



HRTAC RESOLUTION 2023 – 02

RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$143,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF HAMPTON ROADS TRANSPORTATION FUND SUBORDINATE LIEN REVENUE BONDS (TIFIA SERIES 2023) AND UP TO \$143,000,000 OF HAMPTON ROADS TRANSPORTATION FUND INTERMEDIATE LIEN BOND ANTICIPATION NOTES

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, the Commission has previously reviewed and approved a debt management plan for the financing and refinancing of the costs of Commission-approved new construction projects for congestion relief on new or existing highways, bridges, and tunnels in the localities comprising Planning District 23 (the “Projects,” which are further described below);

WHEREAS, the Commission has entered into a Master Indenture of Trust (as supplemented and amended from time to time, the “Master Indenture”) with Wilmington Trust, National Association (the “Trustee”) providing for the issuance from time to time of the Commission’s “HRTF Bonds” (as defined below) to finance and refinance the costs of the Projects;

WHEREAS, pursuant to HRTAC Resolution 2021-01 adopted on January 21, 2021, the Commission declared its official intent to reimburse, from the proceeds of tax-exempt bonds or other indebtedness to be incurred after the date of such resolution, expenditures related to the Hampton Roads Express Lanes Network, as described in the Master Agreement for Development and Tolling of Hampton Roads Express Lanes Network dated August 18, 2020, and consisting generally of a tolling network of contiguous high-occupancy toll lanes or other dynamically-priced travel lanes (HOT lanes) on Interstate 64, 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 (approximately 45 miles in length), which ultimately would enable continuous HOT lane travel throughout such corridor (collectively, the “Express Lanes Network”);

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 the Projects;

WHEREAS, the Commission's Letter of Interest, dated November 22, 2022 and revised on January 23, 2023, for a secured loan (the "TIFIA Loan") under the Transportation Infrastructure Finance and Innovation Act of 1978, as amended, to finance a portion of the costs of Segment 4C of the Express Lanes Network, has been advanced by the United States Department of Transportation ("U.S. DOT") through creditworthiness review and into negotiation of business terms;

WHEREAS, the Commission has negotiated the terms of the TIFIA Loan, including a form of TIFIA Loan Agreement (the "TIFIA Loan Agreement") between the Commission and U.S. DOT, acting by and through the Federal Highway Administrator (the "TIFIA Lender"), pursuant to which the TIFIA Lender will agree to extend a secured loan to the Commission to finance a portion of the costs of Segment 4C of the Express Lanes Network;

WHEREAS, to evidence the obligation of the Commission to repay the loan under the TIFIA Loan Agreement, the Commission desires to authorize the issuance of an additional series of obligations under the Master Indenture in an initial principal amount of up to \$143,000,000, to be designated as the "Subordinate Lien Revenue Bond, TIFIA Series 2023" (the "TIFIA Series 2023 Bond"), the proceeds of which would be used to finance, in part, Segment 4C of the Express Lanes Network;

WHEREAS, market conditions may make it fiscally advantageous for the Commission to issue bond anticipation notes and utilize the proceeds thereof to fund certain construction costs of Segment 4C of the Express Lanes Network on an interim basis before the proceeds of the TIFIA Series 2023 Bond are drawn under the TIFIA Loan Agreement, and for the Commission to utilize a portion of the proceeds of the TIFIA Series 2023 Bond to repay such bond anticipation notes at their maturity;

WHEREAS, the Commission therefore desires to authorize the issuance of an additional series of obligations under the Master Indenture in an initial principal amount of up to \$143,000,000, to be designated as the "Intermediate Lien Bond Anticipation Notes, Series 2023" (the "Series 2023 Notes"), to provide short-term funding of Segment 4C of the Express Lanes Network, along with capitalized interest and costs of issuance, such Series 2023 Notes to be retired with proceeds of the TIFIA Series 2023 Bond as stated above, or otherwise from available amounts under the Master Indenture, or by issuing bonds for such purpose under the Master Indenture;

WHEREAS, the Series 2023 Notes are expected to be sold to a group of underwriters, including Wells Fargo Bank, National Association and such other underwriters as the Executive Director may determine (each, an "Underwriter" and collectively, the "Underwriters"), pursuant to the terms of a Bond Purchase Agreement (the "Bond Purchase Agreement") between the Commission and the Underwriters;

WHEREAS, in furtherance of the foregoing, the Executive Director and the Finance Committee of the Commission have recommended that the Commission proceed with the issuance of the obligations described above, and with the authorization, execution and delivery of certain financing documents, drafts of which have been presented by the Commission's Financial Advisor

and Bond Counsel to the Finance Committee and to the Commission, including the following (collectively, the “Bond Documents”):

- (a) A Ninth Supplemental Series Indenture of Trust between the Commission and the Trustee (the “Ninth Series Supplement”), relating to the issuance of the TIFIA Series 2023 Bond;
- (b) The form of the TIFIA Series 2023 Bond, attached as Exhibit B to the Ninth Series Supplement;
- (c) The TIFIA Loan Agreement;
- (d) The form of a Direct Agreement among the Virginia Department of Transportation, the Commission, and the TIFIA Lender, with respect to Segment 4C of the Express Lanes Network and related contracts;
- (e) A Tenth Supplemental Series Indenture of Trust between the Commission and the Trustee (the “Tenth Series Supplement” together with the Ninth Series Supplement, the “Series Supplements”), relating to the issuance of the Series 2023 Notes;
- (f) The form of the Series 2023 Notes, attached as Exhibit B to the Tenth Series Supplement;
- (g) The Bond Purchase Agreement;
- (h) A Preliminary Official Statement furnishing information to prospective purchasers of the Series 2023 Notes regarding the Commission, the Series 2023 Notes and the security therefor (the “Preliminary Official Statement”); and
- (i) A Continuing Disclosure Undertaking of the Commission, in accordance with Securities Exchange Commission Rule 15c2-12, as amended (the “Municipal Securities Rule”), to periodically provide certain updated disclosures to the municipal securities market regarding the Commission, the Series 2023 Notes and the security therefor;

and

WHEREAS, the Commission has determined that it is in the best interests of the Commission to authorize the Executive Director to finalize the terms of the TIFIA Series 2023 Bond, the Series 2023 Notes, the TIFIA Loan Agreement, and the other Bond Documents with the advice of the Financial Advisor, Bond Counsel and the Commission’s general counsel, and to cause the execution and delivery thereof, subject to the limitations and parameters hereinafter provided in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE HAMPTON ROADS TRANSPORTATION ACCOUNTABILITY COMMISSION:

1. The Commission authorizes and approves the issuance of the TIFIA Series 2023 Bond, in one or more sub-series, and the Series 2023 Notes, in one or more sub-series, each under the Master Indenture.

2. The Commission is authorized to enter into the TIFIA Loan Agreement to obtain a secured loan from the TIFIA Lender in the initial principal amount of up to \$143,000,000, which amount may be increased from time to time, to the extent permitted under the TIFIA Loan Agreement, to reflect the amount of interest on the disbursed amount of the loan that is not currently paid by the Commission.

3. The Commission authorizes and directs the Executive Director or the HRTAC Representative (as defined below), 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 the TIFIA Series 2023 Bond and the Series 2023 Notes, including, without limitation, their series designations, dated dates, principal amounts, interest rates, maturity dates, redemption and prepayment provisions (if any), sales prices, and principal amounts in each maturity of each series, subject to the following parameters and conditions:

- (i) the TIFIA Series 2023 Bond and the Series 2023 Notes shall be issued in accordance with the form and requirements of the Master Indenture and the applicable Series Supplement (as determined and finalized in accordance with the terms of this Resolution);
- (ii) the aggregate principal amount of the TIFIA Series 2023 Bond shall not exceed \$143,000,000, subject to increase as set forth above;
- (iii) the interest rate on the TIFIA Series 2023 Bond or any sub-series thereof shall not exceed 5.50%, provided that, upon the occurrence and during the continuance of a payment default, the interest rate with respect to any overdue principal amount shall be the applicable default rate specified in the TIFIA Loan Agreement;
- (iv) the TIFIA Series 2023 Bond shall have a final maturity date not later than 40 years from the date of its issuance;
- (v) the aggregate principal amount of the Series 2023 Notes shall not exceed \$143,000,000;
- (vi) the Series 2023 Notes, or any sub-series thereof, shall have a final maturity date not later than four (4) years from their dated date; and
- (vii) the Series 2023 Notes shall bear interest at the interest rate or rates as shall be approved by the Executive Director or the HRTAC Representative, provided that the weighted average yield on the Series 2023 Notes, computed using the stated interest rate or rates and the stated original offering price or prices on the Series 2023 Notes, cannot exceed the interest rate limitation on the TIFIA Series 2023 Bond or any sub-series thereof, as established above in clause (iii), and provided further that the weighted average yield on the Series 2023 Notes, computed using

the stated interest rate or rates and the stated original offering price or prices on the Series 2023 Notes, shall not be greater than 5.25%.

4. The Bond Documents are approved. The Chair or Vice-Chair of the Commission, either of whom may act (the "HRTAC Representative"), is authorized to execute and deliver the Bond Documents on the Commission's behalf, and the Executive Director is authorized to attest or countersign the Bond Documents on the Commission's behalf, with such changes, insertions or omissions (not inconsistent with the parameters in Sections 2 and 3 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 Bond Documents by the HRTAC Representative or the Executive Director to the extent applicable. The HRTAC Representative and the Executive Director are appointed as the borrower's authorized representative under the TIFIA Loan Agreement. The Series Supplements may have a different and additional numbered supplemental designation if necessary, desirable or in connection with the issuance of the TIFIA Series 2023 Bond and the Series 2023 Notes such that separate supplemental indentures may be used and are hereby authorized for any separate series or sub-series of bonds.

5. The Commission hereby appoints Wells Fargo Bank, National Association, a member of the Commission's current underwriting pool, to serve as the senior managing Underwriter for the sale of the Series 2023 Notes, together with any co-managers selected by the Executive Director, and authorizes the sale of the Series 2023 Notes to such Underwriters by negotiated sale.

6. The Commission authorizes the distribution of the Preliminary Official Statement for the Series 2023 Notes, and the HRTAC Representative or the Executive Director, either of whom may act, is authorized to "deem final" such Preliminary Official Statement as of the date of its distribution, subject to the omission of final pricing information as permitted by the Municipal Securities Rule. Such officials are each further authorized to approve such completions, omissions, insertions and other changes to the Preliminary Official Statement, specifying the terms of the Series 2023 Notes, together with any other information required by law to reflect the terms of the sale of the Series 2023 Notes, the details thereof and the security therefor, as may be necessary or appropriate to complete it as a final Official Statement with respect to the Series 2023 Notes. The HRTAC Representative or the Executive Director, any of whom may act, is authorized to review, and certify as to the accuracy of, the information set forth in the Official Statement describing the Commission, the Series 2023 Notes or the security therefor. Such officials are each further authorized to execute the final Official Statement and deliver the same to the Underwriters, and such execution and delivery shall constitute conclusive evidence that such Official Statement has been deemed a "final official statement" (as defined in the Municipal Securities Rule).

7. After the TIFIA Series 2023 Bond and the Series 2023 Notes are sold, (i) the HRTAC Representative is authorized and directed to take all necessary or proper steps to have such final obligations prepared in accordance with the terms of the Master Indenture and the respective Series Supplement and to execute the TIFIA Series 2023 Bond and the Series 2023 Notes by manual or facsimile signature, (ii) the Executive Director and the HRTAC Representative are authorized to countersign the TIFIA Series 2023 Bond and the Series 2023 Notes by manual

or facsimile signature, and (iii) any such official is authorized to deliver the TIFIA Series 2023 Bond and the Series 2023 Notes to the applicable purchaser or the Underwriters upon receipt of the purchase price therefor.

8. The HRTAC Representative and the Executive Director, either of whom may act, is authorized and directed to execute, deliver and file all certificates and documents, and take all further action, as he or she may consider necessary or appropriate in accordance with the terms of this Resolution in connection with the issuance and sale of the TIFIA Series 2023 Bond and the Series 2023 Notes, including, without limitation, and with the advice of Bond Counsel, (i) execution and delivery of a certificate setting forth the expected use and investment of the proceeds of the Series 2023 Notes to show that such expected use and investment will not violate the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder (the "Tax Code"), (ii) making any elections that such officials deem desirable regarding any provision requiring rebate to the United States of "arbitrage profits" earned on investment of proceeds of the Series 2023 Notes, (iii) filing Internal Revenue Service Form 8038-G; and (iv) execution and delivery of any required certificates or supplements under the Master Indenture with respect to a replacement index for the interest rate determination for variable rate bonds in conformity with the TIFIA Loan Agreement.

9. To ensure compliance with the Tax Code, the Executive Director is authorized and directed to comply with, and cause the Commission's staff to comply with, the Commission's existing Post-Issuance Compliance Policies and Procedures, as the same shall be amended or supplemented, and to monitor compliance with arbitrage yield restriction and rebate requirements and, in connection with the foregoing, the Executive Director is authorized to utilize any arbitrage rebate compliance services offered by the Financial Advisor, Bond Counsel and/or any third party arbitrage rebate consultant.

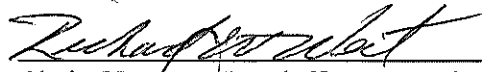
10. The Executive Director is authorized to utilize the State Non-Arbitrage Program of the Commonwealth of Virginia ("SNAP") in connection with the investment of proceeds of the TIFIA Series 2023 Bond or the Series 2023 Notes, if the Executive Director determines, with the advice of the PFM Asset Management LLC or its successor, as investment advisor, that the utilization of SNAP is in the best interest of the Commission. The Commission acknowledges that the Treasury Board of the Commonwealth is not, and shall not be, in any way liable to the Commission in connection with SNAP, except as otherwise provided in the standard form SNAP Contract utilized by state and local governmental entities within the Commonwealth.

11. The Executive Director and the Commission's staff are further authorized to take such actions as may be necessary or appropriate to provide for the deposit and investment of funds to carry out the Commission's purposes in accordance with the Commission's adopted budget, the Master Indenture and the HRTAC Act, both prior to and following the issuance of the TIFIA Series 2023 Bond and the Series 2023 Notes, including, without limitation, by the funding of a reserve for administrative operating expenses, the provision for payment of debt service on the TIFIA Series 2023 Bond and the Series 2023 Notes, the establishment and replenishment of reserves, and the deposit and investment of the proceeds of the TIFIA Series 2023 Bond and the Series 2023 Notes and Commission revenues in the various funds and accounts established by the Master Indenture and the respective Series Supplement or any other supplemental indenture.

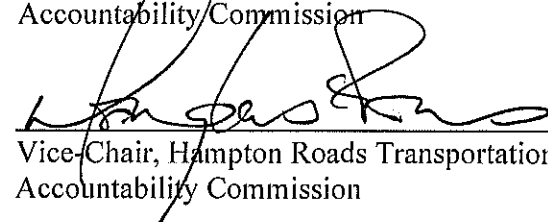
12. The HRTAC Representative and the Executive Director are each authorized to execute and deliver on the Commission's behalf such other instruments, documents or certificates, and to do and perform such further things and acts, as he or she shall deem necessary or appropriate to carry out in accordance 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.

13. This Resolution shall take effect immediately.

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 September 21, 2023.



Chair, Hampton Roads Transportation
Accountability Commission



Vice-Chair, Hampton Roads Transportation
Accountability Commission