

HRTAC RESOLUTION 2021-07

RESOLUTION AUTHORIZING THE AMENDMENT OR REFUNDING OF THE UP TO \$500,789,463 OF HAMPTON ROADS TRANSPORTATION FUND SUBORDINATE LIEN REVENUE BONDS (TIFIA SERIES 2019)

WHEREAS, the Hampton Roads Transportation Accountability Commission (the “Commission”) is a political subdivision of the Commonwealth of Virginia (the “Commonwealth”) having the powers set forth in Chapter 26, Title 33.2, of the Code of Virginia of 1950, as amended (the “HRTAC Act”);

WHEREAS, on December 10, 2019, the Commission issued its \$500,789,463 Subordinate Lien Revenue Bond, TIFIA Series 2019 (the “TIFIA Series 2019 Bond”), pursuant to the terms of the HRTAC Act, a Master Indenture of Trust (as amended and supplemented from time to time, the “Master Indenture”) between the Commission and Wilmington Trust, National Association (the “Trustee”) and dated as of February 1, 2018, and a Second Supplemental Series Indenture (the “Second Supplemental Indenture”), between the Commission and the Trustee and dated as of December 1, 2019;

WHEREAS, obligations issued under the Master Indenture are payable from and secured by the revenues and funds in the Hampton Roads Transportation Fund (as defined in the HRTAC Act) (the “HRTF Bonds”) and the proceeds of such HRTF Bonds are to be used to finance and refinance the costs of new construction projects on new or existing highways, bridges, and tunnels in the localities comprising Planning District 23;

WHEREAS, the TIFIA Series 2019 Bond evidences a loan from the United States Department of Transportation (the “TIFIA Lender”) to the Commission for the purpose of providing funds with which to pay and reimburse expenditures for certain eligible project costs paid or incurred by the Commission in connection with the Interstate 64 Peninsula Widening (Segments I, II and III), I-64 / I-264 Interchange Improvements (Phase I and II), and I-64 Southside Widening & High Rise Bridge (Phase I) projects (together, the “Financed Projects”), and in connection with which the Commission entered into that certain TIFIA Loan Agreement dated as of December 10, 2019 (including any amendment to or amendment and restatement of such TIFIA Loan Agreement, the “2019 TIFIA Loan Agreement”), between the TIFIA Lender and the Commission;

WHEREAS, market conditions may make it fiscally advantageous for the Commission to amend or refinance the TIFIA Series 2019 Bond, provided that the Commission can realize debt service savings thereby;

WHEREAS, the Commission desires to authorize any such refunding or amendment transaction (either, the “Refunding Transaction”) subject to the limitations and parameters set forth in this Resolution; and

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 budget bill of the Commonwealth of Virginia (the “Commonwealth”) for the biennium ending June 30, 2022, as adopted by the Virginia General Assembly, 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 Commission authorizes and approves the Refunding Transaction, subject to the terms and conditions of this Resolution.

2. The Commission authorizes and directs the Executive Director or the Chair of the Commission, either of whom may act, to develop, negotiate and finalize, with the advice of the Financial Advisor, Bond Counsel and the Commission’s general counsel, the structure, terms and conditions of any refunding of the TIFIA Series 2019 Bond or modification of its terms to achieve debt service savings, including, without limitation, the issuance of HRTF Bonds to effect the refunding of the TIFIA Series 2019 Bond and the associated TIFIA loan (the “Refunding Bonds”) under the Master Indenture, their series designations, dated dates, principal amounts, interest rates, maturity dates, redemption and prepayment provisions (if any), sales prices, and principal amounts, provided that:

- (a) the Refunding Bonds shall be issued to evidence the refinancing of the 2019 TIFIA Loan Agreement in accordance with the form and requirements of the Master Indenture and as subordinate lien obligations thereunder;
- (b) the original principal amount of the Refunding Bond shall not exceed the amount of the TIFIA Series 2019 Bond, plus amounts for the payment of financing costs and costs of issuance to the extent allowed by the TIFIA Lender;
- (c) the interest rate on the Refunding Bonds shall be at least 5 basis points below the stated interest rate on the TIFIA Series 2019 Bond; and
- (d) the Refunding Bonds shall have a final maturity date not later than the final maturity date of the TIFIA Series 2019 Bond;

In lieu of the issuance of any Refunding Bond to effect the Refunding Transaction, the Commission may enter into an amendment or modification of the TIFIA Series 2019 Bond, the 2019 TIFIA Loan Agreement and the Second Supplemental Indenture, subject to the same conditions set forth above.

2. To effect the Refunding Transaction, the Commission is authorized to enter into any of the following, subject to the conditions and limitations of the foregoing paragraph: a supplemental indenture under the Master Indenture to provide for the issuance of any Refunding

Bond, or an amendment, allonge or modification to the TIFIA Series 2019 Bond and the related Second Supplemental Indenture and any related supplemental indenture with respect to the Refunding Transaction, a revised TIFIA Loan Agreement with substantially similar provisions as the 2019 TIFIA Loan Agreement, or an amendment or modification to the 2019 TIFIA Loan Agreement (any of the foregoing are, collectively with such documents as are customarily required by the TIFIA Lender and such related documents as are referenced in Paragraph 5 below, the “Refunding Documents”).

3. The Chair or Vice Chair of the Commission, either of whom may act (the “HRTAC Representative”), is authorized to execute and deliver any Refunding Documents on the Commission’s behalf, with such changes, insertions or omissions (not inconsistent with the parameters in Section 2 above) as may be finalized by the Executive Director in accordance with the terms of this Resolution with the advice of the Financial Advisor, Bond Counsel and the Commission’s general counsel. Such authorization and approval shall be evidenced conclusively by the execution and delivery of the finalized Refunding Documents by the HRTAC Representative. Each HRTAC Representative and the Executive Director are appointed as the “Borrower’s Authorized Representative” under the applicable or modified TIFIA Loan Agreement.

4. Each HRTAC Representative and the Executive Director are authorized and directed to take all necessary or proper steps to have final Refunding Bonds and Refunding Documents prepared in accordance with the terms of the Master Indenture and this Resolution and to execute the Refunding Bond by manual or facsimile signature, (ii) the Executive Director is authorized to countersign the Refunding Bond, and (iii) any such official is authorized to deliver the Refunding Bond and Refunding Documents to the TIFIA Lender in connection with the consummation of the Refunding Transaction.

5. Each HRTAC Representative and the Executive Director, either of whom may act, is authorized to execute and deliver on the Commission’s behalf such other instruments, documents or certificates, and to do and perform such further things and acts, as he or she shall deem necessary or appropriate to carry out in accordance with the terms of this Resolution the transactions authorized by this Resolution or contemplated by the Master Indenture or any supplement thereto. Any of the foregoing previously done or performed by any officer or authorized representative of the Commission is in all respects approved, ratified and confirmed.

6. 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.

7. This Resolution shall take effect immediately and shall expire upon the earlier of the consummation of any Refunding Transaction, or July 1, 2023.

The undersigned hereby certify that this is a true and correct copy of a resolution duly adopted at a meeting of the Hampton Roads Transportation Accountability Commission held on June 17, 2021.

Donald B. Duck

Chair, Hampton Roads Transportation
Accountability Commission

Rick West

Vice-Chair, Hampton Roads Transportation
Accountability Commission