or prescribe the scope, intent or meaning of any provisions of this Agreement. All appendices, exhibits, or schedules attached hereto are hereby incorporated herein and made a part of this Agreement.

Section 11.3 Notices. All notices will be in writing and will be delivered personally, by telecopy, or by registered or certified mail, return receipt requested, addressed as follows:

Participant Mailing Address

Hampton Roads Transportation
Accountability Commission
723 Woodlake Drive
Chesapeake, Virginia 23320
Attention: Executive Director

VDOT Mailing Address

Virginia Department of Transportation
1401 East Broad Street
Richmond, Virginia 23219
Attention: Commissioner of Highways

Section 11.4 Entire Agreement. This Agreement constitutes the entire agreement between VDOT and the Participant concerning the subject matter hereof and supersedes all prior negotiations, representations, and agreements about them, either oral or written; *provided, however* that the provisions of the Master Agreement, shall prevail in the event such provisions conflict with the terms of this Agreement.

Section 11.5 Force Majeure/Emergency. In case by reason of force majeure, either party will be rendered unable wholly or in part to carry out its obligations under this Agreement, then, provided such party will give notice and full particulars of such force majeure in writing to the other within a reasonable time after occurrence of the event or cause relied on, the obligations of such party so far as they are affected by such force majeure, will be suspended during the continuance of the inability then claimed, which will include a reasonable time for the removal of the effect thereof, and such party will endeavor to remove or overcome such inability with all reasonable dispatch. Any time period specified herein for the performance by such party of an obligation will be appropriately adjusted and extended without the necessity for any amendment to this Agreement if a force majeure event occurs.

Section 11.6 Assignment. Neither party may assign its rights and obligations under this Agreement except with the prior written consent of the other party.

Section 11.7 Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia. All litigation between

the parties arising out of or pertaining to this Agreement shall be filed, heard, and decided in either the Circuit Court for the City of Richmond, Virginia, Division I or the Circuit Court for the City of Chesapeake, Virginia, which courts will have exclusive jurisdiction and venue.

Section 11.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS THEREOF, this Agreement has been entered into as of the first date set forth above, by the duly authorized officers of the parties hereto.

**VIRGINIA DEPARTMENT OF
TRANSPORTATION**

By: _____

Name: _____

Title: _____

**HAMPTON ROADS TRANSPORTATION
ACCOUNTABILITY COMMISSION**

By: _____

Name: _____

Title: _____

Exhibit A**Violations Processing Services**

Violations Processing Services shall include each of the following services if the box adjacent to any such service has been checked:

- Providing a manual image review of images and data transmitted from the Participant for the Toll Facility.
- Rejecting violation transactions that fail to meet appropriate criteria including image quality, valid transaction data, and front license plate image for tractor/trailer combinations.
- Identifying and communicating systematic issues with violation quality to the Participant.
- Processing requests from the Participant for specific violations dismissals due to equipment or other issues.
- Posting the transaction to the appropriate account for images associated with valid EZ-Pass accounts by transponder, license plate or vehicle owner name and address.
- Obtaining from the appropriate Department of Motor Vehicles or third party data provider the name and address of the owner associated with the recorded license plate number of each violating vehicle.
- Issuing by mail to such individual or entity one or more toll violation notices according to Business Rules.
- Quality control on the accuracy and appearance of notices.
- Escalating unpaid violations and amounts due according to Business Rules and issuing follow up notices.
- Imposing and collecting fees and tolls for toll violations, and waiving or crediting such fees and tolls.
- Providing customer service to support violation resolution via the web, in person service centers and telephone.
- Processing disputes for leased and rental vehicles and assigning violations to the driver of the vehicle.
- Providing monthly financial and processing reports of all amounts received, in respect to Participant's Toll Facility for the Participant to audit violation activity
- For unpaid violations meeting necessary criteria, as defined by the Participant, issuing summons by mail and by delivery to the appropriate sheriff and attending court hearings with the necessary evidentiary information.
- Recording and communication to the Participant the disposition of any court hearings.
- Working with the Participant on an ad-hoc basis to provide information to identify and allow the Participant to pursue egregious violators.

This scope of services may be modified in writing periodically to reflect funding constraints, modified business processes and new activities that are identified as beneficial to the violation processing program.

Exhibit B

Business Rules and Procedures

[see attached]

Exhibit C**Fee Schedule and Payment Provisions**

[Note re: conforming in connection with execution: The fees below are as of June 2020; these fees will be updated at execution to reflect the fees that then apply on an across-the-board basis.]

A. Fee Schedule.

This preliminary fee schedule is subject to change as provided in Part B of this Exhibit C. Once the actual rates are established they will be reviewed and reset annually based on actual experience and operating costs, as provided in Part B of this Exhibit C. Fees will be assessed according to the following activities undertaken by service center:

- V1 – a transaction fee for each violation received by the central system;
- V2 – a transaction fee for each V-Toll processed by the central system;
- V3 – a system amortization fee allocated based on DMV look-up volume performed by VDOT;
- V4 – a processing fee assessed for each DMV look-up performed by VDOT;
- V5 – a transaction fee for each violation payment processed;
- V6 – a transaction fee for each violation administrative fee payment processed;
- V8 – a fee as a percentage of the value of violation payments processed (This percentage will be based on the average credit card and other financial transaction processing fees per violation dollar processed).
- V9 – actual costs incurred in pursuit of violations subsequent to mailing a final notice including costs to issue summons and attend court hearings or pursue unpaid violations via collections. The ceiling on these costs will be agreed in advance with the Participant.

Fee	Unit	Value
V1	Per Violations Image Loaded	\$0.10
V2	Per V-Toll	\$0.0649
V3	Per DMV Look-up by VDOT	\$0.78
V4	Per DMV Look-up by VDOT	\$1.20
V5	Per Notice	\$2.01
V6	Per Payment	\$7.56
V8	Percentage Fee	2.10%
V9	Actual costs incurred on behalf of Participant	Tracked monthly

Fees are progressive. By way of example, a violation that is cleared at the V-Toll stage would have \$ ____ netted against the toll; a violation that proceeds through collection at the Violations Processing Center after a single notice would be assessed \$ _____. Operators will also be invoiced monthly fee of ____% of payments processed.

In addition, the Participant shall pay VDOT an initial set-up fee that will be negotiated between the parties prior to the provision of any services pursuant to the Agreement.

B. Payment Provisions.

The foregoing costs and fees are preliminary and subject to change as provided below in connection with VDOT's annual review of the costs of providing Violations Processing Services.

Costs and fees under the Violations Processing Agreement shall cover the Participant's share of the actual costs of providing Violations Processing Services. VDOT shall review and, if appropriate, establish revised costs and fees on an annual basis and use its best efforts to provide notice thereof by April 1st in any year (for purposes of meeting the Participant's budget preparation cycle), and in any case provide not less than 60 days notice of any proposed amendment and modification thereof and the effective or implementation date of any such revised costs and fees.

The Participant shall pay all such costs and fees, as provided in the Violations Processing Agreement.

EXHIBIT 16

Tolling O&M Duties

[TO COME]



HRTAC RESOLUTION 2020-02

APPROVAL OF AND AUTHORIZATION TO EXECUTE AND DELIVER MASTER AGREEMENT FOR DEVELOPMENT AND TOLLING OF HAMPTON ROADS EXPRESS LANES NETWORK

WHEREAS, the Hampton Roads Bridge-Tunnel Expansion Project (the “HRBT Expansion Project”), and the Interstate 64 Southside Widening and High Rise Bridge Phase 1 Project (the “High Rise Bridge Expansion Project”), are high priority regional projects being funded predominantly by the Hampton Roads Transportation Accountability Commission (the “Commission”), through project agreements between the Commission and the Virginia Department of Transportation (the “Department”);

WHEREAS, the Commission’s existing funding plan for regional projects anticipates that a portion of its funding will be sourced through toll-backed financing derived from high-occupancy toll (“HOT”) lanes at the Hampton Roads Bridge Tunnel and the High Rise Bridge facilities;

WHEREAS, the facilities are integrated into and connected by Interstate 64;

WHEREAS, the Commonwealth Transportation Board (the “Board”) and the Department have taken certain actions to convert the reversible high-occupancy vehicle lanes between (i) the interchange of Interstate 64 and Interstate 564 and (ii) the interchange of Interstate 64 and Interstate 264 into HOT lanes;

WHEREAS, each of the Board and the Hampton Roads Transportation Planning Organization (“HRTPO”) has determined that it is in the best interests of the users of Interstate 64 in Hampton Roads to integrate the HOT lanes described above into a network of contiguous HOT lanes, in each direction, between the interchange of Interstate 64 and Jefferson Avenue in Newport News and the interchange of Interstate 64, Interstate 264 and Interstate 664 in the Bowers Hill section of Chesapeake (such network, the “Initial Interstate 64 Express Lanes Network”), which network would be parallel and adjacent to the general purpose lanes on Interstate 64 so the users of Interstate 64 in that corridor between Jefferson Avenue and Bowers Hill will continue to have a free means of travel in each direction as an alternative to the HOT lanes;

WHEREAS, the Commission has been vested with specific tolling authority in respect of the Initial Interstate 64 Express Lanes Network pursuant to Chapter 703 of the 2020 Acts of Assembly (H1438) (the “2020 Tolling Legislation”);



WHEREAS, the Commission, the Board and the Department have negotiated, and the members of the Commission have been presented with, a substantially final version of a Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network (a “Master Agreement”), and the exhibits (including certain ancillary agreements) attached thereto (the “Exhibits”), pursuant to which the parties address the coordination of their efforts and actions with respect to, and establish protocols and procedures to govern, among other things, (i) the procurement, financing, and delivery of the additional facilities that will support the Initial Interstate 64 Express Lanes Network, including the design, construction, installation, testing and implementation of the tolling infrastructure and system for the Initial Interstate 64 Express Lanes Network, (ii) the tolling policies applicable to the Initial Interstate 64 Express Lanes Network, (iii) the imposition, collection, and enforcement of tolls on the Initial Interstate 64 Express Lanes Network, (iv) the operation and maintenance of the tolling infrastructure and system, the HOT lanes and the applicable Interstate 64 facilities, and (v) the uses of toll revenues and the proceeds of toll-backed debt;

WHEREAS, the Commission, the Board and the Department desire for the Master Agreement to constitute the “agreement” among them required by the 2020 Tolling Legislation;

WHEREAS, the Commission has determined that it is in the best interests of the Commission to authorize and approve the finalization of the Master Agreement and its Exhibits and the execution and delivery of the Master Agreement;

WHEREAS, the Commission is meeting to discuss and transact the business of the Commission, and the Commission deems it necessary to meet by electronic communications without physical assembly of members of the Commission in accordance with the 2020 Appropriation Act of the Commonwealth of Virginia (the “Commonwealth”), because the Governor of the Commonwealth has issued Executive Order Fifty-One (2020) declaring a state of emergency, which declaration continues in force and effect, and the nature of such emergency makes it impracticable or unsafe for the Directors of the Commission to assemble in a single location.

NOW, THEREFORE, BE IT RESOLVED BY THE HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION:

1. The Master Agreement and its exhibits are hereby approved, and the Chair or the Vice Chair of the Commission, either of whom may act (the “HRTAC Representative”), is authorized to execute and deliver the Master Agreement, with such changes, additions or modifications to the Master Agreement and its Exhibits that the HRTAC Representative, upon the advice of the Commission’s Executive Director and its professional advisors, considers necessary, desirable or appropriate; the execution and delivery of such document by the HRTAC Representative to be conclusive evidence of such officer’s approval and determination thereof.



2. Each of the HRTAC Representatives and the Commission's Executive Director, any of whom may act, is authorized and directed, to do and perform, for and on behalf of the Commission, such further things and acts, as he or she deem necessary, desirable or appropriate, to assist the Commission in the performance of its obligations under the Master Agreement.
3. The Commission confirms the findings and determinations contained in the recitals to this Resolution setting forth the reason for the need to meet by electronic means without requiring members of the Commission to physically assemble at one location during the current declared state of emergency by the Governor of the Commonwealth arising from COVID-19.
4. This Resolution shall take effect immediately.

APPROVED and ADOPTED by the Hampton Roads Transportation Accountability Commission at its meeting on the 16th day of July, 2020.

Linda T. Johnson
Chair
Hampton Roads Transportation
Accountability Commission

Donnie R. Tuck
Vice-Chair
Hampton Roads Transportation
Accountability Commission

To: Chair Johnson and the other members of HRTAC

From: Kevin B. Page, Executive Director

Date: July 16, 2020

Re: Hampton Roads Regional Transit Fund Update

Recommendation:

The Commission staff will be joined by HRTPO Executive Director Crum and HRT CEO Harrell to provide a briefing on the status of the Hampton Roads Regional Transit Fund.

Background:

During the 2020 Session of the General Assembly, SB1038/HB1726 established the Hampton Roads Regional Transit Fund. Effective July 1, 2020, HRTAC will administer the HRRTF in accordance with Sections 33.2-2600.1 and 33.2-2605 (Attached).

Fiscal Impact:

There is no immediate fiscal impact in relation to this Discussion Item.

§ 33.2-2600.1. Hampton Roads Regional Transit Program and Fund

A. The General Assembly declares it to be in the public interest that developing and continuing operations of reliable regional public transportation is important for a balanced and effective multimodal transportation system in the Hampton Roads region and is essential to the region's economic growth, vitality, and competitiveness. The General Assembly further declares that a special transportation program, to be known as the Hampton Roads Regional Transit Program (the Program), should provide for the costs of developing, maintaining, and improving a core regional network of transit routes and related infrastructure, rolling stock, and support facilities that have the greatest positive impacts on economic development potential, employment opportunities, mobility, environmental sustainability, and quality of life. The goal of the Program is to provide a modern, safe, and efficient core network of transit services across the Hampton Roads region. The Program shall be incorporated into strategic plans developed pursuant to § 33.2-286 and adopted by the governing board of each transit entity and shall form the basis for the regional transit planning process coordinated by the federally designated Metropolitan Planning Organization.

B. There is hereby created in the state treasury a special nonreverting fund for Planning District 23 to be known as the Hampton Roads Regional Transit Fund, referred to in this chapter as "the Regional Transit Fund." The Regional Transit Fund shall be established on the books of the Comptroller. All revenues dedicated to the Regional Transit Fund pursuant to §§ 58.1-802.5, 58.1-816, and 58.1-1743 shall be paid into the state treasury and credited to the Regional Transit Fund. Interest earned on moneys in the Regional Transit Fund shall remain in the Regional Transit Fund and be credited to it. Any moneys remaining in the Regional Transit Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Regional Transit Fund.

C. The Regional Transit Fund shall be managed by the Commission, and disbursements from the Regional Transit Fund shall be approved by the Commission consistent with the regional transit planning process developed pursuant to subsection D of § 33.2-286. The moneys deposited in the Regional Transit Fund shall be used solely for (i) the development, maintenance, improvement, and operation of a core and connected regional network of transit routes and related infrastructure, rolling stock, and support facilities, to include the operation of a regional system of interjurisdictional, high-frequency bus service, in a transportation district in Hampton Roads created pursuant to § 33.2-1903 as included in the strategic plans and regional transit planning process developed pursuant to § 33.2-286 and (ii) administrative and operating expenses of the Commission as specified in subsection B of § 33.2-2605. In the allocation of funds, priority shall be given, when possible, to investments in the most sustainable and cost-effective operations, rolling stock, and facilities to reduce or eliminate reliance upon diesel fuels. Funds from the Regional Transit Fund shall not be used to support the expansion of light rail beyond the boundaries of a locality where light rail is operated on January 1, 2020. The amounts dedicated to the Regional Transit Fund shall be deposited monthly by the Comptroller into the Regional Transit Fund and thereafter distributed to the Commission as soon as practicable for use in

accordance with this chapter. If the Commission determines that such moneys distributed to it exceed the amount required to meet the current needs and demands to fund transit projects pursuant to this chapter, the Commission may invest such excess moneys to the same extent and in the same manner as provided in subsection A of § [33.2-1525](#) for excess funds in the Transportation Trust Fund.

D. The amounts deposited into the Regional Transit Fund and the distribution and expenditure of such amounts shall not (i) be used to calculate or reduce the share of federal, state, or local revenues otherwise available to participating localities; (ii) allow a local government that is a member of the transportation district to reduce its local funding for public transportation purposes to an amount less than what was appropriated on July 1, 2019, for such purposes; or (iii) diminish or supplant allocations and appropriations from other sources or diminish allocations to which a transportation district, transit system, or locality would be entitled under any other provisions of law but shall supplement such funds to accelerate and augment transportation improvements in the Hampton Roads region. Further, such revenues and moneys shall not be included in any computation of, or formula for, a locality's ability to pay for public education, upon which appropriations of state revenues to local governments for public education are determined. Any amounts paid from the Regional Transit Fund shall be considered local funds when used to make a required match for state or federal transportation grant funds.

2020, cc. [1241](#), [1281](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 33.2-2605. Annual budget and allocation of expenses

A. The Commission shall adopt an annual budget and develop a funding plan and shall provide for such adoption in its bylaws. The funding plan shall provide for the expenditure of funds over a four- to six-year period and shall align with the Statewide Transportation Plan established pursuant to § 33.2-353 as much as possible. The Commission shall solicit public comment on its budget and funding plan by posting a summary of such budget and funding plan on its website and holding a public hearing. Such public hearing shall be advertised on the Commission's website and in a newspaper of general circulation in Planning District 23.

B. The administrative and operating expenses of the Commission shall be provided in an annual budget adopted by the Commission. To the extent that funds for such expenses are not provided from other sources, the expenses shall be paid from the Fund and the Regional Transit Fund on an approximately pro rata basis of the programs supported by the Fund and the Regional Transit Fund. Such budget shall be limited solely to the administrative and operating expenses of the Commission and shall not include any funds for construction or acquisition of transportation facilities or the performance of any transportation service.

C. Members may be reimbursed for all reasonable and necessary expenses provided in §§ 2.2-2813 and 2.2-2825, if approved by the Commission. Funding for the costs of compensation and expenses of the members shall be provided by the Commission.

2014, cc. 545, 678; 2016, cc. 603, 608; 2020, cc. 1241, 1281.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.



**HAMPTON ROADS TRANSPORTATION FUND
FINANCIAL REPORT
FY2014 – FY2020
Period Ending May 31, 2020**

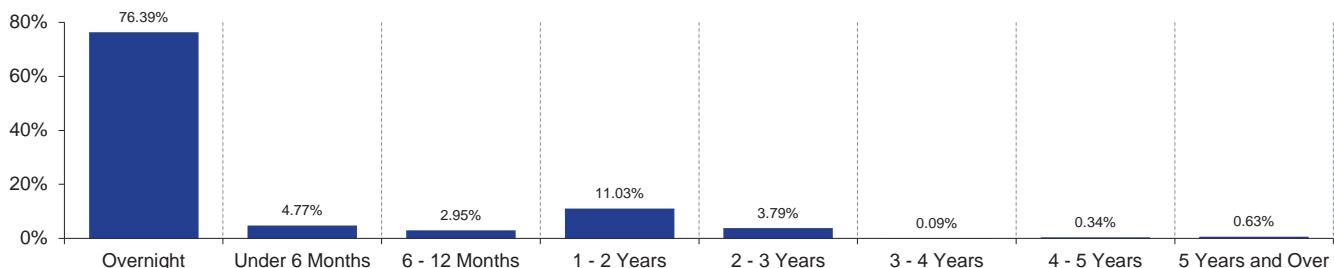
The HRTAC staff has prepared the attached May 2020 financial report based on data received to date from the Virginia Department of Transportation.

<u>Revenues</u>	<u>Inception to May 2020</u>	<u>FY2020 YTD</u>	<u>May 2020</u>
Total Gross Revenues	2,293,984,668	657,284,313	16,696,685
State Sales & Use Tax	896,734,208	124,948,519	10,513,497
Local Fuels Tax	287,623,529	53,336,808	4,529,544
Interest	3,937,758	660,354	26,500
Investment Income	69,585,592	25,505,125	1,627,145
Bond Proceeds	1,036,103,580	452,833,507	--
<u>Expenditures</u>	<u>Inception to May 2020</u>	<u>FY2020 YTD</u>	<u>May 2020</u>
Total Expenditures	821,078,287	243,571,806	20,075,156
Projects	740,337,023	207,525,546	16,011,917
Total DMV & Dept. of Tax Admin. Fees	826,678	--	--
Investment Fees	1,340,568	213,938	19,872
Bond Interest Expenses	70,370,478	33,137,427	3,880,944
Operating Expenses	8,203,539	2,694,894	162,423
<u>Cash Balance</u>			
May 31, 2020 Ending Cash/Cash Equivalents			\$ 1,472,906,381
<u>Encumbered Balance</u>			
Balance of Encumbered (through FY2026)			\$ 3,887,363,778
Allocation			4,627,700,801
Less: Project Expenditures			740,337,023

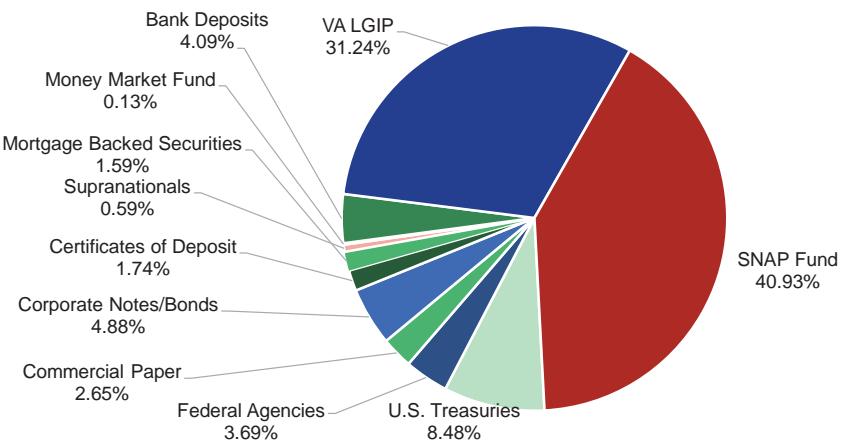
Hampton Roads Transportation Accountability Commission
Summary of Cash and Investments
For May 2020

Portfolio	Yield at Cost	Yield at Market	Balances at Cost	Balances at Market	% of Total
Union Checking	0.00%	0.00%	1,000,000	1,000,000	0.07%
Union Sweep	0.50%	0.50%	6,651,429	6,651,429	0.45%
Union Money Market	0.50%	0.50%	4,050	4,050	0.00%
Union General	0.50%	0.50%	52,368,501	52,368,501	3.57%
VA LGIP	0.68%	0.68%	458,541,735	458,541,735	31.24%
Enhanced Cash Portfolio	1.72%	0.40%	208,972,430	211,220,783	14.39%
Core Portfolio	2.07%	0.54%	133,727,422	137,172,895	9.35%
SNAP Fund	0.59%	0.59%	600,656,817	600,656,817	40.93%
Total			\$ 1,461,922,383	\$ 1,467,616,209	100.00%

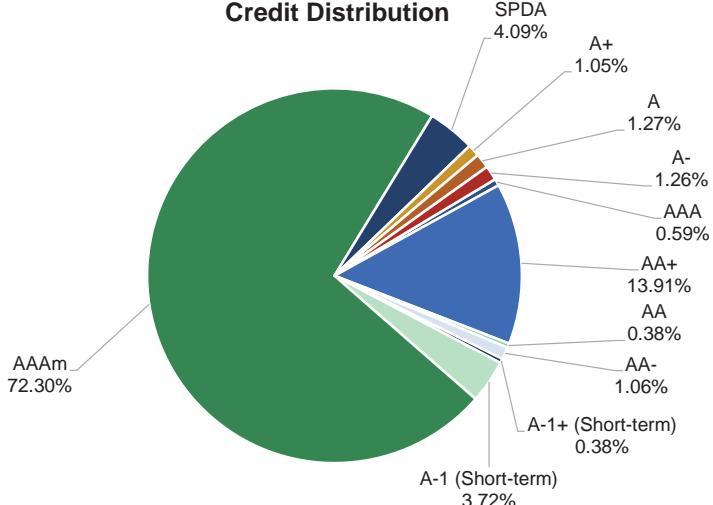
Total Maturity Distribution



Sector Distribution



Credit Distribution



All charts are based on market value as of 5/31/20

This material is for general informational purposes only and is not intended to provide specific advice or a specific recommendation.

Hampton Roads Transportation Accountability Commission
Interest and Investment Income
Inception - May 2020

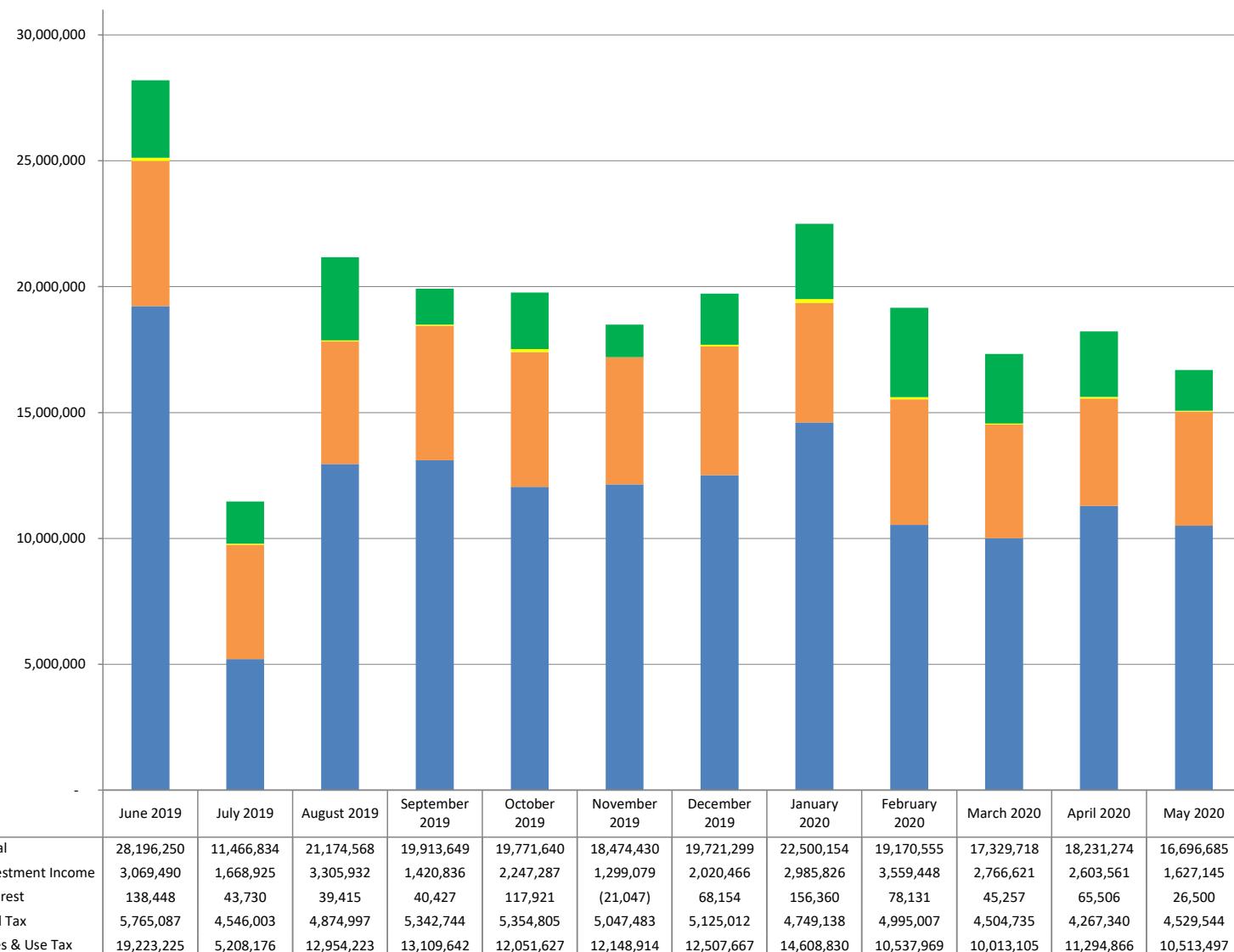
	<u>FY2014</u>	<u>FY2015</u>	<u>FY2016</u>	<u>FY2017</u>	<u>FY2018</u>	<u>FY2019</u>	<u>FY2020</u>	<u>Total</u>
HRTF Interest Income	\$ 363,855	\$ 1,027,959	\$ 272,261	\$ 291,738	\$ 321,499	\$ 1,000,093	\$ 660,354	\$ 3,937,758
HRTF Investment Income	-	368,310	3,993,773	980,870	8,868,404	29,869,111	25,505,125	69,585,592
Total	\$ 363,855	\$ 1,396,269	\$ 4,266,033	\$ 1,272,608	\$ 9,189,903	\$ 30,869,204	\$ 26,165,479	\$ 73,523,351

Notes:

"HRTF Interest Income" includes interest from Union Bank money market, sweep, and general accounts, as well as Regional Tax Interest/Interest Refund Adjustments.

"HRTF Investment Income" in FY2019 and FY2020 includes income from PFMAM (US Bank) core and enhanced cash, LGIP, and SNAP accounts. FY2014-2018 totals also include income from Sterling and Union Bank.

HRTF Revenue



Notes: November 2018 Wholesale Fuels Tax revenue includes a \$9,865,900 Special Audit Assessment adjustment sourced from vendor audit settlement.

January 2019 Wholesale Fuels Tax revenue includes \$510,330 in adjustments from a Special Audit Assessment and a vendor audit settlement.

February 2019 Wholesale Fuels Tax revenue includes \$806,491 from a vendor audit assessment.

June 2019 Sales & Use Tax includes \$7,424,592 of FY2019 AST Estimated Sales & Use Tax revenue.

Hampton Roads Transportation Fund (HRTF)
Total of Sales & Use and Fuels Taxes
Summary

	Gross Revenue							Expenditures							Cummulative Balance 7/1/13 - 5/31/20		
	Sales & Use			Investment				Dept of Tax			Investment		Bond		Operating		
	Tax	Fuels Tax	Interest	Income	Bond	Proceeds	Total	Projects	Admin Fee	Fees	Expenses	Expenses	Total	Total			
<i>July 2013 - May 2019</i>	\$ 752,562,465	\$ 228,521,634	\$ 3,138,957	\$ 41,010,977	\$ 583,270,073	\$ 1,608,504,105	\$ 418,953,512	\$ 626,745	\$ 1,107,695	\$ 35,078,544	\$ 5,112,082	\$ 460,878,578	\$ 1,147,625,527				
June 2019	19,223,225	5,765,087	138,448	3,069,490		28,196,250	113,857,965	199,933	18,935	2,154,506	396,563	116,627,903	1,059,193,874				
July 2019	5,208,176	4,546,003	43,730	1,668,925		11,466,834	-	-	19,598	2,154,506	46,851	2,220,955	1,068,439,753				
August 2019	12,954,223	4,874,997	39,415	3,305,932		21,174,568	15,335,134	-	19,552	2,154,506	95,288	17,604,480	1,072,009,841				
September 2019	13,109,642	5,342,744	40,427	1,420,836		19,913,649	18,399,487	-	19,029	2,154,506	172,956	20,745,978	1,071,177,513				
October 2019	12,051,627	5,354,805	117,921	2,247,287		19,771,640	14,129,508	-	19,696	2,154,506	349,475	16,653,185	1,074,295,968				
November 2019	12,148,914	5,047,483	(21,047)	1,299,079		18,474,430	21,970,226	-	19,099	2,154,506	76,246	24,220,076	1,068,550,321				
December 2019	12,507,667	5,125,012	68,154	2,020,466	452,833,507	472,554,806	12,188,878	-	19,789	2,960,177	1,059,078	16,227,922	1,524,877,205				
January 2020	14,608,830	4,749,138	156,360	2,985,826		22,500,154	19,348,861	-	19,751	3,880,944	171,694	23,421,249	1,523,956,111				
February 2020	10,537,969	4,995,007	78,131	3,559,448		19,170,555	32,785,799	-	18,480	3,880,944	171,762	36,856,984	1,506,269,681				
March 2020	10,013,105	4,504,735	45,257	2,766,621		17,329,718	44,512,900	-	19,830	3,880,944	239,547	48,653,221	1,474,946,179				
April 2020	11,294,866	4,267,340	65,506	2,603,561		18,231,274	12,842,838	-	19,243	3,880,944	149,574	16,892,600	1,476,284,852				
May 2020	10,513,497	4,529,544	26,500	1,627,145		16,696,685	16,011,917	-	19,872	3,880,944	162,423	20,075,156	1,472,906,381				
<i>Total 12 Months</i>	<i>\$ 144,171,744</i>	<i>\$ 59,101,895</i>	<i>\$ 798,801</i>	<i>\$ 28,574,616</i>	<i>\$ 452,833,507</i>	<i>\$ 685,480,563</i>	<i>\$ 321,383,512</i>	<i>\$ 199,933</i>	<i>\$ 232,873</i>	<i>\$ 35,291,933</i>	<i>\$ 3,091,457</i>	<i>\$ 360,199,709</i>					
<i>Grand Totals</i>	<i>\$ 896,734,208</i>	<i>\$ 287,623,529</i>	<i>\$ 3,937,758</i>	<i>\$ 69,585,592</i>	<i>\$ 1,036,103,580</i>	<i>\$ 2,293,984,668</i>	<i>\$ 740,337,023</i>	<i>\$ 826,678</i>	<i>\$ 1,340,568</i>	<i>\$ 70,370,478</i>	<i>\$ 8,203,539</i>	<i>\$ 821,078,287</i>					
Less Balance of Encumbered (through FY2026)															\$ (3,887,363,778)		
<i>Total Net Available</i>															\$ (2,414,457,396)		

Notes:

November 2018 Wholesale Fuels Tax revenue includes a \$9,865,900 Special Audit Assessment adjustment sourced from vendor audit settlement.

January 2019 Wholesale Fuels Tax revenue includes \$510,330 in adjustments from a Special Audit Assessment and a vendor audit settlement.

February 2019 Wholesale Fuels Tax revenue includes \$806,491 from a vendor audit assessment.

June 2019 Sales & Use Tax revenue includes \$7,424,592 of FY2019 AST Estimated Sales & Use Tax revenue

For audit purposes, the January through December 2019 investment income and bond expenses have been updated to reflect the gain on investments (on bond proceeds) held by the trustee and the full bond interest expense.

June 2019 Department of Taxation Administrative Fee is a \$199,993 fee charged by the Department of Motor Vehicles for fuels tax audit costs.

December 2019 Revenues include proceeds from the issuance of Intermediate Lien Bond Anticipation Notes, Series 2019A, dated December 17, 2019.

Table 1 - Total HRTF Revenues
Hampton Roads Transportation Fund (HRTF)
Total of Sales & Use and Fuels Taxes
Fiscal Year 2020

Locality	Total FY2014 - FY2019	Previous FY2020	May 2020	Total YTD FY2020	Total
<i>Chesapeake</i>	\$ 184,375,921	\$ 29,579,420	\$ 2,956,833	\$ 32,536,253	\$ 216,912,175
<i>Franklin</i>	10,835,471	1,924,049	190,345	2,114,394	12,949,865
<i>Hampton</i>	72,743,305	12,100,410	1,243,938	13,344,349	86,087,654
<i>Isle of Wight</i>	15,714,603	2,750,650	283,153	3,033,803	18,748,406
<i>James City</i>	45,631,266	6,839,727	456,584	7,296,311	52,927,578
<i>Newport News</i>	107,563,646	17,296,313	1,614,591	18,910,904	126,474,551
<i>Norfolk</i>	140,592,136	23,349,784	2,158,637	25,508,421	166,100,557
<i>Poquoson</i>	2,611,952	443,513	52,849	496,361	3,108,313
<i>Portsmouth</i>	35,106,389	5,864,892	669,830	6,534,722	41,641,111
<i>Southampton</i>	5,096,645	946,218	105,026	1,051,244	6,147,889
<i>Suffolk</i>	50,215,890	9,163,275	914,119	10,077,394	60,293,284
<i>Virginia Beach</i>	268,621,783	42,871,024	3,625,367	46,496,391	315,118,174
<i>Williamsburg</i>	21,444,115	3,236,311	176,319	3,412,629	24,856,744
<i>York</i>	45,519,288	6,876,700	595,450	7,472,150	52,991,438
Total	1,006,072,410	163,242,287	15,043,041	178,285,327	1,184,357,738
Interest ^a	3,277,405	633,854	26,500	660,354	3,937,758
Investment Income ^b	44,080,467	23,877,981	1,627,145	25,505,125	69,585,592
Bond Proceeds	583,270,073	452,833,507	-	452,833,507	1,036,103,580
Total Revenues	1,636,700,355	640,587,629	16,696,685	657,284,313	2,293,984,668
Project Expenses	(532,811,477)	(191,513,630)	(16,011,917)	(207,525,546)	(740,337,023)
DMV & Dept. of Tax Admin Fees	(826,678)	-	-	-	(826,678)
Investment Fees (Sterling&PFMAM)	(1,126,630)	(194,066)	(19,872)	(213,938)	(1,340,568)
Bond Interest Expenses	(37,233,051)	(29,256,483)	(3,880,944)	(33,137,427)	(70,370,478)
Operating Expense	(5,508,645)	(2,532,471)	(162,423)	(2,694,894)	(8,203,539)
Cash Balance	\$ 1,059,193,874	\$ 417,090,979	\$ (3,378,471)	\$ 413,712,508	\$ 1,472,906,381
Less Balance of Encumbered					(3,887,363,778)
Net Available Cash					\$ (2,414,457,396)
Updated forecast ^c	\$ 1,013,671,045	\$ 151,785,867	\$ 18,338,370	\$ 170,124,237	\$ 1,183,795,282
Total Revenue - Forecast (under)/over	\$ (7,598,635)	\$ 11,456,420	\$ (3,295,329)	\$ 8,161,091	\$ 562,456

Notes:

^a Includes interest from Union Bank money market, sweep, and general accounts, as well as Regional Tax Interest/Interest Refund Adjustments.

^b FY2019 and FY2020 include income from PFMAM (US Bank), LGIP, and SNAP accounts. FY2014-2018 includes income from Sterling and Union Bank.

^c The forecasts received from the Virginia Dept. of Transportation from 3/23/2020 to 6/18/2020 included substantial increases in estimated fuels tax revenue. Due to the uncertainty resulting from the COVID-19 situation, HRTAC will continue to use the amounts provided in the forecast received on 2/24/2020.

Table 1A - State Sales & Use Tax

Hampton Roads Transportation Fund (HRTF)

State Sales & Use Tax

Fiscal Year 2020

Locality	Total FY2014 - FY2019	Previous FY2020	May 2020	Total YTD FY2020	Total
<i>Chesapeake</i>	\$ 139,712,883	\$ 20,651,664	\$ 2,126,509	\$ 22,778,173	\$ 162,491,056
<i>Franklin</i>	5,947,627	837,130	94,225	931,355	6,878,982
<i>Hampton</i>	54,326,862	7,927,377	783,907	8,711,283	63,038,145
<i>Isle of Wight</i>	8,875,532	1,503,110	163,294	1,666,404	10,541,935
<i>James City</i>	38,405,097	5,233,431	321,069	5,554,500	43,959,597
<i>Newport News</i>	84,786,312	12,657,313	1,155,110	13,812,423	98,598,734
<i>Norfolk</i>	112,635,165	16,932,709	1,514,547	18,447,256	131,082,421
<i>Poquoson</i>	1,826,727	314,791	39,355	354,146	2,180,874
<i>Portsmouth</i>	24,594,191	3,739,670	466,091	4,205,761	28,799,952
<i>Southampton</i>	2,242,889	338,786	45,143	383,929	2,626,817
<i>Suffolk</i>	32,952,471	5,322,035	557,759	5,879,793	38,832,264
<i>Virginia Beach</i>	214,046,261	31,615,538	2,684,121	34,299,659	248,345,920
<i>Williamsburg</i>	16,782,386	2,427,022	116,360	2,543,382	19,325,769
<i>York</i>	34,651,287	4,934,447	446,007	5,380,455	40,031,742
Total	\$ 771,785,689	\$ 114,435,022	\$ 10,513,497	\$ 124,948,519	\$ 896,734,208
Updated Forecast	767,771,042	110,051,024	13,919,010	123,970,034	891,741,076
Diff(under)/over	4,014,647	4,383,998	(3,405,513)	978,485	4,993,132

Table 1B - Local Fuels Tax

Hampton Roads Transportation Fund (HRTF)

Local Fuels Tax

Fiscal Year 2020

Locality	Total FY2014 - FY2019	Previous FY2020	May 2020	Total YTD FY2020	Total
Chesapeake	\$ 44,663,038	\$ 8,927,756	\$ 830,324	\$ 9,758,080	\$ 54,421,119
Franklin	4,887,844	1,086,919	96,120	1,183,039	6,070,882
Hampton	18,416,444	4,173,033	460,032	4,633,065	23,049,509
Isle of Wight	6,839,071	1,247,540	119,859	1,367,399	8,206,471
James City	7,226,169	1,606,296	135,515	1,741,812	8,967,981
Newport News	22,777,335	4,639,000	459,481	5,098,481	27,875,816
Norfolk	27,956,971	6,417,075	644,090	7,061,165	35,018,136
Poquoson	785,224	128,721	13,494	142,215	927,439
Portsmouth	10,512,198	2,125,222	203,739	2,328,961	12,841,159
Southampton	2,853,757	607,432	59,883	667,315	3,521,072
Suffolk	17,263,419	3,841,240	356,361	4,197,601	21,461,020
Virginia Beach	54,575,522	11,255,486	941,245	12,196,732	66,772,253
Williamsburg	4,661,728	809,289	59,959	869,247	5,530,975
York	10,868,001	1,942,254	149,442	2,091,696	12,959,697
Total	\$ 234,286,721	\$ 48,807,265	\$ 4,529,544	\$ 53,336,808	\$ 287,623,529
Updated Forecast	245,900,003	41,734,843	4,419,360	* 46,154,203	292,054,206
Diff(under)/over	(11,613,282)	7,072,422	110,184	7,182,606	(4,430,676)

* The forecasts received from the Virginia Dept. of Transportation on 3/23/2020 through 6/18/2020 included substantial increases in estimated fuels tax revenue. Due to the uncertainty resulting from the COVID-19 situation, HRTAC will continue to use the amounts provided in the forecast received on 2/24/2020.

Table 2 - Allocations

Hampton Roads Transportation Fund (HRTF)
Allocations
Fiscal Year 2020

Project	Total FY2014 - FY2019	Previous FY2020	May 2020	Total YTD FY2020	Total
<i>I-64 Peninsula Widening</i>					
UPC 104905 - Segment 1 - Construction	\$ 14,000,000	\$ (2,391,615)	\$ -	\$ (2,391,615)	\$ 11,608,385
UPC 106665 - Segment 2 - PE/ROW/Construction	175,832,897	-	-	-	175,832,897
UPC 109790/106689 - Segment 3 - PE	10,000,000	-	-	-	10,000,000
UPC 109790/106689 - Segment 3 - Construction	112,893,996	-	-	-	112,893,996
<i>I-64/264 Interchange Improvement</i>					
UPC 57048/108042 - Phase I - PE/ROW	15,071,063	-	-	-	15,071,063
UPC 57048/108042 - Phase I - Construction	137,023,653	-	-	-	137,023,653
UPC 17630/108041 - Phase II - PE/ROW	54,592,576	-	-	-	54,592,576
UPC 17630/108041 - Phase II - Construction	73,157,062	-	-	-	73,157,062
UPC 106693 - Phase III - PE & ROW	10,000,000	-	-	-	10,000,000
<i>I-64 Southside Widening/High-Rise Bridge</i>					
UPC 106692 - Phase I - PE	12,200,000	-	-	-	12,200,000
UPC 106692/108990 - Phase I - ROW/Construction	419,756,220	-	-	-	419,756,220
<i>I-64 HRBT Expansion Project</i>					
UPC 115008 - I-64 HRBT Expansion Project D-B Contract	3,004,569,251	-	-	-	3,004,569,251
UPC 115009 - I-64 HRBT Expansion Project Owners Oversight	548,900,330	-	-	-	548,900,330
<i>HRCS Preferred Alternative Refinement - HRBT</i>	30,000,000	-	-	-	30,000,000
UPC 110577 - SEIS					
460/58/13 Connector Study - UPC 106694 - PE	5,000,000	(3,904,632) *	-	(3,904,632)	1,095,368 *
<i>Bowers Hill Interchange Study - UPC 111427</i>	4,000,000	-	-	-	4,000,000
<i>HR Regional Connector Study - HRTPO (Remaining Projects of Third Crossing)</i>	7,000,000	-	-	-	7,000,000
Total	\$ 4,633,997,048	\$ (6,296,247)	\$ -	\$ (6,296,247)	\$ 4,627,700,801

* Remaining project funds were deallocated based on action Consent Item 5B of the 11/21/2019 HRTAC Regular Meeting. SPA Floatdown agreement with VDOT was executed 12/11/2019.

Table 3 - Expenditures

Hampton Roads Transportation Fund (HRTF)
Expenditures
Fiscal Year 2020

Project	Total FY2014 - FY2019	Previous FY2020	May 2020	Total YTD FY2020	Total
<i>I-64 Peninsula Widening</i>					
<i>UPC 104905/111926 - Segment 1 - PE/Construction</i>	\$ 11,608,384	\$ -	\$ -	\$ -	\$ 11,608,384
<i>UPC 106665 - Segment 2 - PE/ROW/Construction</i>	152,522,993	2,349,684	-	2,349,684	154,872,677
<i>UPC 109790/106689 - Segment 3 - PE</i>	5,141,294	169,263	-	169,263	5,310,558
<i>UPC 109790/106689 - Segment 3 - Construction</i>	-	-	-	-	-
<i>I-64/264 Interchange Improvement</i>					
<i>UPC 57048/108042 - Phase I - PE/ROW</i>	15,071,063	-	-	-	15,071,063
<i>UPC 57048/108042 - Phase I - Construction</i>	107,384,764	10,046,050	-	10,046,050	117,430,814
<i>UPC 17630/108041 - Phase II - PE/ROW</i>	47,959,987	5,275,300	-	5,275,300	53,235,287
<i>UPC 17630/108041 - Phase II - Construction</i>	-	-	-	-	-
<i>UPC 106693 - Phase III - PE & ROW</i>	1,855,504	273,607	-	273,607	2,129,111
<i>I-64 Southside Widening/High-Rise Bridge</i>					
<i>UPC 106692 - Phase I - PE</i>	12,189,098	-	-	-	12,189,098
<i>UPC 106692/108990 - Phase I - ROW/Construction</i>	51,667,159	29,548,920	-	29,548,920	81,216,079
<i>I-64 HRBT Expansion Project</i>					
<i>UPC 115008 - I-64 HRBT Expansion Project D-B Contract</i>	82,836,930	136,393,728	15,737,176	152,130,904	234,967,834
<i>UPC 115009 - I-64 HRBT Expansion Project Owners Oversight</i>	11,570,087	6,728,213	-	6,728,213	18,298,300
<i>HRCS Preferred Alternative Refinement - HRBT</i>	28,685,064	115,223	-	115,223	28,800,287
<i>UPC 110577 - SEIS</i>					
<i>460/58/13 Connector Study - UPC 106694 - PE</i>	1,095,368	-	-	-	1,095,368
<i>Bowers Hill Interchange Study - UPC 111427</i>	1,756,331	216,582	-	216,582	1,972,913
<i>HR Regional Connector Study - HRTPO (Remaining Projects of Third Crossing)</i>	1,467,451	397,060	274,741	671,801	2,139,252
Total	\$ 532,811,477	\$ 191,513,630	\$ 16,011,917	\$ 207,525,546	\$ 740,337,023

Table 3A - Bond-Reimbursed Expenditures

Hampton Roads Transportation Fund (HRTF)
Bond Reimbursements
Fiscal Year 2020

Project	Total FY2014 - FY2019	Previous FY2020	May 2020	Total YTD FY2020	Total
<i>I-64 Peninsula Widening</i>					
UPC 104905/111926 - Segment 1 - PE/Construction	\$ 10,063,882	\$ -	\$ -	\$ -	\$ 10,063,882
UPC 106665 - Segment 2 - PE/ROW/Construction	152,522,993	2,349,684	-	2,349,684	154,872,677
UPC 109790/106689 - Segment 3 - PE	5,141,294	169,263	-	169,263	5,310,558
UPC 109790/106689 - Segment 3 - Construction	-	-	-	-	-
<i>I-64/264 Interchange Improvement</i>					
UPC 57048/108042 - Phase I - PE/ROW	15,071,063	-	-	-	15,071,063
UPC 57048/108042 - Phase I - Construction	107,384,764	10,046,050	-	10,046,050	117,430,814
UPC 17630/108041 - Phase II - PE/ROW	47,959,987	5,275,300	-	5,275,300	53,235,287
UPC 17630/108041 - Phase II - Construction	-	-	-	-	-
UPC 106693 - Phase III - PE & ROW	-	-	-	-	-
<i>I-64 Southside Widening/High-Rise Bridge</i>					
UPC 106692 - Phase I - PE	12,189,098	-	-	-	12,189,098
UPC 106692/108990 - Phase I - ROW/Construction	51,667,159	29,548,920	-	29,548,920	81,216,079
<i>I-64 HRBT Expansion Project</i>					
UPC 115008 - I-64 HRBT Expansion Project D-B Contract	-	-	-	-	-
UPC 115009 - I-64 HRBT Expansion Project Owners Oversight	-	-	-	-	-
<i>HRCS Preferred Alternative Refinement - HRBT</i>					
UPC 110577 - SEIS	-	-	-	-	-
<i>460/58/13 Connector Study - UPC 106694 - PE</i>	-	-	-	-	-
<i>Bowers Hill Interchange Study - UPC 111427</i>	-	-	-	-	-
<i>HR Regional Connector Study - HRTPO (Remaining Projects of Third Crossing)</i>	-	-	-	-	-
Total	\$ 402,000,240	\$ 47,389,217	\$ -	\$ 47,389,217	\$ 449,389,457

Table 3B - Non-Bond Reimbursed Expenditures

Hampton Roads Transportation Fund (HRTF)
Expenditures
Fiscal Year 2020

Project	Total FY2014 - FY2019	Previous FY2020	May 2020	Total YTD FY2020	Total
<i>I-64 Peninsula Widening</i>					
<i>UPC 104905/111926 - Segment 1 - PE/Construction</i>	\$ 1,544,502	\$ -	\$ -	\$ -	\$ 1,544,502
<i>UPC 106665 - Segment 2 - PE/ROW/Construction</i>	-	-	-	-	-
<i>UPC 109790/106689 - Segment 3 - PE</i>	-	-	-	-	-
<i>UPC 109790/106689 - Segment 3 - Construction</i>	-	-	-	-	-
<i>I-64/264 Interchange Improvement</i>					
<i>UPC 57048/108042 - Phase I - PE/ROW</i>	-	-	-	-	-
<i>UPC 57048/108042 - Phase I - Construction</i>	-	-	-	-	-
<i>UPC 17630/108041 - Phase II - PE/ROW</i>	-	-	-	-	-
<i>UPC 17630/108041 - Phase II - Construction</i>	-	-	-	-	-
<i>UPC 106693 - Phase III - PE & ROW</i>	1,855,504	273,607	-	273,607	2,129,111
<i>I-64 Southside Widening/High-Rise Bridge</i>					
<i>UPC 106692 - Phase I - PE</i>	-	-	-	-	-
<i>UPC 106692/108990 - Phase I - ROW/Construction</i>	-	-	-	-	-
<i>I-64 HRBT Expansion Project</i>					
<i>UPC 115008 - I-64 HRBT Expansion Project D-B Contract</i>	82,836,930	136,393,728	15,737,176	152,130,904	234,967,834
<i>UPC 115009 - I-64 HRBT Expansion Project Owners Oversight</i>	11,570,087	6,728,213	-	6,728,213	18,298,300
<i>HRCS Preferred Alternative Refinement - HRBT</i>	28,685,064	115,223	-	115,223	28,800,287
<i>UPC 110577 - SEIS</i>					
<i>460/58/13 Connector Study - UPC 106694 - PE</i>	1,095,368	-	-	-	1,095,368
<i>Bowers Hill Interchange Study - UPC 111427</i>	1,756,331	216,582	-	216,582	1,972,913
<i>HR Regional Connector Study - HRTPO (Remaining Projects of Third Crossing)</i>	1,467,451	397,060	274,741	671,801	2,139,252
Total	\$ 130,811,236	\$ 144,124,413	\$ 16,011,917	\$ 160,136,330	\$ 290,947,566

I-64 Peninsula Widening- Segment II**UPC 106665 (HRTAC)****Project Scope:**

From 1.05 miles west of Hummelsine Parkway/Marquis Center Pkwy/Rte 199 (Exit 242) to where the Segment I project ends at 0.54 miles east of Yorktown Road/Rte 238 (Exit 247) (7.1 miles)

- Additional 12' wide travel lanes and 12' wide shoulders within the existing median space
- Repair and widening of 9 bridges and 6 major culverts
- Reconstruction of existing roadway

Project Financial Summary:

<u>Project Budget (\$175,832,897):</u>	<u>Funds Expended (as of 06/30/2020):</u>	<u>Projected Cost Over/(Under):</u>
○ PE \$ 6,000,000	\$ 2,869,659	\$ 0
○ RW \$ 1,511,548	\$ 523,265	\$ 0
○ CN \$ 168,321,349	<u>\$ 151,729,400</u>	\$ 0
	\$ 155,122,324	

Project Schedule:

Notice To Proceed	February 2016
Project Completion	May 2019
Schedule Status	Completed

Enabling Funding

HRTAC	\$ 175,832,897
State/Federal	\$ _____.
	\$ 175,832,897

Project Status:

- In final contract close out

**Project Site (Looking West from the Yorktown Road overpass)**

I-64 Peninsula Widening- Segment III

UPC 106689 (HRTAC)
UPC 109790 (State / Federal)

Project Scope:

From approximately 1.26 miles West of Rte 199/Lightfoot (Exit 234) to where the Segment II project ends at 1.05 miles west of Hummelsine Parkway/Marquis Center Pkwy /Rte 199 (Exit 242) (8.36 miles)

- Additional 12' wide travel lanes and 12' wide shoulders within the existing median space
- Replacement of the two Queen's Creek bridges, repair and widening of 4 bridges, 3 major culverts
- Reconstruction of existing mainline roadway

Project Financial Summary:

<u>Project Budget (\$244,045,973):</u>	<u>Funds Expended (as of 06/30/2020):</u>	<u>Projected Cost Over/(Under):</u>
○ PE \$ 10,000,000	\$ 5,419,589	\$ 0
○ RW \$ 12,000,000	\$ 544,525	\$ 0
○ CN \$ 222,045,973	<u>\$107,489,827</u>	<u>\$ 0</u>
	\$113,453,941	

Project Schedule:

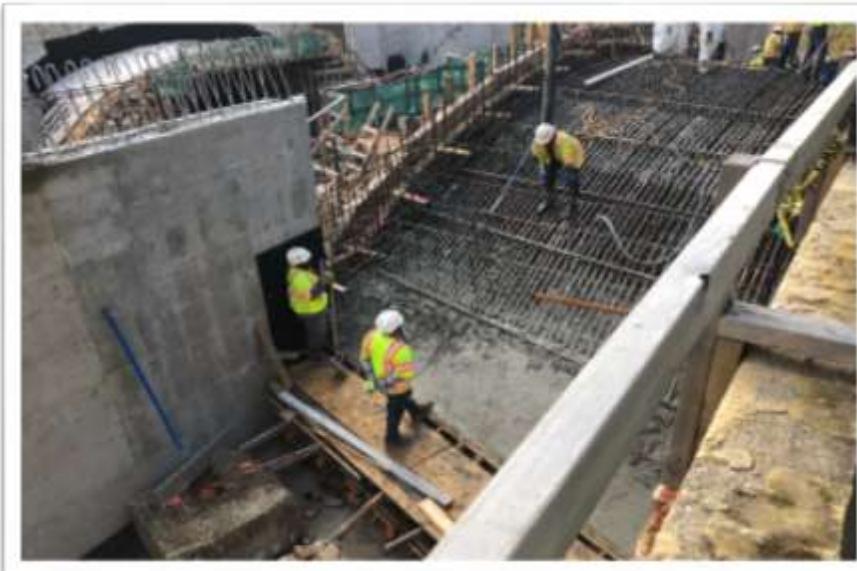
Notice To Proceed	January 2018
Project Completion	December 2021*
Schedule Status	On-Schedule

<u>Enabling Funding</u>	
HRTAC	\$ 122,893,996
State/Federal	<u>\$ 121,151,977</u>
	\$ 244,045,973

*The Project Fixed Completion Date was extended from September to December 2021 to accommodate the additional required sound wall installation.

Project Status:

- Eastbound and Westbound traffic continues to be switched from the outside lanes to inside lanes.
- Bridge widening construction underway at the Lakeshead Drive & Colonial Pkwy bridges
- Traffic switch onto newly constructed Westbound Queens Creek Bridge completed in mid-April
- Demolition of the existing Eastbound Queens Creek Bridge is underway



Concrete placement for the cast in place arch section of the EB I-64 bridge over the Colonial Parkway

I-64/I-264- Phase I

UPC 108042 (HRTAC)
UPC 57048 (State / Federal)

Project Scope:

From the I-64 Twin Bridges to the I-264/Newtown Road Interchange

- Widening westbound I-64 by adding a second exit lane from Twin Bridges to the I-64/I-264 interchange
- Introducing a new two lane Collector-Distributor (C-D) roadway from I-64 to the Newtown Road interchange
- Constructing a new two-lane flyover ramp from westbound I-64 tying into the existing eastbound I-264 C-D road

Project Financial Summary:

<u>Project Budget (\$158,730,023):</u>	<u>Funds Expended (as of 06/30/2020):</u>	<u>Projected Cost Over/(Under):</u>
○ PE \$ 10,135,307	\$ 10,135,307	\$ 0
○ RW \$ 11,571,063	\$ 20,439,624	\$ 8,868,561
○ CN \$ 137,023,653	<u>\$ 119,524,035</u>	\$ 0
	\$ 150,098,966	

Project Schedule:

Notice To Proceed	October 2016
Project Completion	October 2019
Schedule Status	Completed

Enabling Funding

HRTAC	\$ 152,094,716
State/Federal	<u>\$ 6,635,307</u>
	\$ 158,730,023

Project Status:

- In final contract close out



CD Road Bridge, 264 Flyover and Tidal Channel (low tide)

I-64/I-264- Phase II

UPC 108041 (HRTAC)
UPC 17630 (State / Federal)

Project Scope:

From the I-264/Newtown Road Interchange to the I-264/Witchduck Road Interchange

- Extends the new C-D roadway from the Newtown Road interchange to the Witchduck Road interchange
- Reconfigure the Newtown Road and Witchduck Road interchange ramps south of I-264
- Constructing a new overpass that connects Greenwich Road south side of I-264 and Cleveland north of I-264

Project Financial Summary:

<u>Project Budget (\$194,503,887):</u>	<u>Funds Expended (as of 06/30/2020):</u>	<u>Projected Cost Over/(Under):</u>
○ PE \$ 14,082,810	\$ 14,082,810	\$ 0
○ RW \$ 54,392,666	\$ 53,098,660	\$ 0
○ CN \$ 126,028,411	<u>\$ 66,446,791</u>	<u>\$ 0</u>
	\$ 133,628,261	

Project Schedule:

Award	December 2017
Notice to Proceed	February 2018
Projected Completion	September 2021
Schedule Status	On-Schedule

Enabling Funding

HRTAC	\$ 127,749,638
State/Federal	<u>\$ 66,754,249</u>
	\$ 194,503,887

Project Status:

- Constructed Tiebacks and Backfilled Greenwich Road Approach to I-264 Flyover
- Constructed Retaining Wall for I-264 EB Ramp to Witchduck Road
- Continued setting steel for Greenwich Road I-264 Flyover (Cleveland Street to Greenwich Road)



Tiebacks and Backfill



Retaining Wall at Greenwich Road



Setting Steel (Cleveland Street)

I-64 Southside Widening and High Rise Bridge - Phase I**UPC 106692 (HRTAC)**
UPC 108990 (State / Federal)**Project Scope:**

From approximately the I-64/264/664 Interchange at Bowers Hill and extending to the I-64/464 Interchange in Chesapeake

- Widening from 4 to 6 lanes
- Constructing a new High Rise Bridge parallel to and to the South of the existing High Rise Bridge

Project Financial Summary:

<u>Project Budget (\$524,613,765):</u>	<u>Funds Expended (as of 06/30/2020):</u>	<u>Projected Cost Over/(Under):</u>
○ PE \$ 12,200,000	\$ 12,189,098	\$ 0
○ RW \$ 18,726,000	\$ 10,362,935	\$ 0
○ CN \$ 493,687,765	<u>\$ 188,802,330</u>	\$ 0
	\$ 211,354,363	

Project Schedule:

Award	October 2017
Notice to Proceed	November 2017
Project Completion	July 2021
Schedule Status	Behind Schedule

Enabling Funding

HRTAC	\$ 431,956,220
State/Federal	<u>\$ 92,657,545</u>
	\$ 524,613,765

Project Status:

- VDOT continues to respond to RFIs, NDCs, NCRs and submittals as needed
- All original ROW parcels have been acquired and/or cleared for construction. Five partial takes have been added
- HRB substructure construction (piles, footings, columns, caps) continues. Superstructure beams started in May
- Fender system construction continues and is about 95% complete
- Great Bridge Blvd Bridge substructures and approach fills/MSE walls completed. Beams to be erected this month
- Construction of substructures on I-64 Bridge Widenings over Military Highway, Yadkin Road, and Shell Road continues
- Clearing and grubbing, earthwork, drainage, roadway widening continues on all five roadway segments
- Construction of pavement on West 1 roadway segment and special wall on West 3 roadway segment continues

**HRB – Piers 19-25 (Looking West)**

I-64/I-264- Phase III

UPC 106693 (HRTAC)

Project Scope:

Study/design to improve the remaining I-64/I-264 movements

- Includes I-64 Eastbound (EB) movements to I-264
- Includes I-264 movements to I-64

Project Financial Summary:

<u>Project Budget (\$10,000,000):</u>	<u>Funds Expended (as 06/30/2020):</u>	<u>Projected Cost Over/(Under):</u>
○ PE \$ 10,000,000	\$ 2,159,191	\$ 0
○ RW \$ 0	\$ 0	\$ 0
○ CN \$ 0	\$ 0	\$ 0
	\$ 2,159,191	

Project Schedule:

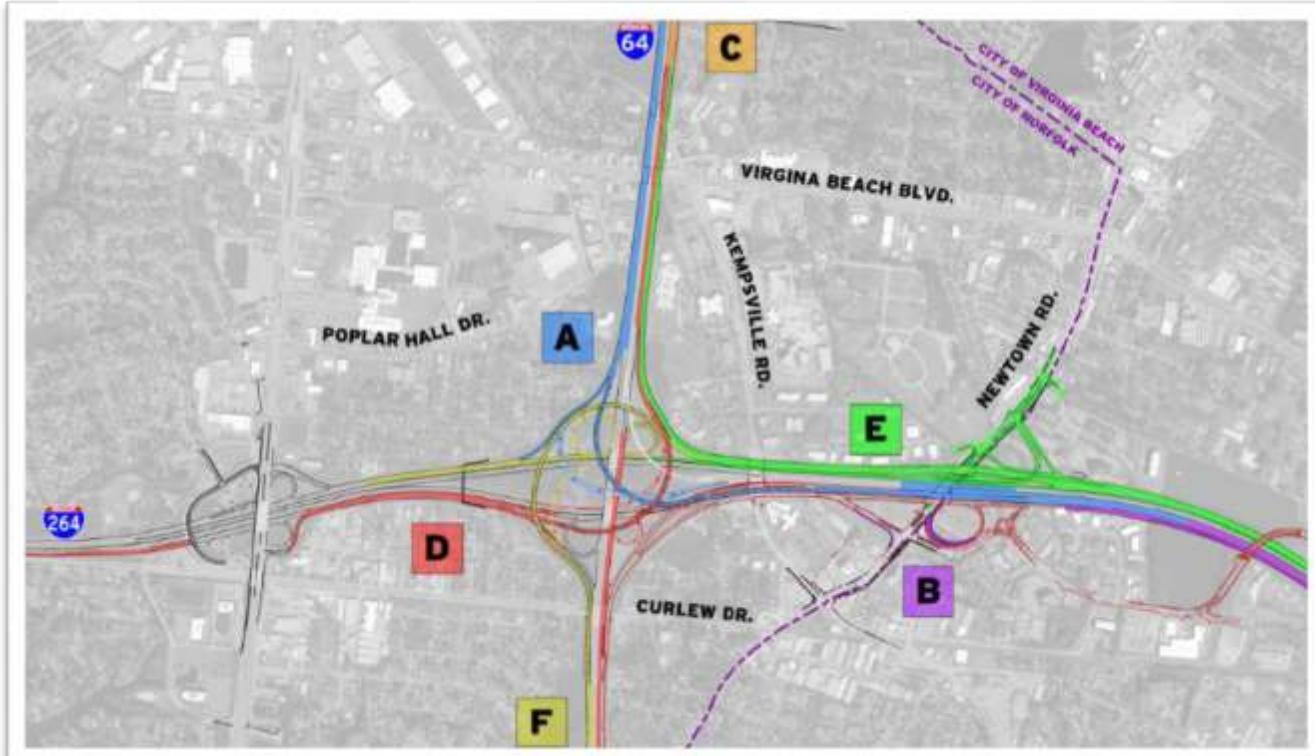
IMR Submittal to FHWA	December 2019
IMR Conditional Approval	Spring 2020
Schedule Status	On-Schedule

Enabling Funding

HRTAC	\$ 10,000,000
State/Federal	\$ _____.
	\$ 10,000,000

Project Status:

- Final signed and sealed IMR submitted to FHWA for approval on May 27, 2020
- In coordination with HRTPO, introducing Segment E for Round 4 Smart Scale submission.



Bowers Hill Interchange

UPC 111427 (HRTAC)

Study Scope:

Develop NEPA document and supporting studies for improvements to the I-64/I-264/I-664 Interchange and the Route 58/Route 460 Interchange (Bowers Hill) extending north to approximately the College Drive Interchange.

Study Financial Summary:

Project Budget (\$4,000,000):	Funds Expended (as of 06/30/2020):	Projected Cost Over/(Under):
o PE \$4,000,000	\$ 2,049,062	\$ 0
o RW \$ 0	\$ 0	\$ 0
o CN \$ 0	<u>\$ 0</u>	\$ 0
	\$ 2,049,062	

Study Schedule:

Begin NEPA Process	July 2020
Completion	December 2023

<u>Enabling Funding</u>		
HRTAC	\$ 4,000,000	
State/Federal	\$ _____	
	\$ 4,000,000	

Study Status:

- o Advance study with HRTPO directed scope adjustments
 - o add 664 NB & SB to College Drive
 - o Add Managed lane component through Bowers Hill interchange to College Drive Interchange

